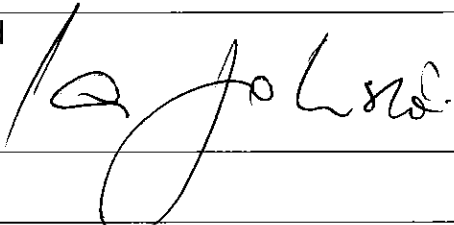


Police and Crime Commissioner for Gwent Decision	
PCCG-2016-022	Police and Crime Commissioner for Gwent Decision
Subject	Legal Expenses Reimbursement Protocol
Summary	To record the decision of the Police and Crime Commissioner regarding the revision of the Legal Expenses Reimbursement Protocol for the Office of the Police and Crime Commissioner (OPCC).

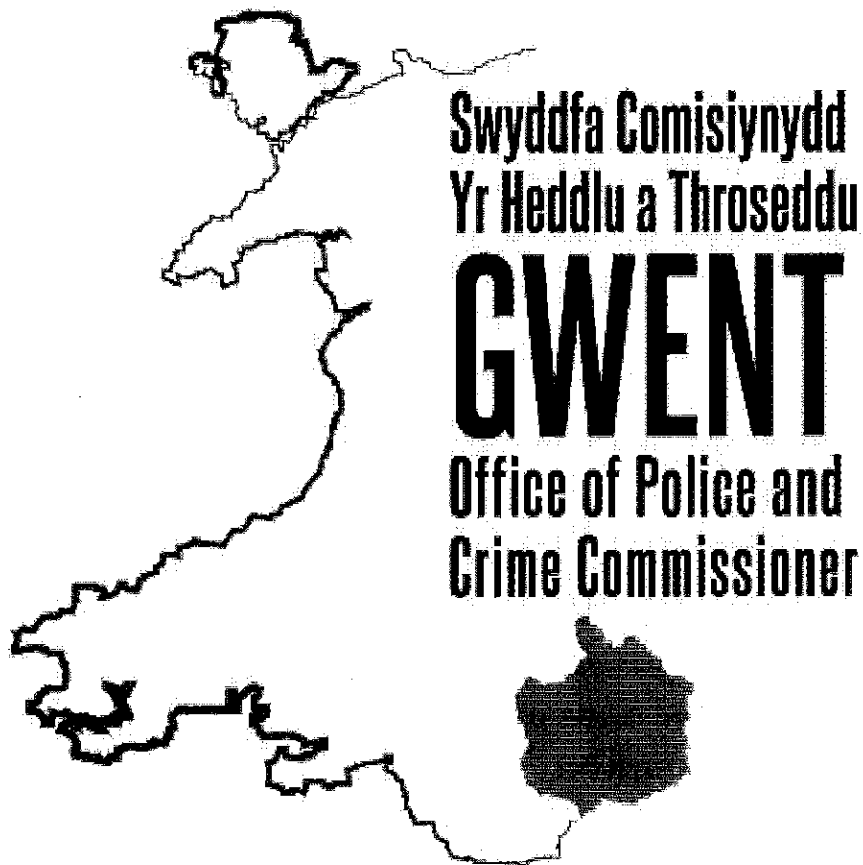
DECISION

1. The OPCC Legal Expenses Reimbursement Protocol was originally implemented in March 2014 with a requirement for a review to be undertaken by March 2016. The protocol formalises the process by which applications for financial assistance in legal proceedings from police officers and staff come to the Police and Crime Commissioner. It makes clear the circumstances when applications can be made and the information required.
2. In line with requirements, the policy has been revised and reflects staffing changes within the OPCC pertaining to the process. Following approval, the document will be republished accordingly.

Ian Johnston QPM, Police and Crime Commissioner for Gwent	
I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with my code of conduct. Any such interests are recorded below.	
The above request has my approval.	
Signed	Date
	7.3.16.

Contact Officer	
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Position	Acting Information Officer

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Background papers	OPCC for Gwent Legal Expenses Reimbursement Protocol



Legal Expenses Reimbursement Protocol

<u>Approved/Review</u>	<u>Date Due</u>	<u>Date Reviewed</u>	<u>Signed By</u>
Approved	March 2014	N/A	I. Johnston
Review Due	March 2016	18/02/16	<i>Sian Curley</i>
Review Due			

