

**APCC
review of
Legally
Qualified
Chairs and
misconduct
hearings**

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► Introduction

Changes to the police disciplinary system have been often and varied in recent years, with one of those changes leading to the introduction of Legally Qualified Chairs (LQCs) in January 2016.

The misconduct hearing process has run very well under LQCs, but 15 months after their implementation the Association of Police and Crime Commissioners felt a review of the systems and processes governing misconduct hearings was worthwhile given Police and Crime Commissioners' powers of oversight and the public interest in police conduct.

The review has been comprehensive and inclusive, covering all parties involved in the misconduct process, and our thanks go to all those who took part in the review. The subsequent recommendations impact on all parties, from the Home Office to LQCs themselves. A collective effort is required if we are to continue to improve the misconduct hearing process, both for officers involved in those proceedings, the reputation of policing in the round and of course the public too.

We hope this review leads to the changes that all those involved in the system agree are necessary, from short-term guidance on the selection process of LQCs to more detail set out in regulations about the roles and responsibilities of all parties, including clarity on issues such as data protection.

Our thanks go to LQCs for overseeing this important area of policing, and we hope the APCC and LQCs can continue to work together to ensure the police misconduct process is overseen and implemented thoroughly and fairly.

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▶ 1 Executive summary and key findings

1.1 This report is based on a survey about Legally Qualified Chairs (LQCs), conducted by the APCC between July and September 2017. The survey was sent to LQCs themselves, police force Professional Standards Departments (PSDs) and Offices of Police and Crime Commissioners (OPCCs).

1.2 This was a largely qualitative survey, based on perception and experience of the misconduct system from different perspectives.

1.3 The overall impression given by the survey is that while the misconduct system is operating reasonably effectively, and LQCs are settling in to their role, there are a number of issues where consistent concerns have been raised and action could be taken to improve the misconduct arrangements. These include:

- A desire for more guidance about how the current system should operate – this view was strongly supported by LQCs and echoed by other respondents, as there is currently some confusion and a number of inconsistencies in how the system operates.
- The need for more detailed parameters setting out the LQC role and their interface with PSDs in the complaints and conduct system. However, as complaints arrangements will currently change once the Policing and Crime Act 2017 is implemented, it would make sense for new regulations to set out the Home Office's clear intentions in relation to the LQCs role to align with these developments, particularly in relation to:
 - greater consistency of process, particularly in regard to the nomination of LQCs to panels (with the fairest process thought to be a cab rank/rota system, rather than nomination on any other basis); and
 - the need for greater clarity on the role of LQCs in the pre-hearing process, and their wider role in managing the misconduct process. The fact that existing statutory guidance has not been fully revised to reflect the LQC role means that there is tension between current regulations and the old guidance (and there will be further tension when the new complaints and misconduct system is introduced). This should be addressed in the short term through the revised guidance on the current system, but in the longer term through revised regulations.
- Any new regulatory changes, as suggested above, would benefit from being accompanied by more detailed guidance on how the revised complaints and conduct system should operate in practice in relation to the role of LQCs.
- Greater consistency should be considered in the terms and conditions under which LQCs are appointed by PCCs – there was support for this from both LQCs and OPCCs. There was also support for providing greater transparency about the LQC role, subject to caveats protecting individual identities.
- Indemnity and data protection responsibilities for LQCs – a resolution to these issues is needed, as there is inconsistency in the current understanding of what is required and this is causing confusion within the system and is a matter of great concern to LQCs.
- A self-learning/knowledge network would be strongly supported by LQCs, although in practice we understand that, since the survey was circulated, LQCs have taken steps to form a national organisation.
- Both LQCs and OPCCs would welcome better engagement between them, but there seems most support for this to take place at regional level as a general rule.

1.4 In light of these key findings, we make the following Recommendations to address the issues which have been raised:

Recommendation 1

1.5 APCC and NPCC to work together to produce some urgent guidance in the short term, setting out how the current system should operate effectively to encourage more consistency in the application of the misconduct process in relation to the LQC role.

Recommendation 2

1.6 Home Office to consider developing regulations setting out the underlying features of the LQC role in relation to the new complaints and conduct regime which will soon be implemented. HO to consider developing more detailed guidance to sit alongside new regulations, setting out how the revised complaints and conduct system should operate in practice in relation to the role of LQCs.

