

## Police and Crime Commissioner for Surrey – Decision Making Record

**Report Title:** Appointment of Legally Qualified Chairs for  
Police Misconduct Hearings  
**Decision number:** 115/2015  
**Author and Job Role:** Sam Meyer, Policy Officer  
**Protective Marking:** Part One

### Executive Summary:

As a result of amendments to the Police (Conduct) Regulations 2012, Police and Crime Commissioners ('PCCs') have a statutory responsibility for the nomination of Legally Qualified Chairs to sit on Police Misconduct Hearings from 1 January 2016.

In response to this change in legislation, the Hampshire, Kent, Thames Valley, Surrey and Sussex PCC's ('the Commissioners') have undertaken a joint recruitment exercise to identify appropriate candidates for nomination.

Following the completion of an open and fair recruitment process this paper requests approval for the nomination of 15 Legally Qualified Chairs to sit on Police Misconduct Panels. All candidates meet the statutory eligibility requirements for appointment and are being recommended based on merit.

### Recommendation

Subject to appropriate checks with relevant regulatory bodies 15 candidates are formally nominated as Legally Qualified Chairs to sit on Police Misconduct Panels based on merit.

### Police and Crime Commissioner Approval

I approve the recommendation:

Signature:



Date: 18/12/2015

All decisions must be added to the decision register.

## **PART 1 – NON-CONFIDENTIAL**

### **1 Purpose of this report**

- 1.1 This report provides recommendations for the nomination of Legally Qualified Chairs to conduct police misconduct hearings. It sets out the information and background on the recruitment process and also confirms that the process was open and fair. Candidates recommended for nomination meet the eligibility criteria and were selected for nomination on merit.

### **2 Introduction and background**

- 2.1 Following a public consultation led by the Home Secretary in the autumn of 2014, changes are continuing to be made to the police disciplinary system for the purposes of greater transparency and independence. This includes holding police misconduct hearings in public (from May 2015) and replacing Senior Police Officers who currently chair hearings with Legally Qualified Chairs (from January 2016).
- 2.2 As a result of the legislative changes that required gross misconduct hearings to be chaired by a legally qualified individual, Hampshire, Kent, Thames Valley, Surrey and Sussex PCC's ('the Commissioners') set up and have undertaken a joint recruitment exercise to identify appropriate candidates for nomination.
- 2.3 As a result of the recruitment exercise process 15 candidates are being recommended for nomination by the Commissioners to chair police misconduct hearings.

### **3 Recruitment process overview**

- 3.1 Under amendments made to regulation 25 of the Police (Conduct) Regulations 2012 (by regulation 5 of the Police (Conduct) (Amendment) Regulations 2015) the Commissioners are now responsible for nominating Legally Qualified Chairs, from which the appropriate authority can select the chair for any given misconduct hearing.
- 3.2 The only statutory requirement for nominations is that a candidate must satisfy the judicial appointment eligibility requirements (on a 5 year basis) as set out in section 50 of the Tribunals, Courts and Enforcement Act 2007.
- 3.3 Other than the judicial appointment requirement there are currently no statutory requirements or guidance on how nominations should be made. This is, therefore, a matter for the Commissioners who decided to undertake a joint recruitment process for the five areas adopting an open and fair process with nominations being made on merit.

### **4 The selection process**

- 4.1 The Commissioners' officers designed a selection process to select eligible and appropriate Legally Qualified Chairs to cover the five areas. This was designed

to ensure that the nomination process was based on the principles of merit, fairness and openness.

4.2 To date this has included the following steps:

- Advertisement and application packs being made openly available on both the local websites and the Association of Police and Crime Commissioners website.
- Contacting the relevant local/national bodies, such as the Law Society, to raise awareness and encourage applications.
- Applicants being required to submit applications set against professional competencies based on and adapted from the Judicial Studies Board, Framework of Judicial Abilities and Qualities
- Short-listing based on merit, undertaken by a short listing panel
- Identification of recommended candidates for nomination following assessment and interview by a selection panel

4.3 The following additional steps will be taken before any recommended nomination is accepted:

- The Commissioners to make individual decisions on the nominations in respect of their own areas.
- Pre appointment checks with the appropriate regulatory body (Bar Council and or Solicitor Regulatory Authority) and referees as appropriate.

*Role requirement / specification and application form*

4.4 A role description and person specification was developed in accordance with Office of the Police and Crime Commissioners' previous recruitment experience and specifications provided by the Association of Police and Crime Commissioner ('APCC'). It also included competencies based on and adapted from the Judicial Studies Board, Framework of Judicial Abilities and Qualities.

4.5 The application form was used to obtain evidence that candidates fulfilled the statutory eligibility requirements and part of the devised application form required candidates to complete an assessment against the advertised specification.

*Advertising and communication strategy*

4.6 An advertising and communication strategy was designed to ensure that the process was open and transparent. A copy of the advert is at **Appendix 1**.

4.7 The vacancy was published, advertised and promoted as follows:

- *Adverts were placed on each of the Commissioners' respective websites including links to download application information packs and forms*
- *The positions were advertised on the APCC website with hyperlinks to the Commissioners' websites*

- *It was advertised by the Judicial Appointment Commission*
  - *The Bar Council sent the advert to all members via its email publication 'Bar talks'*
  - *The Law Society and local Law Society groups were provided with a copy of the advert and requested to circulate the opportunity to all members*
- 4.8 The advert first went live on 25 August 2015 with a deadline for applications to be submitted by Midday on 21 September 2015. The information pack included anticipated interview dates for successful candidates at the short-listing stage.
- 4.9 Applications packs were made available on request and also made available for electronic download from all of the Commissioners' websites. Potential candidates could access a full application pack anonymously through the Commissioners' websites. Although open download meant the Commissioners were unable to track the number of interested or potential candidates, this increased accessibility and openness to any potential candidates who wanted to consider applying and meant they could do so without any commitment or record of interest being made.
- 4.10 A copy of the information pack and a blank application form is available at **Appendix 2 and 3** respectively.
- 4.11 All applications were required to be returned to the Office of the Police and Crime Commissioner (OPCC) for Hampshire who took responsibility for the administration of applications received and notification of interviews to successful candidates at the short listing stage. Jacob Rickett, the Governance Manager of the OPCC for Thames Valley, was named as a specific contact for any questions received regarding the selection process. This was done to ensure consistency of approach and that any potential candidate was provided with the same information.
- 4.12 An overwhelming response was received to the adverts. Only applications received in time or delayed due to genuine technical reasons were accepted. 192 applications received were put forward for consideration at the short listing stage. All applications received and considered were acknowledged. A number of further enquiries were received after the closing date had expired seeking to apply for the position, but advice was issued that no further applications would be accepted.

#### *Short listing*

- 4.13 The Shortlisting panel comprised an officer from each of the offices of the Commissioners. This included the following members:
- Mary Clarke, Senior Governance Manager, OPCC for Sussex
  - Laura Steward, Head of Standards and Regulation, OPCC for Kent
  - Richard Andrews, Executive Advisor, OPCC for Hampshire and the Isle of Wight
  - Sam Meyer, Policy Officer, OPCC for Surrey
  - Jacob Rickett, Governance Manager, OPCC for Thames Valley

4.14 Short-listing was undertaken on 23 September 2015.

4.15 The panel confirmed that the candidate met the eligibility criteria and assessed applications against the advertised Personal Specification and Qualities and Abilities. Evidence was drawn from candidates' career profiles and the competency self-assessment. A copy of the short listing criteria applied is at **Appendix 4**.

4.16 The number and quality of candidates was very high. Applications included wide ranging experience including various judicial appointments and experience of the police misconduct regulations. Applications were therefore strictly assessed in line with the Personal Specification to produce a shortlist. 27 candidates were shortlisted and invited to interview. Due to the number of applications received and the high number of exceptional applications received, two more interviews dates were scheduled in addition to those originally advertised.

*Selection/Interview Panel*

4.17 The interview panel comprised the following members:

- Mark Streater, Chief Executive, OPCC for Sussex
- Richard Andrews, Executive Advisor, OPCC for Hampshire and the Isle of Wight
- Jacob Rickett, Governance Manager, OPCC for Thames Valley

4.18 Candidates were asked to give a 10 minute presentation, following a 1 hour preparation period. The presentation question was not made available before the interview day. The presentation was followed by an interview which addressed issues raised in the presentation before exploring wider topics related to the advertised Personal Specification and Qualities and Abilities.

4.19 For the presentation candidates were asked to assume the role of Chair of a Police Misconduct hearing and deliver an oral decision. A candidate information pack provided the basic information and resources for candidates to assess and use to issue a decision.

4.20 A copy of the presentation candidate information pack and interview questions are available at **Appendix 5 and 6** respectively.

4.21 Panel members were provided with individual copies of the presentation and interview assessment forms and independently assessed the candidates before discussing the candidates' presentation and answers and applying scores.

4.22 Four interview days in total were held. Two candidates withdrew from the process and 25 candidates were interviewed. Following the interview process scores were collated and discussed. Based on the assessment of the presentation and question scores, 15 candidates are being recommended for nomination as Legally Qualified Chairs to sit on police Misconduct hearings.

