

To Police Disciplinary Regulations Consultations
Police Integrity and Powers Unit
6th Floor NW, Fry Building
Home Office
2 Marsham Street
London
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2 January 2015

Dear Sir/Madam,

Please find below the National Black Police Association's submission to the Consultation on changes to the Police Disciplinary System

Q1: Do you agree that misconduct hearings, special case hearings and Police Appeals Tribunals should be held in public by default?

In principle, the NBPA agree with improving the openness and transparency of the discipline processes. However, we have grave concerns regarding the holding of disciplinary hearings in public for several reasons, predominantly, the disproportionate representation of BME officers in the disciplinary process. There have been four reports published between March 2004 and March 2005 that are of particular significance:

- Ghaffur, T. (2004). Thematic review of race and diversity in the Metropolitan Police Service. Published by the Metropolitan Police Service.
- Morris, Sir W. (2004). The Case for Change: People in the Metropolitan Police Service. Published by the Metropolitan Police Authority.
- Lowe, J. (2005). GMP Internal Affairs Branch Discipline and Policy Unit Research Report.
GMP unpublished report.
- Commission for Racial Equality (2005). The Police Service in England and Wales. Published
the Commission for Racial Equality.

A more recent study, Disproportionality in Police Professional Standards, July 2012, by Dr Graham Smith, a senior lecturer at the University of Manchester School of law, raised issues of numerical and procedural disproportionality.

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Before introducing these proposals, we would like Police forces and the Government to investigate why this is the case. Safeguards need to be put in place to eliminate disproportionality in the new process to ensure that BME officers and staff are not over-represented in public hearings.

We also believe that there may be some instances where the public interest would be best served by holding a disciplinary hearing in public, but this should be the exception rather than the rule.

Q2: What benefits or costs do you think holding hearings in public will entail?

We believe the benefits of holding hearings in public will make the process more transparent so that we know who's being disciplined and for what. This will also allow for the public and other interested parties to see if the sanctions issued are proportionate and fair.

Q3: Do you agree that legally-qualified chairs should be introduced to chair the panel in disciplinary and special case hearings?

The NBPA think that legally-qualified chairs should be introduced to ensure openness and transparency. Introducing an independent and a legally experienced chair will go some way towards any challenge on technical grounds to the process. We also think that consideration should be given to the make-up of chairs with regards to diversity and representation.

Q4: What benefits or costs do you think the introduction of legally-qualified chairs will entail?

There will be an initial cost but this will be offset by less chief officer time spent on disciplinary hearings than the current process. There will also be a saving for forces getting legal advice on hearings.

Q5: Are there any other factors that would need to be considered by the panel when a decision is being made as to whether all or part of a hearing should be held in private?

We believe that equality monitoring process should be put in place to see which officers are being put through the public disciplinary process and to identify detrimental impact and disproportionality.

Q6: How could the police best engage the public and inform them about police disciplinary and appeal hearings, outcomes and processes?

To best engage the public and inform them about police disciplinary and appeal hearings, outcomes and processes, we think that the NBPA should be utilised to cascade information to local BPA's and other interested parties who have direct links with the public from their community engagement work and networks. We also think that police forces should make more use of social media to engage with young

people. A directory of diverse community groups/organisations and other interested parties should be developed, so that they can be notified of up and coming hearings.

Q7: Are there any issues or practical factors the Government needs to consider regarding the accessibility of hearings to members of the public?

All forces should have due regards for reasonable adjustments so that hearings are accessible to all.

Q8: Are any safeguards required to mitigate any possible negative implications for whistleblowers or for the police disciplinary process?

We have supported many BME officers and staff who have felt that they have been left with no other option but to whistle blow on wrong doing and bad practice in the police service that brings police integrity into question. These officers have then been subjected to bullying, harassment and have had misconduct proceedings wrongly brought against them. The NBPA supports that where there is evidence an officer knowingly takes action as a reprisal against a whistleblower, that it should be considered to have breached the Standards of Professional Behaviour. The NBPA supports any guidance that will protect whistleblowers from unfair allegations that could be made against them as a reprisal for whistleblowing. There are financial and trust and confidence benefits for Police forces detecting wrongdoing or poor practice earlier if a greater proportion of whistleblowers come forward.

There is also a benefit in reducing the likelihood of employment tribunals arising as the result of unfair treatment of whistleblowers by their organisation or colleagues.

Q13 Changes to Chief Officer Payment in Disciplinary Cases

We believe that the panel at misconduct meetings and hearings should be able to withhold compensation payments to Chief Officers found guilty of disciplinary allegations. In times of austerity this should be a consideration as this is a cost to the public purse. This would also show the public that Chief Officers are being held to account.

Yours Faithfully

Franstine Jones
President of the NBPA