Recommendation 3

1.7 PCCs, working with APCC, to consider developing more consistent terms and conditions of appointment for LQCs, and providing greater transparency about the LQC role, subject to caveats protecting individual identities.

Recommendation 4

1.8 PCCs, APCC, Home Office and Information Commissioners Office to consider working together to provide consistency and clarity about LQCs' data protection responsibilities, both under current and future misconduct systems. PCCs, APCC and Home Office to consider how a consistent approach to LQC indemnity could be provided.

Recommendation 5

1.9 OPCCs and LQCs to consider how regional level engagement between them might be improved and implemented.

Recommendation 6

1.10 LQCs work with the APCC and other to instil and embed as much transparency into misconduct hearings as possible and proportionate, moving beyond the minimum standards as outlined the Home Office, with rationale for their approach with the media and public at the outset of each hearing.

▶ 2 Background, the role of LQCs and previous surveys

Background

2.1 In April 2017 the APCC's Transparency and Integrity Portfolio commissioned a survey to understand whether the Legally Qualified Chairs of Misconduct Panels that had been brought in to play a role in police misconduct hearings in January 2016 were working well, or whether there were problems or blockages to achieving this.

2.2 Prior to circulating the APCC survey there had also been brief surveys conducted by both the Police Federation of their members and the NPCC Misconduct Portfolio of Police Standards Departments. However, these had been largely quantitative surveys and had not sought the views of Legally Qualified Chairs ('LQCs') themselves or looked at more qualitative issues.

The role of LQCs

2.3 LQCs were brought into being on 1 January 2016 (as a result of the Police (Conduct) (Amendment) Regulations 2015 ('the Regulations')). They are appointed by Police and Crime Commissioners (PCCs) – usually working together regionally – to serve in a pool of LQCs on which their force PSDs can draw to chair misconduct hearings.

2.4 The Regulations state that:

- the misconduct panel chair must be an independent person who satisfies the judicial appointment eligibility conditions (S5);
- the LQC can require notice of hearings to be published containing information about the time, place, subject matter of the hearing and name of the officer concerned (subject to certain considerations) (S7);
- misconduct hearings should be in public, but the LQC may decide to hold all or part of the hearing in private, if there are compelling reasons for doing so (S9); and
- the LQC as chair of the misconduct panel can require notice to be published about the outcome of the hearing – e.g. officer's name, the subject matter of the case, the findings of the panel, and any disciplinary action imposed (S12).

2.5 The most recent full revision of the Home Office Guidance on Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures was in July 2015. Unfortunately this was some months before the Regulations were laid before Parliament and do not take account of the LQC role. They focus on the management of the misconduct process under the previous arrangements, whereby the appropriate authority (i.e. Chief Constable) was in effect responsible for managing the whole misconduct process, including the hearing (though in practice the panel Chair was usually another senior force officer).

2.6 The Home Office produced some more limited guidance later in 2015 to accompany the Regulations when they were brought into force. This does touch on the role of LQCs, but only to provide more details about the specific powers set out in the Regulations: excluding people from all or part of misconduct hearings; conditions imposed on attendance at hearings; public notice of hearings; etc. It also gave some guidance to PCCs on appointing LQCs.

2.7 Taken together, the effect seems to be that whilst regulations and guidance are clear about LQCs' role in managing the misconduct hearing, their role in the pre-hearing process is much less clear. It will be seen from the report which follows that this is causing some difficulties to the smooth running of the misconduct process.

Previous surveys

The NPCC Survey

2.8 The NPCC Survey had looked at outcomes from misconduct proceedings in all force regions during the period Jan 2015 to Dec 2016. This period of the survey covered the last year in which police force members chaired misconduct hearings and the first year in which LQCs chaired misconduct hearings, in order to give comparative outcomes for these different methods of managing misconduct proceedings.

2.9 Generally this survey found that there was little statistically significant difference between the findings for gross misconduct or the dismissal outcome of officers found to have

committed misconduct, as between the previous regime and LQC chaired misconduct panels (except in Wales, where there seems to have been fewer dismissals under the LQC chaired regime). However, where there was a finding of gross misconduct, Assistant Chief Constables were generally somewhat more likely to dismiss individuals than either LQCS under the new regime or chairs of other ranks under the old. Far more significant was the statistical difference in dismissal outcomes on gross misconduct findings between regions (excluding fast track procedures), which ranged from 54.5% to 83.3%.