4.23 Applicants were asked within the application forms to nominate which of the five areas they were applying for and could apply to sit in one or more areas. Out of the 15 candidates recommended for appointment the areas applied for is broken down as follows:

- 12 nominated candidates will be available to sit in Hampshire
- 12 nominated candidates will be available to sit in Kent
- 13 nominated candidates will be available to sit in Surrey
- 13 nominated candidates will be available to sit in Sussex
- 13 nominated candidates will be available to sit in Thames Valley

4.24 The number of Legally Qualified Chairs to recommend for nomination has been challenging, with the predicted number of hearings likely to increase due to changes to officer resignation requirements. Sufficient numbers are required to ensure a Legally Qualified Chair is available to meet hearing demands without over subscribing the list to ensure sufficient opportunity and experience is provided to nominated candidates. The proposed number of nominations should provide a sensible balance to meet hearing demand without spreading work too thinly to prevent knowledge and experience being acquired. Hearing demand will be kept under review and further recommendations made if additional nominations are required once the transition to legally qualified chairs has been implemented. Details on the candidates can be found in PART 2 of this report.

## **5 Terms and conditions on which the nominates candidates are to be appointed**

5.1 Subject to approval by the Commissioners and appropriate checks the proposed nominations will be appointed for a period of 4 years.

5.2 Fees will be fixed at a daily sitting rate of £366.

5.3 Preparation time and report writing will either be the subject of a fixed fee agreed for a specific case or will be paid at £52.50 per hour, up to a maximum limit of £750. This limit may be extended in exceptional circumstances if agreed in writing with the relevant instructing Commissioners in advance.

5.4 These fixed fee rates will apply to all successful candidates and will not differ depending on qualification or experience. For example, they will not differ whether a Barrister or Solicitor, they are not dependent on Post-Qualification Experience (PQE) or Call or whether the Chair is a QC or not.

5.5 Reasonable expenses will be reimbursed. Travel expenses will be reimbursed for standard fares only and areas may also restrict travel expenses to local travel claims only.

## **6 Financial comment**

- 6.1 The Commissioners' respective finance officers will ensure appropriate budgetary provisions are provided for fees of Legally Qualified Chairs Police Misconduct Hearings. In relation to any specific training requirements, arrangements will be made to offer training to all nominated Legally Qualified Chairs. Subject to prior agreement the five Commissioners, whenever possible, will seek to split costs of necessary training of the nominated candidates.

## **7 Legal comments**

- 7.1 The statutory requirement for appointment is contained in regulation 25 of the Police (Conduct) Regulations 2012 (as amended by regulation 5 of the Police (Conduct) (Amendment) Regulations 2015).
- 7.2 The only statutory requirement for nominations is that a candidate must satisfy the judicial appointment eligibility requirements (on a 5 year basis) as set out in section 50 of the Tribunals, Courts and Enforcement Act 2007.
- 7.3 The recruitment process has included checks on candidates' eligibility to ensure compliance.
- 7.4 Respective Commissioners' officers have taken responsibility for identified aspects of the recruitment process to ensure accountability and that the candidates' personal data has been and will be handled in accordance with the Data Protection Act 1998.

## **8 Equality comments**

- 8.1 In making nominations the Commissioners must comply with the provisions of the Equality Act 2010.
- 8.2 The recruitment process was designed and conducted in accordance with the requirements of the Equality Act 2010. For example, reasonable adjustments were offered to candidates at application and interview stages.

## **9 Recommendation**

- 9.1 Following an open and fair recruitment process it is recommended that 15 candidates based on merit are nominated as Legally Qualified Chairs to sit on Police Misconduct Panels.

## **Areas of consideration**

### **Consultation**

None necessary.

### **Financial implications**

Appropriate budgets will be established within the OPCC to pay for legally qualified chairs to sit on Police Misconduct Panels

### **Legal**

The nominated candidates meet the statutory eligibility requirements of the Police (Conduct) Regulations 2012.

### **Risks**

None.

### **Equality and diversity**

The recruitment process complied with the Equality Duty and the Equality Act 2010 and would be capable of meeting Equality and Diversity requirements to the satisfaction of the Commissioners.



Office of the Police and Crime  
Commissioner for Surrey

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## Appointment of Legally Qualified Chairs to serve on Police Misconduct Panels

From 2016, in response to changes to legislation, legally qualified chairs will replace police personnel on Police Misconduct Panels. These Panels preside over serious misconduct cases, in what is an important aspect of the disciplinary rules that govern the police in England and Wales.

The Hampshire, Kent, Thames Valley, Surrey and Sussex Police & Crime Commissioners are undertaking a joint recruitment exercise for legally qualified Chairs who may be appointed to preside over police officer gross misconduct hearings for one or more of their policing areas.

Applications are sought from qualified lawyers who can demonstrate integrity and independence of mind, commitment to equality, diversity and inclusion, sound judgement and an objective approach to issues presented.

You must satisfy the judicial appointment eligibility condition on a 5-year basis as set out in section 50 of the Tribunals, Courts and Enforcement Act 2007. You will be expected to undertake training for these posts, and may also have to complete security checks to ensure that you are suitable for appointment.

Personnel under the direction and control of the Police or Police and Crime Commissioner should not apply.

Please download the information pack [here](#) and the application form [here](#).

Completed applications should be sent to: [opcc@hampshire.pnn.police.uk](mailto:opcc@hampshire.pnn.police.uk) or by post to the Office of the Police and Crime Commissioner for Hampshire, St George's Chambers, St George's Street, Winchester, Hampshire, SO23 8AJ

The closing date for completed applications is midday 21<sup>st</sup> September 2015.

Interviews will be held during the first two weeks in October.

# APPOINTMENT OF LEGALLY QUALIFIED CHAIRS TO SERVE ON POLICE MISCONDUCT PANELS



Office of the Police and Crime  
Commissioner for Surrey

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**APPLICANT INFORMATION PACK**

**DEADLINE FOR APPLICATIONS:**

**MIDDAY 21 SEPTEMBER 2015**

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## 1. Introduction

Hampshire, Kent, Thames Valley, Surrey and Sussex Police and Crime Commissioners ('the Commissioners') are jointly recruiting individuals to be appointed to a panel of legally qualified chairs to conduct police gross misconduct hearings.

Following a public consultation led by the Home Secretary in the autumn of 2014, changes have been made to the police disciplinary system for the purposes of greater transparency and independence. This includes holding police misconduct hearings in public (from May 2015) and replacing Chief Police Officers who currently chair hearings with legally qualified Chairs (from January 2016).

Candidates can apply to become a legally qualified chair for one or all five of the policing areas and will be asked to specify which areas they wish to be appointed in their applications. Each Commissioner's Office/Force Professional Standards Department will maintain a list of those chairs successfully appointed.

This pack contains the information that you need about the vacancies. It describes the selection process that will be applied with relevant dates.

Before you can be considered for appointment, there are eligibility requirements that you must meet. These are set out at in section 3.1 and 3.2 below.

### 1.1 Background

In April 2004, the complaints system for the police changed with the establishment of the Independent Police Complaints Commission (IPCC). The former police authorities, as part of the new system, were required to compile and maintain a list of independent people to sit on police misconduct panels.

The complaints system has since been the subject of a number of reviews and amendments. The Taylor Review on police disciplinary arrangements in January 2008 made recommendations about police disciplinary arrangements, which included:-

- (1) The introduction of the Standards of Professional Behaviour.
- (2) New arrangements for dealing with unsatisfactory performance and attendance (Police (Performance) Regulations 2008).
- (3) New arrangements for dealing with misconduct (Police (Conduct) Regulations 2008).

On 1 December 2008, the above regulations were implemented which also required independent people (from a list of candidates maintained by the then police authorities for the purposes of the Police Conduct Regulations) to sit on the panel at misconduct hearings.

The 2008 Regulations were replaced by the 2012 Regulations on 22 November 2012.

Misconduct hearings are required where dismissal could be the outcome and this is relevant where:-

1. The panel will be considering gross misconduct, or
2. The officer has a live final written warning and there is a case to answer for a further act of misconduct.

More recent amendments to the police misconduct regime include:

- Preventing a police officer from resigning or retiring, without consent, when there are allegations that may result in the officer's dismissal from a police force [since January 2015]

- Requiring disciplinary hearings to be held in public [since 1 May 2015]
- Replacing Chief Police Officers who currently chair hearings with a legally qualified chair [from January 2016]

Additional information about police misconduct is available in the Home Office guidance on Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures. This can be download from the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434377/misconduct-perform-attendance\\_v4\\_1\\_1\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434377/misconduct-perform-attendance_v4_1_1_.pdf)

## 1.2 Overview of the panel role

The panel consists of three persons: the Chair, a police officer of the rank of superintendent or above, and an independent member from the list of candidates maintained by the Commissioner's Office.

The panel will hear cases governed by the Police (Conduct) Regulations 2012 (amended by Police (Conduct) (Amendment) Regulations 2015) or any relevant statutory modification or re-enactment thereof.

Panels will be convened to hear allegations of serious cases of misconduct by police officers. The maximum outcome at a hearing would be dismissal from the police service without notice. Cases would include for example, allegations of criminal acts, serious road traffic matters such as drink/driving or serious breaches of the standards expected of police officers such as neglect of duty. The panel could also be convened to consider the final stages of action under performance regulations, where police officers can be dismissed for unsatisfactory performance or attendance.

The activities of a panel are conducted both in public and in private. They will decide cases by finding facts based on the evidence presented, applying the relevant law to them and giving a reasoned judgment. The Chair and the panel may also be responsible for providing directions regarding procedural matters before and or at the hearing.

## 2. Role of the Chair

When hearing cases the Chair will be expected to have read the papers in advance, and will be required to provide full reasons in writing for the Panel's decision before the end of 5 working days after the day of the conclusions of the proceedings.

