



South Yorkshire POLICE & CRIME PANEL

Meeting Date	7th July 2016
Report of	Solicitor / Legal Adviser
Subject	The Queen on the Application of David Crompton v Police Crime Commissioner for South Yorkshire - Judicial Review

EXECUTIVE SUMMARY

- a) This report draws to the Police and Crime Panel's (PCP) attention the outcome of the Judicial Review (JR) brought by ex Chief Constable David Crompton against the South Yorkshire Police and Crime Commissioner (PCC).
- b) On the 9th June 2017 the High Court of Justice Queens Bench Division quashed the four decisions of the PCC leading to David Crompton being required to resign thereby upholding the ex Chief Constable's application to have the PCC's actions Judicially Reviewed describing them as 'irrational', 'perverse' and 'wholly disproportionate'.
- c) The PCP were a statutory consultee in the PCC's actions under s.38 of the Police Reform and Social Responsibility Act 2011 and were therefore cited as an Interested Party to the JR.

RECOMMENDATION(S)

Members of the Police and Crime Panel are recommended to:-

- a) Note the contents of the report and the judgment of the High Court.
- b) Consider any implications of the judgment for the Panel.

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Main Report
Appendices

BACKGROUND

1. The Panel will be aware that Judicial Review is open to any person with appropriate standing affected by a decision made by a public body. That decision can be found to be illegal, irrational or unfair and quashed by the court.
2. The background to the ex Chief Constable's application for JR is helpfully captured in the High Court's press statement attached at **Appendix A** which gives a timeline and narrative to this matter. Panel Members have attached for their ease of reference the full transcript of the Judgment which is attached at **Appendix B** and is publically available.
3. The following are some key points which the Panel should have regard to in further consideration of the matter:
 - South Yorkshire Police and Crime Panel (the PCP) has been an "interested party" in the court case, not a defendant, as its involvement in the statutory process leading to Mr Crompton's resignation was secondary.
 - There is no criticism of the procedure followed by the PCP. Paragraphs 4, 74, 146 & 147 of the judgment acknowledge that the statutory procedure was correctly followed.
 - There is no declaration that the PCP acted unlawfully.
 - The PCP was required by law to make a recommendation, which it did. Whilst there is passing judicial criticism of the recommendation that the PCP made, there is no declaration that the recommendation the PCP made was one that it was not lawfully open to it to make.
 - There has been no application for costs made against the PCP.
4. Within the transcript of the judgement the Panel should note the criticisms of the Panel's role specifically at paragraphs 166-167 which bear including in this report:

166. It is right to observe that the Second Interested Party, the PCP, had recommended that the PCC should call upon the Chief Constable to resign or retire. However the PCP's reasoning was thin and unconvincing. The PCP described the second statement as "a catastrophic error of judgment". They gave two reasons for that assertion. First, because of the "inevitable risk that it would be perceived as rowing back on the previous apology". Second, because of the need for confidence in the police.

167. In our judgment, the first of those reasons proceeds on the same flawed interpretation of the second statement as did those relied on by the PCC, which we have addressed above. As to the second, for the reasons given above, this background material cannot justify a conclusion that the requirement to resign or retire was warranted.

CURRENT POSITION

5. There is no further action which legislation now requires the Panel to undertake following the Judgment. However the Judgment is clearly of interest to the Panel

given its earlier statutory involvement and the Panel is clearly competent within the scope of its broader statutory role to reflect on the Judgment.

6. Given that the High Court has ruled on this matter and in view of the fact that the PCC has issued a statement on 16th June stating that he would not be seeking to appeal the ruling means that the legal process has reached its conclusion. Therefore, there is now no scope for further legal recourse nor retrying of the matter.
7. Whilst the legal action is now at an end, nonetheless the Panel may wish to reflect upon any issues arising about which it can learn in respect of the discharge of its functions and which may assist its future decision making. The High Court did not find that the Panel had failed in observing the s.38 process nor that it acted unlawfully, but rather that its findings were ‘thin and unconvincing’.
8. Therefore how best to ensure any conclusions arrived at by the Panel in the discharge of its statutory functions are robust in the light of the potential for judicial scrutiny would benefit from consideration in light of the findings in the judgment. The Judgment highlights the public law principle that for decision making to be robust it must be supported by sound and evidenced based reasoning.
9. The Panel’s attention is drawn for example to para 159 of the Judgment where the Court stated that there had been a failure by the PCC “*to engage with the substance of much of [Her Majesty’s Inspector of Constabulary] Sir Thomas’ observations and failed to provide cogent reasons for taking a different view*” This Panel had likewise failed to do so.

FINANCIAL IMPLICATIONS

10. There are no additional financial implications directly arising from this specific report. As identified above the Panel was not required to make any contribution to the legal costs of either the ex Chief Constable or the PCC. The costs of representation of the Panel as an interested party to the proceedings were contained within the overall expenditure budget of the Panel.

LEGAL IMPLICATIONS

11. The substantive legal implications are dealt with within the body of this report.

HEALTH AND SAFETY IMPLICATIONS

12. There are no known Health and Safety implications arising from this report.

EQUALITY & DIVERSITY IMPLICATIONS

13. This report is believed to be neutral with regard to Equality and Diversity issues.

List of background documents		
High Court Transcripts and Press Release		
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