2.10 In most regions there was also an upward trend for dealing with misconduct through fast track procedures, but this was a trend that had started under the previous conduct regime and was not concluded to be linked to the LQC regime. There was also a significant variation between regions about the percentage of cases dealt with through fast track arrangements.

The Police Federation Survey

2.11 The Police Federation Survey focussed more on LQCs, particularly how and by whom they are nominated to hearings, whether regional arrangements were in place, how many had been nominated to chair hearings, how many had resigned and who sets the timetable for the hearing.

2.12 The survey found that in most areas the force/PSD selects the LQC from a pool of qualified people (although in three regions respondents thought the PCC's Office did this). These arrangements are generally based on a shared regional pool, although three forces either used LQCs from a pool which was for another area or used LQCs appointed for their area only. The majority of forces said they selected LQCs for individual hearings on a rotation basis (though the details were not specific), but four said they selected on availability only and five said they selected on a mixture of rotation and availability.

2.13 There were some questions about the number of LQCs that had chaired hearings and

the number that had resigned. The question about the number of LQCs that had chaired hearings was relative to the number of LQCs available and the number of misconduct hearings, but it is difficult to draw comparisons or conclusions from this, as the hearings are listed by force, but the number of LQCs available will be regional. However, it is clear that only a few LQCs have resigned, mostly as a result of being appointed a circuit judge.

2.14 Finally, there was also a question on whether hearing dates were decided before the LQC was nominated to a case. This seems to be the case in most areas, except for two regions and two forces in other regions. This is a fairly significant finding, which we will return to later in this report.

▶ 3 Methodology of the LQC survey

3.1 We are grateful for the assistance of Peter Nicholls and Bronwyn McKenna for helping to circulate the survey to LQCs, for the assistance of Jackie Alexander and Nicola Thomas at the College of Policing for their help in circulating this to PSDs, and to all those that took the time to complete the survey.

3.2 This survey was conducted in three parts, each part being aimed specifically at either LQCs themselves, Police Standards Departments ('PSDs'), or Police and Crime Commissioners Offices ('OPCCs') respectively. However, particularly in the case of the survey aimed at PSDs we tried not to repeat questions already asked in the previous two surveys referred to above, but to use the information already available from this work. Therefore fewer questions were asked of PSDs than of other groups.

3.3 The survey questions were tailored to the experience and knowledge of each of the three groups to whom they were sent, which means that the questions were not identical, but sought to draw out specific themes from different perspectives. This was felt to be a more appropriate approach, bearing in mind that this survey is trying to gather more qualitative information, based on perception and experience of the misconduct system as seen through different lenses, relevant to different functions within the system.

3.4 However, the survey questions included some questions seeking quantitative information from LQCs and OPCCs where this was within the knowledge of these groups, and could usefully be compared to quantitative information requested from PSDs/forces through earlier surveys.

3.5 As stated above, the overall aim of the survey was to see which elements of the new system were working well, and which were poorly understood or were causing problems, in order to inform discussions and considerations about how the system could be improved.

3.6 The specific questions addressed to each of the three groups are set out at Annex A.

3.7 This report includes a detailed analysis of the answers to those three sets of questions at Annexes B, C and D respectively, which records responses to individual questions and compares the responses to each question within the same group (LQC, PSD or OPCC).

3.8 However this covering report seeks to provide an analysis of the different questions across the three groups, and consider whether these raise key issues, problems or perceptions from a specific group, or whether these show common themes or significant differences between groups in answering similar questions.

3.9 It concludes with a summary of how some of the main problems identified might be addressed.

Different perspectives on common questions

3.10 This section sets out some of the differences and commonalities evident in the answers to the questions asked about a number of key themes. These themes included:

- the process by which LQCs were nominated to misconduct cases;
- the degree of control LQCs were given by PSDs over the management of these cases; and
- the transparency of the misconduct process, and the extent to which LQCs were notified about case outcomes, such as appeals.

3.11 We also asked OPCCs and LQCs about the consistency of terms and conditions on which LQCs were appointed, the support LQCs received for training, whether there was support for an LQC self-help network and the form this should take.