### 2.1 Main Activities

The main activities of the Chair of the Panel are as follows:

- **Reviewing papers**
- **Preparing for a hearing**
  - Reading papers before any hearing commences, including on occasions studying complex documentary evidence.

- Making pre-hearing decisions on whether witnesses are permitted to be called to give evidence at the hearing and whether to require notice of the hearing.
- Provide directions on whether any part of a hearing should be held in private in accordance with the Regulations.
- Provide directions on publication and advertisement of the hearing in accordance with the Regulations.

- **Conduct of Hearings**

- To ensure that hearings are conducted in accordance with the relevant laws and regulations.
- To ensure that parties who are not always represented are able to present their case and have it considered fully and fairly.
- To ensure that hearings are conducted efficiently and effectively in a manner compatible with the interests of natural justice.
- To ensure the hearing takes place in a professional manner, maintaining control over the case at all stages and ensuring that confidence in the process is upheld in the eyes of the public.

- **Determination of misconduct hearing**

In conjunction with the other Panel members, further to the hearing, to decide whether the conduct of the officer concerned amounts to misconduct, gross misconduct or neither, and impose any disciplinary action as appropriate and in accordance with the relevant regulations.

- **Report writing**

- The Chair will ensure that clear, concise and reasoned reports will be produced and supplied to the relevant parties at the conclusion of the misconduct hearing. This will be done as soon as practicable and in any case before the end of 5 working days beginning with the first working day after the conclusion of the misconduct proceedings.
- Following a hearing, the Chair will need to ensure that the other members agree that the report accurately records the findings and decisions made by the panel.

- **Time Commitment**

Misconduct cases are triggered by the officer receiving notice of misconduct proceedings (regulation 21). It should be noted that the number of cases per annum is variable, although has increased due the changes in legislation which prevents officers retiring/resigning. Being successfully appointed to be a legally qualified chair does not guarantee that you will receive any instructions or any set number of hearings per year.

In general cases will be allocated taking into account:

- Any potential conflict of interest with a specific case (or perceived conflict of interest). Successful Candidates are responsible for making the instructing officers aware in any specific case of any conflict or potential conflict immediately on instructions or as soon as you become aware of any reasonable grounds for a conflict (or perceived conflict) occurring.
- Appointees must not sit on a hearing if they have personal knowledge of the case.
- Availability.
- The frequency with which members have sat together.

How cases are allocated will differ according to each Force's protocols. Details will be set out in the relevant Terms and Conditions for each Force area.

- **Training**

Successful candidates must attend any mandatory training specified before receiving instructions. This is likely to include local induction training events. Details for these will be provided to successful candidates in due course. Successful candidates may also be invited to voluntarily attend a public misconduct hearing as an observer prior to appointment.

### 3. Requirements for Appointment

#### 3.1 Statutory Eligibility

Please be aware that only eligible candidates will be shortlisted for appointment. You should consider carefully whether you are likely to be eligible before applying.

To be eligible for appointment as a Legally Qualified Chair you must meet the statutory requirements which are summarised below.

Under section 25 paragraphs (4) and (5) (as substituted by the Police (Conduct) Amendment Regulations 2015 (SI 2015/626)) and section 50 of the Tribunals, Courts and Enforcement Act 2007, no person shall be appointed as a chair unless they satisfy the judicial appointment eligibility condition on a 5 year basis.

The Tribunals, Courts and Enforcement Act 2007 introduced the '*judicial appointment eligibility condition*'. You will have to show that:

- You have possessed a relevant legal qualification;
- for the requisite period; and
- that whilst holding that qualification you have been gaining legal experience.

#### ***Relevant legal qualification***

You have a relevant legal qualification if you are a solicitor of the Senior Courts of England and Wales, a barrister in England and Wales or as specified by any relevant order of the Lord Chancellor.

You will be considered eligible as a solicitor when your name was first entered on the Roll kept under section 6 of the Solicitors Act 1974.

You will be considered eligible as a barrister a) when you completed pupillage in connection with becoming a barrister or b) if you were not required to undertake pupillage in connection with becoming a barrister, when you were called to the Bar of England and Wales.

If you were not required to undertake pupillage, you will need to provide details in the application form of why you were not. This will most likely be because you were called to the Bar prior to 1 January 2002. If you were called to the Bar after this date, you will only be eligible if you have completed or have been exempted from pupillage by the Bar Standards Board. If you have been exempted from pupillage, you will be required to provide evidence of this by the time applications closes; otherwise you will not be eligible to proceed.

### ***Requisite period***

The requisite period is 5 years and will be measured from the start date of the relevant legal qualification up to the end of December 2015.

### ***Legal experience***

In order to be eligible for appointment as a chair, you must not only be in possession of the relevant legal qualification for the requisite period, but must also have been engaged in 'law related activity' whilst holding that qualification.

An activity is considered to be a law related activity whether or not it is undertaken for remuneration, and whether or not it is undertaken on a full or part-time basis.

Each of the following is a relevant law related activity:

- a) the carrying out of judicial functions of any court or tribunal;
- b) acting as an arbitrator;
- c) practice or employment as a lawyer;
- d) advising (whether or not in the course of practice or employment as a lawyer) on the application of the law;
- e) assisting (whether or not in the course of such practice) persons involved in proceedings for the resolution of issues arising under the law;
- f) acting (whether or not in the course of such practice) as mediator in connection with attempts to resolve issues that are, or if not resolved could be, the subject of proceedings;
- g) drafting (whether or not in the course of such practice) documents intended to affect persons' rights or obligations;
- h) teaching or researching law; or

- i) any activity that in the relevant decision makers' opinion (this means the Appropriate Authority or his delegated official) is of a broadly similar nature to an activity within paragraphs a) to h).

## **Age**

There is no upper or lower age limit for candidates apart from the statutory retirement age for judicial appointments of 70. If relevant, any candidate who has an applicable preserved retirement age of 72 under the requirements of the Tribunals, Courts and Enforcement Act 2007 should state this in the application.

## **3.2 Additional Eligibility**

To ensure any appointments are independent personnel under the direction and control of any Constabulary/Police Force or Office of the Police & Crime Commissioner (OPCC) in England and Wales should not apply. Qualified lawyers employed by any constabulary or OPCC in England and Wales will not be eligible to apply.

## **3.3 Person Specification**

In addition to the statutory eligibility criteria applications will be assessed against the following essential and desirable criteria:

### ***Essential criteria***

#### **Candidates must have:**

- Experience of chairing meetings or panels and ability to exercise control over proceedings
- Experience of evaluating evidence, or information and making objective, unbiased, thoughtful decisions
- Experience of report writing, writing deliberations or case notes
- Excellent communication skills

### ***Desirable criteria***

- Able to demonstrate previous committee or judicial work or service on a Board or Council.
- Experience of/familiarity with the Police Conduct Regulations

## **Qualities and Abilities**

Applicants will be assessed against the following qualities and abilities

### **1. Intellectual Capacity**

- Sound knowledge of law and its application
- Sound knowledge of procedure and appropriate application
- Quickly absorbs and analyses complex information with ease.
- Knowledge of the police disciplinary legislative framework, case-law and underlying principles, *or* the ability to acquire this knowledge.

### **2. Personal Qualities, Professionalism and Integrity**

- Maintains personal integrity and independence.
- Commitment to equality, diversity and inclusion.
- Sound judgement.
- Decisiveness.
- Objectivity.
- Learns and develops professionally.
- Maintains up to date knowledge of issues relevant to the role.
- Promotes highest standards of behaviour in hearings

### **3. An ability to understand and deal fairly**

- Shows awareness of equality and diversity issues that may arise in policing
- Committed to public interest, impartiality, and fair treatment.
- Listens with patience and courtesy.

### **4. Authority and Communication Skills**

- Inspires respect and confidence.
- Questions effectively.
- Engages constructively in debate and challenges others appropriately.
- Communicates effectively

### **5. Efficiency**

- Works at speed, including when under pressure.
- Manages time effectively and produces clear reasoned decisions expeditiously.
- Works constructively with others.
- Makes effective use of technology, including computers, video- and telephone-conferencing.

### **6. Effective Chairing**

- Maintains firm and effective control of hearings.
- Manages hearings to enable fair and timely disposal.
- Appropriate exercise of discretion.
- Explains the procedure and any decisions reached clearly and succinctly to all those involved.
- Maintains authority when challenged.
- Excellent interpersonal skills involving all members of the Committee in a facilitative, enabling manner.

- Excellent drafting skills, with the ability to produce clear, accurate, well structured determinations.
- Actively manages cases to promote efficient and just conclusion of proceedings

### **3.4 Vetting Requirements**

Appropriate checks will be undertaken on candidates who are considered for appointment. Failure to declare any matters that come to light from these checks in the application form may prejudice the outcome of your application.

Successful candidates may also be required to undergo additional security vetting, before appointment and or for any specific case requiring a higher level of vetting, which will be dealt with on a case-by-case basis.

Candidates will be informed of any vetting and or additional security vetting requirements as necessary.

### **4. Term of Appointment**

The initial appointments will be for a term of four years, running from 1 January 2016 to 31 December 2020.

### **5. Fees and expenses**

Fees will be fixed at a daily sitting rate of £366.

Preparation time and report writing will either be the subject of a fixed fee agreed for a specific case or will be paid at £52.50 per hour, up to a maximum limit of £750. This limit may be extended in exceptional circumstances if agreed in writing with the relevant instructing OPCC in advance.

