

‘Restricted persons/delegated functions’

Director General’s Policy Decision

Background

- 1.1. Paragraph 6A of schedule 2 Police Reform Act 2002 (the PRA) sets out how I, as the Director General (DG), can delegate my functions. I am able to authorise any member of IOPC staff or constable seconded to the IOPC, to exercise any function.
- 1.2. I can however place a restriction on the exercise of a function to include provision for ‘restricted persons’ not to exercise ‘designated functions’.
- 1.3. I am required to publish a ‘statement of policy’ about how I propose to exercise the power to restrict persons/designate functions.
- 1.4. It should also be noted that in law, the Director General can never have served as a police officer.

Nature of restriction

- 1.5. ‘Restricted persons’ are persons who fall within section 9(3) PRA and therefore include the following:
 - A current or former **UK police officer** (anyone who holds, or has held, the office of constable in any part of the UK)
 - A person who has **worked for a UK police service** (a person who is or has been under the direction and control of a UK chief officer)
 - A person who is working, or has worked, as a **designated escort or detention officer** (a s.39 PRA designation)
 - A person who is or has been **accredited under a community accreditation scheme or as a weights and measures inspector** (a person who has been accredited further to s.41 or 41A PRA)
 - A person who has worked for the:
 - Serious Organised Crime Agency (SOCA);
 - the National Policing Improvement Agency (NPIA);
 - the National Criminal Intelligence Service (NCIS);
 - the National Crime Squad (NCS).
 - A person who is working, or has worked, for the National Crime Agency (NCA) as an officer;

- A person who is, or has been, a member of a body of constables which at the time of their membership is or was a body of constables in relation to which there existed a section 26 PRA agreement (or a predecessor agreement (such as a s.78 agreement under the Police Act 1996 or a s.96 agreement under PACE 1984))
- 1.6. 'Designated functions' are any functions of the DG that are designated further to para 6A(7) and can be designated by reference to the position or seniority of IOPC staff.
- 1.7. The scope of the 'restricted person' constraint can be limited – either generally or in relation to particular specified functions.

Current organisational position

- 1.1. As at end of April 2019, the current proportion of members of staff from a police and non-police background was as follows:
- 77% non-police and 23% police background – all staff.
 - 72% non-police and 28% police background – Operations.
- 1.2. Individuals in the following senior posts do not come from a police background:
- Director General
 - Deputy Director General (Operations)
 - Deputy Director General (Strategy and Corporate Services)
 - Director, People
 - Director, Strategy and Impact
 - Director, Wales
 - All Regional Directors

The General Counsel post is the only senior post (Management Board level) currently held by a person from a police background.

Consultation undertaken

- 1.8. In arriving at my policy decision, I have undertaken internal consultation at various stages. I have been clear throughout these discussions, that although this is my decision in law, that I have been keen to hear the thoughts of others with regards these issues.
- 1.9. My consultation has included:
- A discussion with Management Board at the November 2018 meeting.

- A discussion with the HR and Remuneration Committee at the January 2019 meeting.
- A discussion with the Unitary Board at the March 2019 meeting.
- A discussion with the Staff Council at the April 2019 meeting.
- The publication of a position paper to all staff in May 2019 with an open invite for feedback (which led to both feedback being received by email and individual staff discussions taking place).

1.10. I am also aware that the organisation's (and our predecessor's) employment of former officers has been a contentious issue for some. There have been recommendations made previously by the Home Affairs Select Committee and more recently by Dame Angiolini, in her review of deaths in custody, suggesting that we should either not employ any former officers, or should impose a limit on their number within the organisation.

1.11. Although I have not undertaken specific external consultation in this area, the subject has arisen with a small number of external stakeholders with whom I have met over my first 18 months with the role. It appears as though this is less of a concern for some than it perhaps once was, though I recognise that there will be competing views, depending on who you ask.

Policy decision

1.12. There is no question that I value and respect the experience and skills that former police officers and staff bring to our organisation. I believe that we need former police officers/staff within our organisation in order to ensure that we can properly understand the service over which we have investigative jurisdiction and the associated challenges/pressures that the police work under. That is not to say that those members of staff who do not come from that background cannot have an appreciation of those matters, but having some staff who have experienced it first hand is of huge benefit.

1.13. I am confident in the safeguards that are in place to ensure that any conflicts of interest arising from previous employment are declared and acted upon in order to ensure that we act independently and that our work is free from (and is perceived to be free from) bias.

1.14. I also note, that compared with many of our equivalent organisations operating in other jurisdictions, that the proportion of former police officers/staff that we employ is particularly low.

1.15. I do, however, have regard as to the external perception held by some in relation to this matter. It is, of course, hugely vital that we command public

confidence in the work that we do and have the confidence in particular of those families and communities with whom we come into contact with.

- 1.16. To address concern in particular about the employment of former police at a senior level within the IOPC (and the perceived lack of independence that this would bring to decision-making at board/director level), I have made the decision to restrict the following posts:
- Deputy Director General (Operations)
 - Deputy Director General (Strategy and Corporate Services)
- 1.17. I hope that this will guard against any accusations that our most senior leadership team (myself and the two DDGs) are too close to the police – especially in the context of deputising for me, if I am not available.
- 1.18. I am also inclined to make a restriction (albeit more flexible) in relation to Executive Director¹ and Regional Director² posts. I recognise that there may be some current or future members of staff who have experience of working in a police setting but where the circumstances of such are not considered to impact on their suitability for these roles. Examples include (but are not limited to) when individuals have only worked very briefly for the police, when they have done so in a very junior capacity or when they have been an IOPC/IPCC employee for a number of years. I would therefore wish to have some discretion in this regard on a case by case basis and although the starting point would be to not encourage applications from individuals with a police background, it would not be an absolute restriction in the same way as DDG posts.
- 1.19. In circumstances where I do make a decision to appoint a ‘restricted person’ into one of these specified roles, I will ensure that I have considered (and documented) why they can perform their IOPC role appropriately and with independence from the police.
- 1.20. I do not wish to make any other restrictions at this time. Although not an organisational limit, I would want to initiate a HR and Remuneration Committee discussion were the overall percentage of former police officers/staff to rise over 25% at any one point. At this stage, we may wish to consider options available for example in relation to future recruitment campaigns etc.

¹ This includes the Director, Strategy and Impact; Director, People; and General Counsel posts.

² This includes the Director, Wales and all five Regional Director posts.

1.21. This policy decision will now be communicated internally and will be published as part of our Scheme of Delegation document. It will be reviewed annually as part of the 12-monthly review of this document.

Michael Lockwood
June 2019