Process by which LQCs are nominated to misconduct cases

3.12 We asked both OPCCs and LQCs about how well they thought they understood the process used by forces to nominate LQCs to misconduct panels (see Annex B Q5 and Annex C Q1). The result of this below shows that

around 70% of OPCCs felt they had a strong or very strong understanding of this matter. However, it is evident from Figure 2 below that only about 22% of LQCs felt they had a strong or very strong understanding of how they were nominated to cases.

Figure 1 Survey question asking OPCCs to rate their understanding PSD nomination of LQCs

- Very strong 34.1%
- Strong 36.6%
- Neither strong nor poor 22.0%
- Poor 4.9%
- Very poor 2.4%

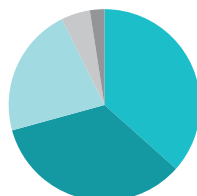
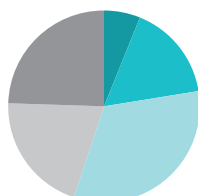


Figure 2 Survey question asking LQCs to rate their understanding of how PSDs nominate them

- Very strong 6.1%
- Strong 16.3%
- Neither strong nor poor 32.7%
- Poor 20.4%
- Very poor 24.5%



3.13 More detailed questions were also asked of LQCs about the specific process used by forces to nominate them to misconduct cases (Annex B, Q6). This can be compared to the categories used in the Police Federation survey, requesting respondents to fill in a nomination category ('availability', 'rotation' or 'other').

3.14 The figures below illustrate the differences in the two sets of responses, although caution is needed in drawing conclusions, as these results reflect one method used for each force, but may reflect LQC experience of different methods used in different areas. Nevertheless, it shows a stark difference in perception about the appointment methods used – notably a significant variance in the use of availability as a method of allocating LQCs.

Figure 3 LQCs were asked to list the processes used in nominating them to misconduct cases

Percentage of LQC responses where method of selection is cited

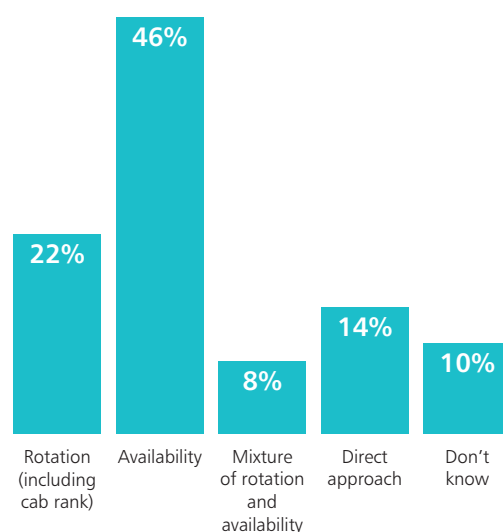
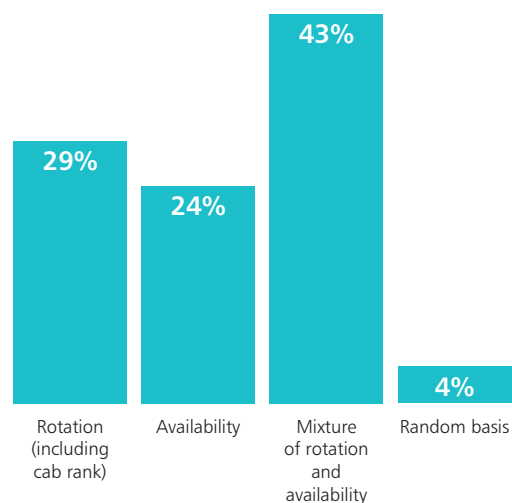


Figure 4 Forces set out the processes they used in nominating LQCs to misconduct cases

Percentage of PSD responses



3.15 It is worth noting that we also asked LQCs some supplementary questions about what they felt the best practice method of nomination was and whether there was any useful good practice in other sectors (Annex B, Qs 10 and 11). There was very strong support amongst LQCs for the cab-rank principle as the fairest method (which is one of the forms of ‘rotation’ that can be used), and a number of LQCs mentioned that the better organisations in other sectors used variations of this principle. It is also worth mentioning that at Annex B question 8 there was strong support from LQCs for a system of nomination to panels that was applied consistently across all forces.