These fixed fee rates will apply to all successful candidates and will not differ depending on qualification or experience. For example, they will not differ whether a Barrister or Solicitor and they are not dependent on PQE or Call or whether the Chair is a QC or not.

Reasonable expenses will be reimbursed. Travel expenses will be reimbursed for standard fares only. Some areas may also restrict travel expenses to local travel claims only. Further details will be included in the individual OPCC's/Force's Terms and Conditions.

## 6. Selection process

### 6.1 Timetable

Closing date for applications	<b>21<sup>st</sup> September 2015</b>
Shortlisting	<b>22<sup>nd</sup> to 25<sup>th</sup> September 2015</b>
Provisional date to notify shortlisted candidates	<b>28<sup>th</sup> September 2015</b>
Provisional dates for interview days (may be subject to change)	<b>5<sup>th</sup> and 7<sup>th</sup> October 2015</b>
Selection Decisions	<b>By end of October 2015</b>
Training (dates TBC)	<b>November/December 2015</b>
Successful candidates eligible for hearings	<b>1<sup>st</sup> January 2016</b>

### 6.2 The application form

The application form plays an important part in the selection process. You should complete all sections of the form, ensuring the information you provide is clear and accurate.

#### *Post applied for*

Candidates can apply for one or all five of the policing areas and must specify which areas they wish to be appointed in their applications.

#### *The self assessment*

When completing the self assessment please be concise. Note form is acceptable. In preparing your self assessment it is important to remember that this is a critical part of your application. Please look at the qualities and abilities required for this post. This assessment is your opportunity to expand on the information you have provided about your career history. It should explain how you demonstrate the qualities and abilities and not simply be a reiteration of your career history.

You should consider the following:

1. Make sure that you provide specific examples that demonstrate how your skills match the qualities and abilities sought at the level appropriate for the role for which you are applying. It is not sufficient to talk generally about a situation and what happened – we need to know specifically what the situation was, your task and the result.
2. Be clear and explicit when writing your examples so that there is no room for doubt about how you personally have tackled something. Do not assume that the person reading your form will be able to infer, from your description, what your role was and what specifically you were responsible for.
3. Keep your answers concise and to the point. It is important that the focus is on you – your actions and your responsibilities – not the situation as a whole.

### *Diversity monitoring*

As part of the application form candidates are asked to complete diversity questions to enable us to monitor the effectiveness of our diversity strategy in line with our statutory duties. If you do not wish to declare any particular characteristic, please select "I prefer not to answer". This information will not be used when making any selection decisions.

### *Obtaining an application form*

The application form for this selection exercise can be obtained electronically by downloading it from any of the commissioners' websites. To obtain an application form by post or if you have any difficulties in downloading an application please use the contract details at section 8 below.

## **6.3 Shortlisting**

All applications will be checked for any eligibility. Any candidates who do not meet the statutory requirements for appointment will not be progressed.

A short listing panel will assess the applications and candidates will be shortlisted on the basis of their written application. The Panel will be making their assessment against the advertised Personal Specification and Qualities and Abilities (see section 3.3 above). Evidence will be drawn from your career profile and the competency self-assessment within the application.

Short listing will take place between 22 September and 25 September 2015. Successful candidates will be notified and invited to an interview day.

## **6.4 Interview day**

If you are shortlisted, you will be invited to an interview day. The interview day for this exercise will consist of a panel interview. The interview panel will comprise officers from the Offices of the participating Commissioners. You may be asked to make a presentation or undertake a problem question on the day. Further details will be sent with any invitation to attend. The interview will consist of the panel seeking evidence from you against the qualities and abilities for the post. Following the interview day unless notified there will be no further interview rounds. The overall assessment made by the panel will be provided to the Commissioners when they make their selection decisions.

## **6.5 Selection decisions**

Following the interview days the panel will make recommendations to the Commissioners. Each commissioner will make a separate decision regarding who to appoint.

The Commissioners will consider all the information gathered about the candidates, which includes the overall assessment reports from the interview panel and references.

Any appointment will be subject to successfully passing any vetting requirements and attending any necessary training specified.

Please note that we will notify the successful and unsuccessful candidates who attended an interview day. This will be dependent on when individual Commissioners' make their respective decisions but we expect to be able to inform you of the outcome of your application by the end of October 2015.

If you are appointed, subject to any outstanding vetting or reference checks, you will be eligible for hearings from 1 January 2016.

## 7. Reasonable adjustments

We will make reasonable adjustments for any disabled applicants to ensure that they can fully participate in the selection process fairly. The application form asks you to identify any arrangements and adjustments you may require. If you need the form, information pack or other information in a different format please contact us at the details set out in section 8 below.

Requests will be considered on a case-by-case basis and the information given will not be used when making any selection decisions.

If you are recommended for appointment, any reasonable adjustments to enable you to take up appointment will be discussed separately with you by officers of the appointing Commissioner(s).

## 8. Additional Information

Any questions in relation to this selection process should be addressed to:

Jacob Rickett, Governance Manager  
Office of the Police and Crime Commissioner for Thames Valley, The Farmhouse, Thames Valley Police Headquarters, Oxford Road, Kidlington Oxon, OX5 2NX

Email: [jacob.rickett@thamesvalley.pnn.police.uk](mailto:jacob.rickett@thamesvalley.pnn.police.uk)  
Telephone: 01865 846780

## 9. Completed Applications

The Office of the Police and Crime Commissioner for Hampshire is collating all applications on behalf of the Commissioners.

Completed applications should be sent to: [opcc@hampshire.pnn.police.uk](mailto:opcc@hampshire.pnn.police.uk) by no later than **midday on Monday 21 September 2015**.

Alternatively by post to the Office of the Police and Crime Commissioner for Hampshire, St George's Chambers, St George's Street, Winchester, Hampshire, SO23 8AJ.

# APPOINTMENT OF LEGALLY QUALIFIED CHAIRS TO SERVE ON POLICE MISCONDUCT PANELS



Office of the Police and Crime  
Commissioner for Surrey

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**APPLICATION FORM**

**DEADLINE FOR APPLICATIONS:  
MIDDAY 21 SEPTEMBER 2015**

## Personal Details

Please complete clearly in black

Title

Surname

Forenames

Name at birth   
(if different)

Date of Birth

Address

Postcode

Telephone No.

Private

Business

Mobile

E-mail address

**Post applied for:**

Legally Qualified Chair

Please tick the boxes to indicate which areas you are applying for:

Kent  Surrey  Sussex  Hampshire  Thames Valley

**Eligibility and Legal qualifications**

*You should refer to section 3 of the information pack before completing this section.*

*Date of Call or date  
admitted as a solicitor*

*Bar Membership  
number or SRA number*

*Date completed  
pupillage or training  
contract\**

*\*If exempt please state  
the reason why*

Please provide details of any academic, professional and/or vocational qualifications (in particular those required for eligibility to the post under section 50 of the Tribunals, Courts and Enforcement Act 2007).

Qualification	Date obtained

## Career history

Please use the space below to provide a brief summary of your career history and other relevant experience. Please detail current appointments held.

Name and address of chambers/ employer/appointing body	Date position held (from/to)	Particulars of work

### **Additional career information**

Please use the space below to provide any additional relevant information on your career, publications and membership of specialist professional associations, which is not referenced elsewhere.

### **Reason for Application**

Please state why you are interested in becoming a legally qualified Chair to preside over Police Misconduct Hearings.

## Self-Assessment

Before completing this section you should refer to sections 3.3 and 6.2 of the information pack. You must provide clear evidence and particular detail about how you meet the essential and desirable criteria; and provide no more than 250 words for each of the six qualities/abilities. Please explain how you have demonstrated the criteria required for the position as a legally qualified Chair. Please use explicit examples to illustrate your evidence. Note form is acceptable.

### **Essential and Desirable Criteria** (no more than 250 words)

Please describe the experience and skills you would bring, including in particular how you meet any of the essential and desirable criteria

### **Intellectual capacity** (no more than 250 words)

Please give examples which meet the criteria set out in the Person Specification

**Personal Qualities, Professionalism and Integrity** (no more than 250 words)

Please give examples which meet the criteria set out in the Person Specification

**An ability to understand and deal fairly** (no more than 250 words)

Please give examples which meet the criteria set out in the Person Specification

**Authority and Communication Skills** (no more than 250 words)

Please give examples which meet the criteria set out in the Person Specification

**Efficiency** (no more than 250 words)

Please give examples which meet the criteria set out in the Person Specification

**Effective Chairing** (no more than 250 words)

Please give examples which meet the criteria set out in the Person Specification

**Equality Act 2010**

The Equality Act 2010 makes it unlawful to discriminate against a disabled person in all areas of employment, including recruitment. We welcome applications from individuals with disabilities and where appropriate we will make adjustments to the selection process, working arrangements and/or the working environment provided it is reasonable in all the circumstances to do so.

Do you have a health condition that requires adjustments during the selection process?

Yes  / No  (Please select)

Please provide details of the adjustment you would require during the selection process:



3. In relation to VAT or any other form of tax or rates, have you ever had proceedings brought against you, or are any proceedings pending regarding:
- a. Outstanding, or late submitted, personal returns of tax or duties and penalties or surcharges raised thereon Yes  / No  (Please select)
  - b. Outstanding debts of personal tax or duties and time to pay arrangements Yes  / No  (Please select)
  - c. Any ongoing enquiries being made into your personal returns of tax or duties Yes  / No  (Please select)
  - d. Where you are a partner, is there any ongoing enquiry into the partnership return of tax or duties Yes  / No  (Please select)

If yes, please give details.