Office of the Police and Crime Commissioner Protocol

Legal Expenses Reimbursement

General Principles

1. The Office of the Police and Crime Commissioner (OPCC) values the commitment and professionalism of all Gwent Police's workforce. It also accepts that some of its workforce may occasionally find themselves in circumstances where they are the subject of a legal claim against their actions or inaction, despite having acted within the law and adhered to local policy and procedures.
2. This protocol refers to Home Office Circular 43/2001, dated 21/9/2001 and describes the role of Police Authorities in respect of providing limited financial assistance to employees or ex-employees involved in certain legal proceedings such as private prosecutions, judicial review proceedings and any other type of legal proceedings, including Coroner's Inquests.
3. The principles detailed in the Circular relate to financial assistance to police officers and special constables but for the purposes of this protocol, the arrangements will apply equally to police staff who also find themselves subject to claims in similar circumstances.
4. The Circular outlines the Home Secretary's approval of guidance to Police Authorities on financial assistance to officers in legal proceedings in the light of the Divisional Court judgment of R v South Yorkshire Police Authority (1999).
5. The Circular makes it clear (para 4) that the discretionary power in Section 88 of the Police Act 1996 is only available when civil claims are brought against an officer. In other cases, if the Police and Crime Commissioner (Commissioner) wished to provide financial assistance, they would be relying on the power in Section 6 of the Police Act 1996 and 111 of the Local Government Act 1972.
6. The decision to make a contribution, following an application to reimburse the costs of an officer, will always be at the sole discretion of the Commissioner (HOC 43/2001 para 3). The Commissioner, when considering applications relating to Public Enquiries and Tribunals, must be satisfied that (in light of the Chief Officer's

recommendations) the officer acted in good faith and exercised reasonable judgement. This ensures that the Commissioner complies with his/her obligations under HOC 43/2001, Section 6 of the Police Act 1996 and section 111 of the Local Government Act 1972. In accordance with their fiduciary duties, the Commissioner must also consider the reasonableness of the fees applied for.

7. As part of their consideration of an application, the Commissioner will take into account the conduct of the member of staff, in particular whether they have cooperated fully with any investigation. Failure to do so may result in applications being refused.

Notification of Applications

8. When a Coroner is notified and confirms that member(s) of staff are "interested parties", that should be the trigger for the notification of the application. It ought also, save in wholly exceptional circumstances, be not less than 28 days before the hearing. In any event, subsequent notification to the OPCC must be timely, in advance of the Inquest and not retrospective. In the main, these cases will be those involving deaths in custody, fatal road traffic collisions and serious incidents such as fatal shootings. Any other applications not involving Coroners court should also aim to be submitted within 28 days of the first hearing.

Fees

9. The Commissioner will consider each claim on its merits and the same applies to the level of fees to be reimbursed. The Commissioner may impose a cap on fees to be paid. The estimated costs will need to be supported by a detailed breakdown of charges.
10. It is imperative that all applications submitted adhere to the above conditions as, in the case of extreme claims or where notification has not been complied with, the Force and Commissioner may decide not to support the application for a contribution toward the costs and the member of staff's entire redress may have to lie with the relevant staff association or union.

Procedure

11. All notifications of applications for funding made in accordance with this Protocol should be sent in the first instance and at the earliest possible opportunity to:

The Chief of Staff

Office of the Police and Crime Commissioner

Police Headquarters

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CWMBRAN

NP44 2XJ

12. All notifications should include:-

- a) Details of the incident.
- b) Date(s) or approximate date(s) of the Inquest.
- c) An indication from the member of staff as to whether it is his or her view that they were acting in the lawful execution of his / her duty.
- d) An indication as to whether the member of staff or those representing the member of staff foresee a potential conflict of interest between the member of staff and the Force and if so, the basis for that potential conflict.
- e) An estimate of the total costs.

13. Upon receipt of the above information the Chief of Staff will request confirmation from the Chief Constable as to:

- a) whether he/she sees a potential conflict of interest
- b) whether the officer/staff member was undertaking their duties in the lawful execution of his/her duty
- c) whether the officer/staff member acted in good faith
- d) whether (based on advice from Joint Legal Services) the fees requested are reasonable.

14. Upon receipt of notification, the Chief of Staff will prepare a report for the Commissioner including:

- a) Details of the incident.
- b) Date(s) or approximate date(s) of the Inquest.
- c) An indication from the Chief Constable as to whether in their view that the member of staff was acting in the lawful execution of his/her duty and acted in good faith.
- d) An indication from the Chief Constable as to whether there is a potential conflict of interest between the member of staff and the Force.
- e) An estimate of the total costs.

15. The Commissioner will consider the request and take a decision in principle whether to grant payment.

Outcome of Applications

16. Assuming initial approval for the application, at the end of the Inquest the applicant or their representative should provide a final costing. If the costs incurred in the final costing are reasonable and within the agreed estimate payment it will be authorised by the Chief of Staff on behalf of the Commissioner.

17. After initial approval and in the subsequent event that, during preparation of the case, the estimate appears to be inadequate the applicant or their representative should immediately notify the Chief of Staff. The applicant must provide an indication of the current level of costs, the reason for the over-run and a fresh estimate to the conclusion of the case.

18. The Commissioner will then consider the further request and indicate whether the increased application will be supported or not.

19. In the more complex and long running matters regular updates must be provided to the Chief of Staff as to the state of work in progress.

20. If it is indicated at the initial notification of application for financial assistance that the application will not be supported or if a subsequent increased application is not

supported or granted at the initial or subsequent stage, the reasons for the lack of support will be communicated in writing by the Chief of Staff to the applicant or their representatives.

21. This protocol exists in order to provide financial assistance to members of staff who are subject to legal claims whilst serving Gwent Police and to place a reasonable limit on the cost of that assistance as charged by their legal representative.