3.16 The most notable finding from the figure above is the inconsistent perceptions about the proportion of areas that select by availability. Where selection is by availability, it implies that PSDs have set the date of the misconduct hearing in advance of nominating the LQC. This interpretation is supported by other findings from the Police Federation Survey, referred to above, that (except for two regions and two forces in other regions) in most cases the date of the misconduct hearing is set before the LQC is nominated.

3.17 However, it is evident from the detailed answers to subsequent questions (e.g. Q12 and Q22) that this is causing some problems, as LQCs often do not receive papers in a timely fashion or have a role in other pre-hearing decisions, which leads to subsequent delays in process (e.g. delays in giving directions, adjourned hearings), additional costs and, in some cases, LQCs being requested to block out several days for a hearing that only lasts one or two days, thus not making best use of their time.

3.18 The current statutory guidance (which was developed before LQCs were introduced) does not cover this point specifically, and leaves an uncertain situation (see Chapter 2 on role of LQCs). It does raise questions about whether PSDs have fully thought through the role and responsibilities of the LQCs, and about whether revised guidance is needed to clarify the LQC role in the pre-hearing process.

LQC control over the management of misconduct cases and transparency of proceedings

3.19 As noted, the response about the methods of LQC appointment imply that in some areas LQCs are not being given control over the misconduct process, particularly the pre-hearing process. Some elements of this, such as control over the transparency of hearings are written into legislation, but other elements (such as managing the timetable) are not. We asked LQCs some supplementary questions about this.

3.20 The detailed responses are set out in Annex B at questions 12, 13 and 14, but it may be worth noting that, whilst some LQCs report constructive relationship with PSDs in relation to case management (even so, some are critical of late papers and shortened timescales), a significant number are critical that PSDs retain too great a control of process. Only a few LQCs were aware of fast track processes. One LQC summarised their experience thus: “the attitude of most AAs [i.e. Chief Officers as Appropriate Authority] and Officers’ representatives is that they do not welcome active case management and do not respond fully and adequately to directions given”.

3.21 In relation to transparency of hearings (Annex B, question 13), more LQCs were satisfied that they engaged with the force constructively on this matter and were able to issue publicity orders, determine whether hearings should be private or public, and issue direction about the publication of hearing outcomes. However, there were still a significant number that felt hampered in ensuring transparency either by late receipt of papers, leaving inadequate time for notices to be given, or in relation to what they regard as inappropriate or intimidating venues for the public to attend (including in some cases, the use of a video link for the public, rather than presence in the same room).

Figure 5 We asked LQCs about their involvement in the transparency of hearings, both before, during and after misconduct hearings. Whilst LQCs seem most involved in deciding the pre-hearing publicity notice, there remain some instances where decisions about this seems to be out of the LQCs hands

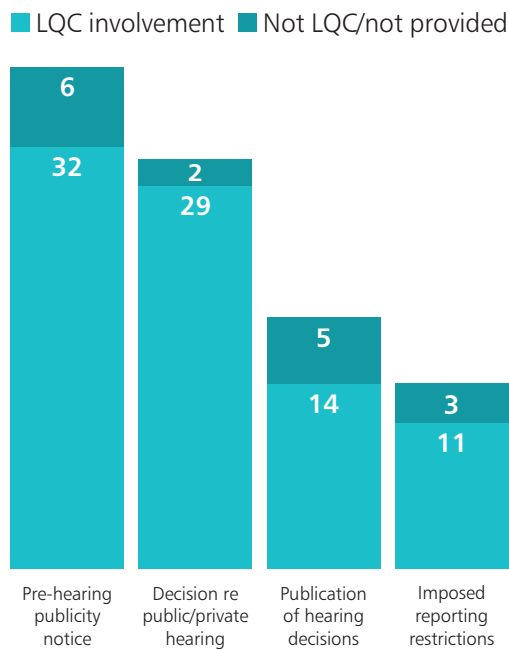
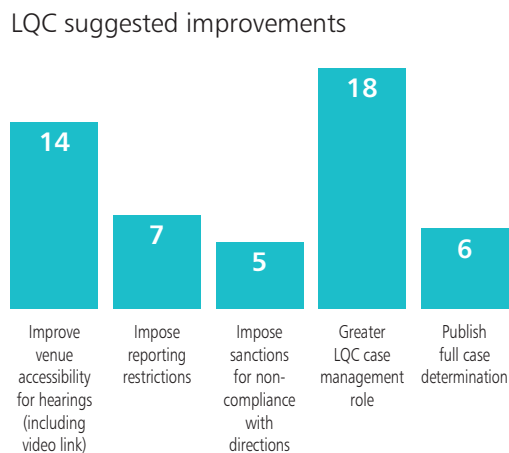