Date	Details

4. Have you ever had an action brought against you for professional negligence, without the matter being dismissed, or are any such proceedings pending? If you are a solicitor and such a matter has been brought against your firm in respect of a matter under your supervision, answer 'yes'

Yes  / No  (Please select)

If yes, please give details.

Date	Details

5. Have any findings been made, or are there any proceedings pending in respect of any matter involving you personally or under your supervision, of:
- a. Professional misconduct; or
  - b. Inadequate professional service brought by your professional body.

Yes  / No  (Please select)

If yes, please provide details of the findings or proceedings pending. Please also provide details of any disciplinary matters brought by an employer that may impact your suitability for appointment of a chair of a police misconduct hearing. You should also provide details of any investigation into such matters by the Legal Services Ombudsman or other relevant bodies.

Date	Details

6. Is there any additional information which should be brought to the attention of the Commissioners' which might call into question whether it is appropriate for you to be appointed as a chair of a police misconduct hearing?

Yes  / No  (Please select)

If yes, please give details.

Date	Details

## Declaration of Interests

Please use this space to declare any interests or personal connections that may be relevant to, or in conflict with, this post. This includes any private, voluntary, charitable, or political interest which might be material and relevant to the work of the relevant Police or Police and Crime Commissioners' (PCCs). These could include financial interests or share ownership, membership of societies, activities associations or employment of a partner or friend in a particular field in which the PCCs operate. Additionally, applications will not be accepted from candidates who are under the direction and control of any Constabularies/police forces or Offices of Police & Crime Commissioners (OPCCs) in England and Wales, either as a member of staff, police officer or special constable. Lawyers/solicitors or barristers employed by any force or OPCC in England and Wales would not be eligible.

Any actual or perceived conflicts of interest detailed here may not prevent you going forward to an interview panel but will, if appropriate, be fully explored by the Panel at interview stage to establish how you would address the issue(s) should you be successfully appointed.

## References

Please provide the names of two referees. These must be people who know you in a professional capacity to comment on your suitability for the post. They will be expected to have authoritative and personal knowledge of your achievements. Referees will not be contacted without your prior agreement.

Name of referee

Occupation

Relationship to you

Address and telephone number

Postcode

Email address:

Name of referee

Occupation

Relationship to you

Address and telephone number

Postcode

Email address:

## Final Declaration

I declare that all the statements I have made in this application are true and complete. I understand that knowingly making any false statements or withholding relevant information will result in the withdrawal of any offer of appointment or termination of appointment. I have also read the information pack and can confirm that I meet the statutory eligibility requirements to be considered for appointment as a chair. I also certify that I will immediately inform the selection panel of any changes in circumstances that affect the answers I have given.

I understand that any appointment will be subject to me passing any required vetting and reference checks.

If completing this form electronically I certify that the 'typed' signature is intended to be my signature.

Signed

<p><b>Please type full name and email address here if completing electronically.</b></p>
--

Date

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The closing date for completed applications is **midday 21<sup>st</sup> September 2015.**

Please send completed applications to the Office of the Hampshire Police and Crime Commissioner at [opcc@hampshire.pnn.police.uk](mailto:opcc@hampshire.pnn.police.uk)

Or by post to: Office of the Police and Crime Commissioner for Hampshire, St George's Chambers, St George's Street, Winchester, Hampshire, SO23 8AJ

## Equal Opportunities Form

The Police Forces and Police & Crime Commissioners' Office value diversity in their workforce and aim to recruit and value a workforce that reflects the diverse make-up of the community.

As part of our recruitment process you are required to complete this monitoring form. This page will be detached and will not form part of the selection process. We expect all our employees, and prospective employees, to support our aim to build a diverse and representative workforce

<b>Age:</b> Up to 21 <input type="checkbox"/> 22-25 <input type="checkbox"/> 26-30 <input type="checkbox"/> 31-35 <input type="checkbox"/> 36-40 <input type="checkbox"/> 41-45 <input type="checkbox"/> 46-50 <input type="checkbox"/> 51-55 <input type="checkbox"/> 56-60 <input type="checkbox"/> 61-65 <input type="checkbox"/> over 65 <input type="checkbox"/>	<b>Sexual Orientation:</b> Bisexual <input type="checkbox"/> Gay/Lesbian <input type="checkbox"/> Heterosexual <input type="checkbox"/> Prefer not to say <input type="checkbox"/>
<b>Gender:</b> Male <input type="checkbox"/> Female <input type="checkbox"/> Transgender <input type="checkbox"/> Transexual <input type="checkbox"/> Intersex <input type="checkbox"/> Prefer not to say <input type="checkbox"/>	<b>Religious Belief:</b> Buddhist <input type="checkbox"/> Christian <input type="checkbox"/> Hindu <input type="checkbox"/> Jewish <input type="checkbox"/> Muslim <input type="checkbox"/> Sikh <input type="checkbox"/> None <input type="checkbox"/> Other (please state) <input type="checkbox"/>
<b>Disability:</b> Yes <input type="checkbox"/> No <input type="checkbox"/> Prefer not to say <input type="checkbox"/>	..... Prefer not to say <input type="checkbox"/>
<b>Ethnic Origin:</b> White British <input type="checkbox"/> Irish <input type="checkbox"/> Any other White Background <input type="checkbox"/> Mixed White and Black Caribbean <input type="checkbox"/> White and Black African <input type="checkbox"/> White and Asian <input type="checkbox"/> Any other mixed background <input type="checkbox"/> Asian and Asian British Indian <input type="checkbox"/> Pakistani <input type="checkbox"/> Bangladeshi <input type="checkbox"/> Any other Asian background <input type="checkbox"/> Black and Black British Caribbean <input type="checkbox"/> African <input type="checkbox"/> Any other black background <input type="checkbox"/> Gypsy & Traveller English Gypsy <input type="checkbox"/> Irish Traveller <input type="checkbox"/> European Roma <input type="checkbox"/> Chinese or other ethnic group Chinese <input type="checkbox"/> Other ethnic group (please specify) <input type="checkbox"/>	

## POINT RATING SCALE FOR REVIEW OF ESSENTIAL AND DESIRABLE CRITERIA

### Ratings Definitions:

3 = **Strong Evidence** - the candidate provides strong evidence of many descriptions within the area tested at an appropriate level for the role, with direct relevance to the policing priorities as set by the PCC.

2 = **Acceptable Evidence** - the candidate provides some evidence of the area tested at an appropriate level for the role, has acceptable relevance to the policing priorities as set by the PCC.

1 = **Area where improvement is needed** - the candidate provides some, but limited evidence of the area tested at an appropriate level for the role, has gaps in the relevance to the policing priorities as set by the PCC and / or does not respond to all the issues in the question.

0 = **Evidence Not Provided** - the candidate provides no evidence of the quality / competency area, or the evidence is at a level below that required for the role applied for or does not have relevance to the policing priorities as set by the PCC.

## POINT RATING SCALE FOR REVIEW OF SELF-ASSESSMENT (0 to 5)

### Rating Definition

#### 5. Exceptional

The candidate has provided evidence that **directly** relates to the quality / competency area being measured. This evidence **clearly explains** their role and what they did in relation to **many** of the behavioural descriptors associated with the area. The example/examples used have **direct relevance** to the organisational objectives and the areas of importance as defined by the PCC/CC relating to this role.

#### 4. Very High

The candidate has provided evidence that **directly** relates to the quality / competency area being measured. This evidence **clearly explains** their role and what they did in relation to **many** of the behavioural descriptors associated with the area. The example/examples used have **some relevant links** to the organisational objectives and the areas of importance as defined by the PCC/CC relating to this role.

#### 3. High

The candidate has provided evidence that relates to **some of** the quality / competency area being measured. **In the main** the evidence explains their role and what they did in relation to **some** of the behavioural descriptors associated with the area. The example/examples used have **some relevant links** to the organisational objectives and the areas of importance as defined by the PCC/CC relating to this role.

#### 2. Medium

The candidate has provided **some** evidence that relates to **some of** the quality / competency area being measured. **In the main** evidence clearly explains their role and what they did in relation to **some** of the behavioural descriptors associated with the area. The example/examples used have **some links indirectly** to the organisational objectives and the areas of importance as defined by the PCC/CC relating to this role.

#### 1. Low

The candidate has provided **some** evidence that relates to the quality / competency area being measured. The evidence **does not** clearly explain their role and what they did in relation to the behavioural descriptors associated with the area. The example/examples used have **no direct** relevance to the organisational objectives and the areas of importance as defined by the PCC/CC relating to this role.

**0. No Score**

The candidate has provided **no** evidence that relates to the quality / competency area being measured. The evidence **does not** explain their role or what they did in relation to the behavioural descriptors associated with the area. The example/examples used have **no** relevance to the organisational objectives relating to this role.

# APPOINTMENT OF LEGALLY QUALIFIED CHAIRS TO SERVE ON POLICE MISCONDUCT PANELS



Office of the Police and Crime  
Commissioner for Surrey

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**CANDIDATE ASSESSMENT PACK**

**OCTOBER 2015**

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## 1. Introduction / Instructions

At the start of your interview you are required to assume the role of a Chair of a Police Misconduct hearing and deliver an oral decision (no longer than 10 minutes). This pack provides the basic information and resources you should use to assess the case and issue a decision. The case involves one allegation against an officer of inappropriate use of force.

Included in this pack you have:

- Basic background facts
- Key points from witness accounts
- Agreed submissions
- Views and notes of fellow panel members sitting on the case

Your decision should address:

- Whether you consider the use of force was lawful
- Whether you consider the use of force in this case was necessary and reasonable
- Whether you consider a charge against the officer for an inappropriate use of force should be found proven or not

This exercise is artificial and there are naturally large procedural and evidential gaps in the evidence/resources available to you, but your presentation should seek to address the above areas as far as possible in reaching a decision. You are being assessed on your approach, reasoning and presentation and not on the determination itself. Your presentation should be based on the information within this pack and current knowledge. No additional research is necessary.

### Background

This matter relates to an allegation of misconduct against one police officer following an allegation of unlawful arrest and unlawful use of force. A suspected protestor was arrested and during the arrest it is alleged an inappropriate use of force was used resulting in a break to the right arm of the suspect.

You must decide if a case against Officer PC A for use of inappropriate force when making an arrest, resulting in a broken arm is proven or not.

### Matters not in dispute

The local authority planned to hold a full council meeting at its council chamber at which it was to debate proposed cuts to the Council's budget and services. The public were to be allowed to attend in the public gallery.

Representatives of both the Council and the Police were aware in advance of a planned public protest against the cuts to be held outside the building. They had not, however, anticipated that the protestors might thereafter take further and disruptive action inside the building. Thus the intention was that the protest, provided it remained peaceful, would be

policed by a small number of local officers comprising one inspector, two sergeants and six police constables.

The plan was that staff employed by the local authority would be on duty in the reception area to search the bags of people entering the building and to direct members of the public up to the public gallery and councillors to the main chamber. Two officers (PC A and B) were to be deployed inside the building to facilitate the safe movement of members of the public and to prevent them from gaining access to private areas of the building.

A considerable number of protesters had gathered outside the building chanting noisily and waving placards. When the doors were opened many of them surged into the building. Almost immediately it became apparent that the plan to control access to, and to direct access within, the building was not going to work.

Some protesters made their way up the main staircase and were chanting: 'Whose town hall? Our town hall!' The doors to the council chamber were closed but many of the protesters were undeterred by this. Some began to chant: 'Let's us in!' and 'Charge'. Police officers formed a cordon in front of the doors and asked the protesters to move back. By this stage, the situation had, to say the least, got completely out of hand. The sheer weight of numbers of the protesters pushing forwards in a relatively confined space gave rise to a real risk that people would be injured in the crush.

The doors to the council chamber eventually gave way. The force involved was sufficient to cause one of the officers to be pressed so hard against them as to break the glass. Some protestors then moved forward to occupy the chamber. After a few seconds, the police were able to re-establish the cordon but only after a significant number of protestors had already entered the council chamber itself.

By this time, councillors had started to gather in the council chamber ready to start the meeting. Soon, the leader of the Council emerged and warned the protesters that if the disturbance were to continue then it might become necessary to hold the meeting behind closed doors. It is difficult to tell how many members of the crowd would have heard what she had to say, so loud was the chanting at this stage. Some were shouting repeatedly for her resignation. Others were just making inarticulate noise. There can, however, be no doubt that it would have been impossible for the council meeting to take place so long as the protest continued to involve the occupation of the chamber accompanied by noisy shouting and ululation.

The councillors in the chamber then went outside via a fire exit. They were later let back into the building and they reassembled in a private area of the building. The councillors' intention was to reconvene the meeting away from the public because of the serious disruption and disorderly behaviour in the council chamber.

A number of protestors, including Miss X, are observed on the CCTV making their way up along a private corridor where it becomes blocked by locked staff only doors. Local police officers soon appeared on the other side of the doors and one of them gestured to the protesters through the glass panels that they were not allowed in. The protesters optimistically and unsuccessfully tried to persuade the officers to let them through.

Eventually, three of the five officers, confident in the unfounded belief that the locked doors would continue to hold the protesters at bay, proceeded back down the corridor in the direction of the canteen leaving only two of their colleagues at the door (PC A and PC B).

The situation then changed dramatically when someone set off the fire alarm, the effect of which was automatically to release the magnetic lock to the doors. The protesters saw their opportunity and took it. They pushed past the two police officers (PC A and PC B) whose obvious but hopeless intention was to hold them back. Over a period of about 40 seconds or so the officers were overwhelmed by the momentum of the protesters. These protesters, about 15 in number, then streamed down the corridor which led to where the councillors were to be found. At that point about 20 officers appeared at the other end of the corridor and advanced towards the other protesters who were still in the corridor. The lead officer shouted: 'Breach of the peace!' He ordered his officers to 'take one person each'. As the police were moving the protesters out of the corridor, Miss X is seen on film shouting: 'What are you doing?'

The details of what followed are in dispute. The video evidence shows that the police officers were, at the very least, physically ushering the protestors down the corridor. There is an issue as to the extent of the force used and the extent to which such force met with resistance on the part of the protesters.

Eventually, the police succeeded in expelling the protesters from the building and securing the doors against any further attempt to gain access. By this time, several of the protesters had been arrested. The circumstances in which Miss X came to be arrested and subsequently detained and prosecuted forms the subject matter of the complaint and misconduct proceedings.

### **The complaint / charge**

The original complaint against the officer is that the actions of the police in using force to remove the protesters, was unlawful and that they had certainly gone beyond the bounds of legitimacy when they were bundling them down the corridor. Miss X's original complaint states she was an innocent bystander wishing to attend a public meeting of the council and when trying to get away from the protests was grabbed from behind by an officer, forced to the ground and handcuffed. The force used was so hard it broke her right arm and she had no idea why she had been arrested.

Following an investigation the officer was sent a Regulation 21 Notice alleging breaches of the Standards of Professional Behaviour, including that an inappropriate use of force was used when making the arrest. A copy of the charge included in the Regulation 21 Notice is at Appendix 1. The investigation considered that actions taken by police to remove protestors was lawful but found that an excessive use of force had been applied by PC A when arresting Miss X resulting in a broken arm. It also commented that despite transferring Miss X to custody no attempt was made to provide treatment for Miss X whose injury and pain was obvious.

### **The Defence Position**

PC A asserts that it was entirely permissible for the police not only to use physically force to expel the protesters, but that the use of force when arresting Miss X was reasonable in response to an assault by Miss X on PC B.

PC A states he was assisting officers in trying to get protestors out of a private corridor. He stated the protestors were being led out of the corridor and he was part of a rear cordon

pushing them out. He states he took hold of Miss X after she turned to face the officers and punched PC B hard in the chest and therefore made an arrest for assaulting an officer.

### **Key points from account of PC A**

- Maintaining guard in private corridor
- Approached by group of protesters who charged past myself and PC B after a locked door opened on the sounding of a fire alarm
- Other officers attended and started pushing protestors out of the corridor
- Joined officers in pushing them back
- Noticed Miss X trying to stop and grabbing hold of a handrail to slow herself down
- PC B was behind Miss X trying to get her to leave
- Miss X turned and punched PC B hard in the chest
- I grabbed Miss X by the arm and sought to get control
- I pushed Miss X to the floor to gain control
- Whilst on the floor I placed handcuffs on Miss X before standing her up
- When she was stood up I placed her against the wall and stated I was arresting her for assaulting a police officer and cautioned her.
- I escorted her to a police van for her to be taken to custody. She continued to try to walk slowly but made no complaint and never said her arm was hurting.

### **Key points from account of PC B**

- Maintaining guard in private corridor
- Approached by group of protesters who charged past PC A and myself, after a locked door opened on the sounding of a fire alarm
- Other officers attended and started pushing protestors out of the corridor
- Joined officers in pushing them back
- Miss X looked very shifty and started to try and push back against me using a handrail as an anchor.
- Miss X turned to face me and punched me in the face
- I noted Miss X grab hold of another protestor and fall to the ground
- PC A grabbed Miss X and while on the ground handcuffed her
- When she was stood up PC A advised the suspect she was under arrest for assault and breaching the peace and cautioned her.

### **Key points from account of Miss X**

- I was planning to attend a public meeting at the council, which I regularly do, in order to write an article for my neighbourhood newsletter on local issues
- There is never more than a few members of the public at these meetings and it is a shame
- On arrival there was large numbers of people surrounding the council building
- I started making my way to the council chamber as normal on approaching the chamber a number of people had placards and were shouting and pushing towards police officers
- I wanted to get out of the way so started walking down a clear corridor to exit the building
- I was scared and feared for my safety

- As I started walking down the corridor my right arm was grabbed and I was spun backwards and was shoved to the ground
- I fell awkwardly and immediately had shooting pains in my right arm and shoulder and cried out in pain
- An officer was stood over me shouting “were do you think you are going, you aint getting away that easily”.
- He then grabbed my right arm and pulled me up sharply it caused further shooting pains down my arm and I was crying in pain.
- He placed handcuffs on me and I have no idea why
- He took me out of the building and placed me in a police van.
- I kept telling him that I was in pain and needed to go to the hospital. But the officer just kept saying to shut up and that I shouldn't hit the police.
- On arrival at the police station I was seen by another police officer. He immediately asked if I was ok. I think he could tell from my fact that I was in significant pain. I told him I hurt my arm.
- I was examined by another officer who then called an ambulance and took me to hospital.
- An X ray showed my right arm was broken.
- I have never had any interaction with the police before and still can't believe what happened, or how I got manhandled with no evidence or questions asked.