Figure 6 We asked LQCs how they believed they could take better control of the transparency of proceedings



3.22 We also asked OPCCs about their awareness of how PSDs were managing the misconduct process and engaging with LQCs (Annex C, Q4). There were mixed responses on this, with a spread between those that had no knowledge or did not consider this part of their role, to those who had frequent updates about this from PSDs.

3.23 However, in asking OPCCs about transparency (Annex C Q5), 70% of OPCCs were satisfied that the misconduct process was transparent, although a small number thought it was too transparent, so that it dealt in public with matters which in other professions it was felt would be handled in private. This theme was echoed by some incidental comments in responses to other questions by PSD respondents.

Notification of case outcomes

3.24 We asked both LQCs and PSDs whether LQCs were notified about case outcomes (such as appeals). Around 43% of PSDs said that they did this always or frequently. This compares to about 32% of LQCs that thought they were notified always (none reported being notified frequently). Clearly there are some differences in perception here, most noticeable at the other extreme, where 37% of PSDs say they never notify LQCs of results, but 51% of LQCs think they are never notified. However, it is evident from Annex B Q18 that all the LQCs that are not notified of outcomes would like to be.

Rate of appeals

3.25 We asked a follow up question in the survey to PSDs (see Annex C, Qs 11-12) about whether they were aware of any indication that the rate of appeals had changed since LQCs were put in place (which might in itself indicate a level of dissatisfaction with LQC decisions). The answers confirmed that there had been no significant change in the number of appeals.

LQC terms and conditions

3.26 We asked some questions about the consistency and transparency of LQC terms and conditions (see Annex B, Q 15 and Annex C, Qs

7&8). There was general support amongst both OPCCs and LQCs to bring greater transparency to this process (95% and 72% respectively), with some caveats. LQCs were not in favour of publishing information about individuals, including expenses, fees and decisions, but generally supported more generic information being published, such as information about their role, process of appointment and training. OPCCs were overwhelmingly in favour of greater transparency, but some were nervous about publishing information on fee structures without national rates being agreed.

3.27 The fees paid to LQCs are broadly governed by Home Office Guidance (though some areas have their own arrangements) and most LQCs are appointed on a regional basis with one OPCC in the lead role. In relation to the question asked of OPCCs about whether they would support greater consistency in this respect (i.e. in relation to fee structure, payment for training, expenses for travel, training), 76% confirmed that they would.

Support for LQC training

3.28 We asked questions of both OPCCs and LQCs about training and development support (Annex B Qs 24 and 25, Annex C Qs 14 and 15). 56% of OPCCs said that they made some provision for training and support of LQCs, although a number referred to the training provided by the College of Policing, and some thought this was a PSD responsibility. 70% of LQC respondents confirmed they had access to training from other sectors (such as the Judicial College), but 91% of LQCs thought it would be helpful to supplement this with an LQC knowledge/self-learning network (e.g. to gain access to legal databases), although only 34% of OPCCs would be prepared to contribute financially to supporting such a network.

LQC engagement

3.29 OPCCs and LQCs were both asked about their preferences for better engagement (see Annex B Qs 20, 25 and 26 and Annex C Qs 12 and 13). LQCs were roughly evenly split between their preference for a national or regional

mechanism (48% and 43% respectively). LQCs were also asked which bodies they would like to engage with. The majority suggested Police Federation, PCCs and Home Office as their top three. The majority of OPCCs indicated a desire to engage with LQCs more (69%), but the general preference (51%) was for a regional mechanism. LQCs were more split on the issue of engagement with PSDs, some felt this could compromise their independence, while others considered it might be helpful to have a forum to give feedback and suggest process improvements.