### **Additional evidence**

- Medical evidence confirms a broken right arm.
- PC A has received a higher number of complaints relating to excessive use of force compared to other officers in the unit.
- A prosecution against the complainant for assault and battery of a police officer in the course of their duty collapsed following a submission of no case to answer.
- The complainant writes for a local news letter which regularly advertised public protests and had previously sought attendance at the council meeting in question.
- CCTV shows the complainant was taking an active part in protests. There is no CCTV or video footage available of the actual arrest.

### **Panel members' views / notes**

Your fellow panel members consider the following features are of particular importance:

(i) The extent of the disruption was very serious. The physical occupation of the council chamber was achieved by the use of brute force deployed against uniformed police officers.

(ii) So long as this occupation continued, it effectively prevented all legitimate council business from being carried out there.

(iii) The Leader of the Council gave those occupying the chamber the opportunity to leave and to allow the meeting to commence under the threat that if they did not do so the meeting could be held in private. She was shouted down and the occupation continued.

(iv) There was a real and constant risk that determined protesters would attempt to frustrate the orderly conduct of business wherever in the building the council tried to meet, as was exemplified by the subsequent incursion into the canteen corridor.

(v) The disorderly conduct had been proceeding for at least 45 minutes before action was taken to exclude the protesters from the building.

(vi) In the circumstances of this case, the Council was entitled to conclude that no steps short of excluding all members of the public from the building would be adequate to ensure that the meeting would not be disrupted by disorderly behaviour.

(vii) The police had been invited to the building by the Council for the specific purpose of facilitating the maintenance of order to enable the meeting to take place. Implicit in this invitation was the authority given to the police to exercise such common law or statutory powers as were necessary and proportionate to achieve this purpose.

(viii) Furthermore, for as long as the meeting was not intended to be heard in public, the protesters had no remaining legitimate reason to remain in the building.

(x) In principle the other panel members are satisfied officers were entitled to use force (if any) as was reasonably required to achieve the object of ending the continuing threat to the proper transaction of business at the council meeting by treating the protesters as trespassers. In the circumstances of this case it was, proportionate and necessary to exclude some of the protesters from the building.

The panel members also consider the determination has been complicated by a number of factors:

(i) The events in question unfolded at different times and in different parts of the building often in crowded and confused conditions in which no single witness would be in a position to make a confident assessment of everything or even most of what was going on.

(ii) Inevitably, to varying degrees, protester witnesses were inclined to interpret events in the way most favourable to their own standpoints and police witnesses were inclined towards justifying their actions retrospectively by overstating the seriousness of the state of affairs.

(iii) Emotions at the time were running high on both sides and objectivity was further impaired as a result.

(iv) The incident took place about three-and-a-half years before these matters have come to the hearing by which time recollections could be expected to have been weakened and rendered more unreliable by the passage of time.

With respect to the protester witnesses there were a number of points of criticism made out by the defendant. The protester witnesses all expressed themselves in their witness statements in a way which was economical with the truth as to the circumstances of their invasion of the corridor. It was clear from the video footage that sustained and heavy physical force was used to overcome the resistance of the officers in the corridor. Yet this was alluded to in their respective witness statements simply as the crowd 'moving' or 'making its way' down the corridor. Their explanations under cross examination for this omission were generally unsatisfactory. Miss X was one of those who invaded the corridor, but asserts that she made no mention of the force used against the police because she did not consider it to be relevant because she was not involved. Another protester, persisted in saying that when making the statement he did not consider the use of force against the police to have been relevant.

One protestor considered that the use of force and passive resistance was entirely justified and his comments to a passer-by outside the building after the incident reveal a level of pride in having, they thought, stopped the meeting. Your panel members have no doubt about the genuineness of the convictions and strength of feeling of the protesters but are unable to escape the conclusion that the very fervour of their beliefs seriously undermined the chances of their forming an impartial view as to the seriousness of the situation which had developed.

On the other hand, your panel members considered that the police witnesses were, considerably in some cases, overplaying the seriousness of the incident at least as strenuously as the protesters were underplaying it. They have noted:

Several officers described themselves and protesters as running in the building. The CCTV evidence reveals that their progress was generally somewhat slower than this.

Several officers recorded that the fire alarm was still sounding and this was adding to the confusion as they were escorting the protesters down the corridor and out of the building. Again this is contradicted by the CCTV footage which reveals that the alarm had stopped sounding some considerable time earlier before they had even reached the corridor.

That the descriptions given by many of the officers of the level of resistance and aggression shown by the protesters are overstated, but accepted that the film footage would only record a proportion of what was occurring but it would be too much of a coincidence if, by chance alone, none of the more extreme examples of obstructive, aggressive and violent behaviour relied upon had been captured.

Your panel members consider that the evidence shows that Miss X was acting in a disruptive manner which was directly threatening the viability of the Council meeting. The protesters were participating in a breach of the peace in the private corridor or, alternatively, were involved in an imminent threat of a breach of the peace. Thus they consider that Miss X can't complain that force, per se, was deployed against the protesters for the purpose of allowing the meeting to go ahead without disruption and to bring to an end the breach of the peace or the possibility of an occurrence or recurrence thereof. Any such force, however, would have to have been reasonable and proportionate.

They consider the police were acting lawfully in expelling the protesters from the building in using reasonable force to achieve this. However, need to consider the question as to whether the force actually used against Miss X was lawful and or reasonable.

The panel members comment that their assessment of Miss X was that she was essentially an honest witness but one who struggled not to see things through the distorting lens of her own firm convictions. They also consider that, with the passage of time, her interpretation and recollection of events has hardened and become more entrenched in her own favour and that of the protesters in general.

The panel members consider that some caution must be exercised in accepting the accuracy and objectivity of Miss X's evidence and highlight the following points made by the Officer's written closing submissions but, in particular:

- She betrayed an undue scepticism of the motives of the police and the Council members which was not supported by the evidence. For example, she dismissed the efforts of the council leader to persuade the protesters to allow the meeting to go ahead as half-hearted. Having seen the film footage, they disagree. It is difficult to see what more they could reasonably have done.

- She understated her own role in the incursion into the corridor saying in her witness statement that: 'It took me by surprise and very quickly I was pushed from behind up against an officer. I was just trying to get away and was not involved. The crowd then made its way down the corridor'. The film footage shows her to have been at the front of the protesters at this point and reveals a concerted and determined use of force by the protesters against the police officers. Before she slowed and became the last in the group. She has attempted to minimise her involvement in the invasion of the corridor and her inconsistent explanations of her conduct and state of mind at the time are attempts to rationalise her behaviour after the event. This is conduct which, if she had been able to maintain a more objective perspective, she may well subsequently have regretted.

Your panel members are un-persuaded that Miss X's state of mind was one of anxiety and fear for her safety. Her complaint was that she was simply trying to get away when she was grabbed from behind. It became clear in the course of cross-examination, however, that Miss X resented that fact that the police were expelling the protesters and she was deliberately going slower than her natural pace in order to lay down a marker. If she had been seriously concerned about the risk of injury she would not have increased the danger by acting in a way which was calculated to encourage the police to continue to push her forwards.

It is also to be noted that she gave a no comment interview after caution and her first recorded account was that set out in her letter of complaint. Thus there was plenty of time over which her memory of events was liable to degenerate into more of an ex post facto rationalisation of her conduct than an accurate recollection.

It is clear from the concessions she made in cross examination that, as she was going down the corridor that Miss X was deliberately pressing at the boundaries of conduct which might lead to her arrest. She wanted to make her point by going intentionally slowly but without being seen to be so obstructive as to precipitate her arrest. In the end, this risky balance was one which she failed to maintain.

With depressing predictability, the film footage and still photos do not capture the central moments just before or the actual arrest of Miss X, so the only evidence is the primarily accounts of eye witnesses. The accounts of these witnesses are, in many cases, coloured by the attitudinal perspective from which their authors viewed the incidents, irreconcilably inconsistent with the accounts of other witnesses, inconsistent with their own earlier accounts and impaired by the passage of time.

### **Panel members notes taken during the case and of the submissions from the parties Barristers**

In summary, Miss X's case is that she was trying to get out of the building and during this she had been repeatedly pushed by PC B, when she was grabbed painfully by PC A who pulled her right arm behind her back and forced her down to the ground where she was handcuffed. In contrast, PC A states says that Ms X swung her fist at PC B and, as she ducked out of the way, it made light contact with her vest.

In cross-examination Miss X conceded that there was a moment when she turned around to face PC B who was behind her. She says that she gestured at her to stop pushing by holding out her hand palm open and she made contact with the officer's vest. PC B, in contrast, stated that this was a deliberate assault and was punched in the face.

Miss X contended that there was a delay between her contact with PC B and the intervention of PC A, during which period she had proceeded down the corridor and was almost out of the building. Miss X stated it was not until she was in the police van she was told she was under arrest for hitting an officer.

There is a photograph of Miss X which indisputably shows her being restrained in the private corridor. For this to be consistent with Miss X's account, she would have to have been taken back to where she was first detained yet nowhere in her witness statement does she contend that she was moved in any direction but downwards. Furthermore the location of the incident is consistent with the account of another protester, who would not have had any motive to undermine Miss X's version of events.

There are a number of inconsistencies in the accounts of PC A and PC B relating to their descriptions of the circumstances of PC A's arrest. These inconsistencies relate, for example, as to whether Miss X was holding on to the handrail, whether and how she may subsequently have spun round and PC A's position on the stairs or the landing at the material time. They are also inconsistent if the punch was to the chest or face.

Firstly, although PC B has an unblemished record, the behaviour of PC A had earlier been the subject of a complaint arising out of a completely separate incident which occurred in public protest. Footage of the incident in question was admitted in evidence. It shows PC A administering a knee strike. PC A explained his actions as being in response to the complainant struggling to prevent him from applying a conventional police hold after hitting another officer. No case to answer was found following an investigation in that matter.

A transcript of the booking procedure at the police station purports to record that PC B reported that Miss X went to punch her in the face but 'quite literally caught (inaudible) eyelash so I stood back ... '. The custody record stated: 'subject restrained to leave and resisted, swung at officer catching her face'.

On Miss X's account, PC A used excessive force against her in the corridor. PC A grabbed her right upper arm and forced it behind her forcing her forwards and down to the ground. It was painful and she was not sure of her balance. She was scared that he might break her arm and complained but he said that the more she complained the more he would do it. She said she felt the weight of a foot upon her back and her upper arm before she was handcuffed and she complained that the handcuffs were painful and she was in pain. Subsequently she was held against the wall and told that she had been arrested for assaulting a police officer. Later, on her account, still in agony from the handcuffs, she was led out of the back of the building where press photographers took pictures of them.

The officer's barrister made the following submission:

You can't be satisfied that Miss X was treated with excessive force. I draw attention to the following factors:

- (i) Her recollection and interpretation of events was coloured by her anger and resentment at the involvement of the police. She believed that they had no right to expel the protesters.
- (ii) She showed a readiness to reach conclusions which cast the darkest light on the motives and actions of police officers where other interpretations were, on a more objective analysis, perfectly plausible. For example, the clear impression was given that there was undue delay in the process. However, the evidence as a whole demonstrated no such culpable delay.

(iii) Her evidence in relation to the amount of force deployed was not compellingly supported by photographic evidence which was produced during the course of the hearing relating to marks on the right arm, wrists and fist which was, at best, ambiguously indistinct.

(iv) She made no formal complaint about her treatment either before or immediately after the criminal proceedings in which she was acquitted. This was done, she said, on the advice of her solicitor but I find her to be an intelligent and strong minded individual who would have been well able to form an independent view of whether to make a formal complaint.

(v) There was a long delay between the occurrence of the incident and the first account from Miss X concerning what she alleges happened during the course of which it is likely that her recollection would have become more polarised and generally less reliable.

(vi) People in the vicinity were openly recording what was occurring on mobile phones and on camera. As it happens, the first photograph of the incident was not taken until after Miss X had been taken to the floor but officers acting in an overtly excessive display of force would run the risk that this would have been captured for all the world to see with potentially devastating effects on their careers and the attendant likelihood of criminal proceedings and conviction.

Miss X was told that she had been arrested and why at the first practicable moment the handcuffs were being applied. To the extent that Miss X claims that she was not told until later, this is explicable by the fact that she was shouting and struggling at the material time.

Miss X was charged with the offences of assaulting a police officer in the execution of his (or her) duty. The case came before a Magistrates' Court. The prosecution collapsed following successful submissions that there was no case to answer. However, the significance of the acquittal is not as great as may appear at first blush. The half time adjudication was based on a finding by the district judge that the prosecution had not satisfied the court that the officers in question were acting in the execution of their duty at the material time. Relevant case law in which the majority in the Court of Appeal considered that officers assisting in the lawful expulsion of trespassers were acting in the course of their duty was not drawn to the judge's attention. The dismissal of the charges did not carry with it the implication that the officers' accounts had been found to have been unworthy of belief but merely that, as a matter of law, they were not acting in the execution of their duty at the material time.

The barrister submitted that the evidence the officers had an honestly held belief that they had been assaulted in the execution of their duty. The protesters had not been improperly prevented from exercising their rights of freedom of expression. It is necessary in a democratic society to protect the machinery of local government from being brought to a standstill by serious and deliberately disruptive conduct no matter how well intentioned the objects of those responsible for such conduct. The complainant attempted to resist and punch and officer it was reasonable to seek to restrain the individual and place her under arrest.

### **Instructions:**

Based on the above information you should present an oral decision (no longer than 10 minutes). Your presentation should address:

- Whether you consider the use of force was lawful

- Whether you consider the use of force in this case was necessary and reasonable
- Whether you consider a charge against the officer for an inappropriate use of force should be found proven or not

## **APPENDIX 1 – CHARGE INCLUDED IN REGULATION 21 NOTICE SERVED ON PC A**

Being a police officer with the Police, on 6 October 2012 you breached the Standards of Professional Behaviour set out in the Schedule to the Police (Conduct) Regulations 2012, in relation to manner in which you dealt with a member of public, namely Miss X.

### Particulars

On 6 October 2012:

- a. You were called to attend the Local Authority building to assist with the policing of a public meeting at which intelligence indicated a lawful protest would take place;
- b. You attended the area in uniform in a marked police car in company with PC B. Once in attendance you and PC B were assigned to assist with the lawful movement of members of the public within the Local Authority building and to prevent access to private areas;
- c. While assisting other officers with the movement of protestors out of a private corridor you observed Miss X who was, albeit slowly, making her way out of the building;
- d. You then physically laid hands on Miss X and took her to the floor and / or kept her on the floor using, inter alia, a leg sweep and / or force;
- e. Once Miss X had been taken to the floor you applied handcuffs to Miss X in the rear position and purportedly arrested her for assault of a police officer and / or for breach of the peace;
- f. You kept Miss X on the floor before lifting her by the arm and pushing her against the wall;
- g. Your use of force as described hereinbefore was unnecessary and / or unreasonable and / or disproportionate;
- h. Thereafter you transported Miss X to a marked police van where she was transported to the local custody suite where Miss X was observed to be in pain and in need of treatment;
- i. You made no attempt to assist Miss X or establish injuries caused as a result of your use of force
- j. Miss X was taken to the Hospital Minor Injuries Unit and received treatment, including x-rays, for injuries to her right arm, which was found to be broken. Miss X has now made a formal complaint against you.
- k. Your said conduct was gross misconduct and in breach of the following

Standards of Professional Behaviour:

- i. Authority, respect and courtesy;
- ii. Use of force;
- iii. Discreditable Conduct: You behaved in a manner which was likely to discredit the police service and/or undermine public confidence in it because a reasonable member of the public who was aware of all the relevant facts would have justifiable concerns about such behaviour.

**LEGALLY QUALIFIED CHAIRS RECRUITMENT ASSESSMENT FORM**

\_\_\_\_\_ **October 2015**

**Candidate:** \_\_\_\_\_

<b>PRESENTATION ASSESSMENT</b>
NOTES
<b>ASSESSMENT</b>
<b>Strong / Acceptable / Weak</b>

## INTERVIEW QUESTIONS

Score: 5 Exceptional : 4 Very High : 3 High : 2 Medium : 1 Low

			Comments	Score
	<b>MS</b>	<b>Introduction/Opening Questions</b>  Welcome/Thank you for attending/ introductions Interview format		
	<b>JR</b>	<b>Presentation</b>  Questions on presentation		
<b>1</b>	<b>MS</b>	<b>What appealed to you about this position?</b>		
<b>2</b>	<b>MS</b>	<b>What in your mind does a successful misconduct hearing look like?</b>		
<b>3</b>	<b>MS</b>	<b>How would you ensure that the panels' private deliberations are fair, thorough and professional?</b>		

4	MS	<p><b>Can you give me an example of where you have had to deal with a serious complaint?</b></p> <p>What was your specific role?</p>		
5	RA	<p><b>What knowledge or experience do you have of the police disciplinary system?</b></p> <p><i>Knowledge key points:</i>  <i>Awareness of reform; Officers no longer able to resign; Public hearings</i></p> <p><i>Experience key points:</i>  <i>Attended gross misconduct hearing (in what capacity)</i></p> <p><i>Additional question</i>  <i>What impact will reform have on misconduct hearings?</i></p>		
6		<p><b>Have you had experience of chairing a public or a misconduct hearing?</b></p> <p>What were the outcomes?  How did you communicate the outcomes with the stakeholders?  Have you produced written reports of hearing outcomes?  What factors would you take into consideration when determining how to handle a hearing in public?</p>		

<b>7</b>		<p><b>What qualities do you think a good Chair would have?</b></p> <p>How can you demonstrate where you have used those qualities?</p> <p>Communication; Plain English/public understanding</p> <p>Personal skills: listening, evaluation of information</p>		
<b>8</b>		<p><b>How would you see the role of the other members on the Panel?</b></p> <p>Independent member/senior officer</p> <p>How would you determine the outcome of a hearing if the Panel view was split?</p> <p>How would you determine whether to publish a decision?</p>		
		<p><b>Closing Questions / Checks</b></p> <p>Any questions for the Panel?</p> <p>Discuss any candidate specific declaration under 'declaration of interests' section.</p>		

**SUMMARY ASSESSMENT**

**CANDIDATE:** .....

<b>PRESENTATION</b>		<b>Assessment</b>	
Strong / Acceptable / Weak			
<b>INTERVIEW</b>			
1		<b>Question</b>	<b>Score</b>
2			
3			
4			
5			
6			
7			
8			
	Do any declarations of interests make appointment unsuitable/untenable	YES / NO	
<b>APPOINTMENT RECOMMENDATION:</b>		<b>YES / NO</b>	

**PANEL MEMBER:** .....

**DATE:** .....