Equality impact statements

3.30 We asked some questions about equalities and diversity in appointing LQCs (see Annex B Q 27, Annex C Qs 9 and 10, and Annex D Q9). The questions to OPCCs and PSDs were framed in terms of conducting equality impact statements. 84% of OPCCs confirmed that neither they nor their force had conducted an equality impact process. 94% of forces said that they had not completed one – largely on the grounds that they believed this was the OPCCs’ role. Various reasons were given by OPCCs that had not conducted one, some citing the regional recruitment arrangements for LQCs and some to confirm they had considered the public sector equalities duties in recruiting LQCs as per a normal process. LQCs were asked whether they considered themselves a member of a protected group within the equalities legislation – 30% confirmed that they did.

Guidance

3.31 Whilst only LQCs were asked specifically about guidance (Annex B, Q19), this phrase cropped up several times in answers to a range of other questions in both the OPCC and PSD surveys, and clearly there is a demand for greater guidance on the LQC role. 75% of LQCs supported the development of such guidance.

▶ 4 Different themes

4.1 Some specific issues were raised by survey respondents which were not addressed by other groups. These are outlined below.

LQC perspective: key themes

4.2 Most of the issues raised by LQCs have already been covered in the previous section. However, we asked LQCs to rank their main concerns (see Annex B, Q21). The results are summarised and ranked below:

- 1 Indemnity
- 2 Hearing management
- 3 Process of nominating chairs to panels
- 4 Data protection
- 5 Other.

4.3 The indemnity issue relates largely to protecting LQCs personally from the possibility of legal proceedings which might flow from their decisions as misconduct panel chair. Data protection relates to clarifying their role and liabilities in handling personal data as a result of their position in misconduct proceedings. The remaining two points should be self-explanatory.

OPCC perspective: key themes

4.4 A couple of additional issues were raised which do not sit in the earlier comparative session.

PCC oversight role

4.5 The first of these was a question put to OPCCs about the PCC role in the oversight of LQC nomination (Annex C, Q3). The majority of OPCCs (66%) would support a stronger role for the PCC in this process (reasons cited for this included bringing greater independence and greater transparency to the process). However, 34% did not support the proposals, citing either their belief that this was an operational matter, or the potential conflict problems that might arise once the PCC takes over the role of complaints appeals (currently dealt with by Chief Constables), an element of complaints reform due to take place from next year.

Public feedback

4.6 We also asked OPCCs about public contact/feedback from misconduct panels, now that the majority of hearings are open to the public (Annex C, Q16). We asked a similar question of PSDs (Annex D, Q13). Only 14% of OPCCs and 26% of PSDs had received any public feedback. There was a mixture of positive and negative feedback. On the positive side they tended to congratulate the transparency of process and on the negative side they tended to complain that: the hearing was in public, there were defects in holding hearings by video link to the public, the venues are inaccessible or the decisions are too lenient.

PSD perspective: key themes

LQC decision making

4.7 Prior to this and other surveys there was anecdotal evidence of a perception amongst forces that LQCs were more lenient in their findings than was the case under the previous (force managed) regime. The NPCC survey looked at the statistical picture in this regard and found that there was no statistically significant evidence of this (except perhaps in Wales). However we asked the question in the APCC survey about PSD perceptions and it seems to be the case that a substantial minority still have this perception (Annex D, Q6) – 42% believe LQC decision making is too lenient. On the other hand, when asked at Annex D Q8 whether there was any evidence that the variability in LQC terms and conditions affected their availability or effectiveness, 95% said there was none.

4.8 However, it is clear from the detailed responses to one question on the OPCC survey (Annex C, Q6), that some forces have complained to PCCs about LQC leniency or lack of understanding about force processes/culture, although it is not clear what specific issues spurred these complaints. Again, this may be an argument for clearer guidance to both LQCs and forces.

► 5 Conclusions and next steps

Conclusions

5.1 The overall impression given by the survey is that while the misconduct system is operating reasonably effectively, and LQCS are settling into their role, there are a number of issues where concerns have been raised and action could be taken to improve the misconduct arrangements.

5.2 Chief among the issues to address/improve seem to be:

- A desire for more guidance about how the current system should operate – this view was strongly supported by LQCs and echoed by other respondents, as there is currently some confusion and a number of inconsistencies in how the system operates.
 - The need for more detailed parameters setting out the LQC role and their interface with PSDs in the complaints and conduct system. However, as complaints arrangements will currently change once the Policing and Crime Act 2017 is implemented, it would make sense for new regulations to set out the Home Office’s clear intentions in relation to the LQCs’ role to align with these developments, particularly in relation to:
 - Greater consistency of process, particularly in regard to the nomination of LQCs to panels (with the fairest process thought to be a cab rank/rota system, rather than nomination on any other basis)
 - Greater clarity is needed on the role of LQCs in the pre-hearing process, and their wider role in managing the misconduct process. The fact that existing statutory guidance has not been fully revised to reflect the LQC role means that there is tension between current regulations and the old guidance (and there will be further tension when the new complaints and misconduct system is introduced). This should be addressed in the short term through the revised guidance on the current system, but in the longer term through revised regulations.
 - Any new regulatory changes, as suggested above, would benefit from being accompanied
- by more detailed guidance on how the revised complaints and conduct system should operate in practice in relation to the role of LQCs
- Greater consistency should be considered in the terms and conditions under which LQCs are appointed by PCCs – there was support for this from both LQCs and OPCCs. There was also support for providing greater transparency about the LQC role, subject to caveats protecting individual identities.
 - Indemnity and data protection responsibilities for LQCs – a resolution to these issues is needed, as there is inconsistency in the current understanding of what is required and this is causing confusion within the system and is a matter of great concern to LQCs.
 - A self-learning/knowledge network would be strongly supported by LQCs, although in practice we understand that, since the survey was circulated, LQCs have taken steps to form a national organisation.
 - Both LQCS and OPCCs would welcome better engagement between them, but there seems most support for this to take place at regional level as a general rule.

Next steps

5.3 While the three main sectors involved in the misconduct system locally – OPCCs, PSDs and LQCs – will no doubt want to work together to see how they can improve the system at that level, this report has specifically set out five key recommendations as follows:

Recommendation 1

5.4 APCC and NPCC to work together to produce some urgent guidance in the short term, setting out how the current system should operate effectively to encourage more consistency in the application of the misconduct process in relation to the LQC role.

Recommendation 2

5.5 Home Office to consider developing regulations setting out the underlying features

of the LQC role in relation to the new complaints and conduct regime which will soon be implemented. HO to consider developing more detailed guidance to sit alongside new regulations, setting out how the revised complaints and conduct system should operate in practice in relation to the role of LQCs.

Recommendation 3

5.6 PCCs, working with APCC, to consider developing more consistent terms and conditions of appointment for LQCs, and providing greater transparency about the LQC role, subject to caveats protecting individual identities.

Recommendation 4

5.7 PCCs, APCC, Home Office and Information Commissioner's Office to consider working together to provide consistency and clarity about LQCs' data protection responsibilities, both under current and future misconduct systems. PCCs, APCC and Home Office to consider how a consistent approach to LQC indemnity could be provided.

Recommendation 5

5.8 OPCCs and LQCs to consider how regional level engagement between them might be improved and implemented.

Recommendation 6

5.9 LQCs work with the APCC and other to instil and embed as much transparency into misconduct hearings as possible and proportionate, moving beyond the minimum standards as outlined the Home Office, with rationale for their approach with the media and public at the outset of each hearing.

5.10 We understand that the Home Office is planning to update both the regulations and guidance on the complaints process to tie in with the implementation of the new complaints provisions set out in the Policing and Crime Act 2017. This could pick up on the issues raised in relation to LQC role in misconduct hearings.

5.11 However, new regulations and guidance could be some months away, so Recommendation 1 suggests that the APCC and NPCC should work together to develop some interim guidance in relation to the key issues emerging from this survey under the existing misconduct system, particularly nomination of LQCs to panels, LQC role in managing misconduct cases, and transparency of proceedings.

5.12 Recommendation 3 suggests more consistency should be developed in the terms and conditions of appointment for LQCs, as this is currently inconsistent and is resulting in confusion between areas about what is appropriate, and difference in treatment for LQCs serving more than one region.

5.13 Recommendation 4 deals with two specific issues which are a key concerns for LQCs, as demonstrated by the survey – indemnity and data protection. A common view, understanding and practice is needed in this area, where currently there are inconsistencies and variations.

5.14 Finally Recommendation 5 is substantially for local OPCCs and LQCs to consider how better regional engagement mechanisms between them can be built.

APCC

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