



## **Gross misconduct proceedings in relation to former Chief Constable Simon Byrne – Chronology and summary of legal advice**

The chronology serves to outline the key events following the matters being brought to the attention of the Police & Crime Commissioner. It does not seek to detail each and every piece of correspondence or activity.

The Police & Crime Commissioner can confirm that legal advice was received in the matters relating to former Chief Constable Simon Byrne. Within the chronology key legal advice points have been highlighted. However, it is essential to note that the Police & Crime Commissioner, as Appropriate Authority (referred to as PCC from here on) in this matter, sought regular and on-going legal advice throughout the entirety of the process.

Regulations referred to relate to Police (Conduct) Regulations 2012 unless stated otherwise.

<b>Date</b>	<b>Event</b>
21 October 2016	<p>Letter dated 19 October 2016 received from the Secretary of the Cheshire branch of the Police Federation. This included a 9 page statement from Witness C detailing a complaint against Mr Byrne.</p> <p>On the same day (21 October 2016) the PCC received an Intelligence Report from the then Independent Police Complaints Commission (IPCC). This alleged that Mr Byrne had developed a culture of bullying in the force and had personally bullied 8 female members of staff and officers.</p>
9 November 2016	<p>Advice from Queen's Counsel in the form of a telephone conference and briefing note.</p> <p>PCC sought Counsel's advice on the allegations made in terms of their nature, severity and the applicable processes and procedures to be followed.</p> <p>That advice is, of course, covered by Legal Professional</p>

Date	Event
	Privilege which the PCC does not, by referring to it, waive.
21 October 2016 – 15 November 2016	<p>PCC shared the letter only from the Cheshire Police Federation with Her Majesty’s Inspector of Constabulary for whom Cheshire Constabulary was within their remit and sought an initial view.</p> <p>All documents also shared with the then OPCC Chief Executive.</p> <p>PCC received professional and independent guidance, sought Counsel’s advice on the allegations made in terms of their nature, severity and the applicable processes and procedures to be followed.</p> <p>Having considered the allegations, the PCC recorded the allegations as conduct matters within the meaning of the Police Reform Act 2002.</p>
15 November 2016	<p>Telephone conference with IPCC Commissioner.</p> <p>Having recorded the matters, the PCC referred them to the IPCC on a discretionary basis under paragraph 13(2) of Schedule 3 to the Police Reform Act 2002.</p>
15 November 2016 – 28 November 2016	Following correspondence with the IPCC, they confirmed that an investigation into the matters was required under paragraph 14 of Schedule 3 of the Police Reform Act 2002 and that it should be a “local” one conducted under paragraph 16 of Schedule 3 of the Police Reform Act 2002.
15 December 2016	PCC appoints Chief Constable Dave Jones (subsequently retired) as investigator – referred to as investigator from here on.
20 January 2017	<p>Terms of Reference between investigator and PCC finalised.</p> <p>PCC sets out in the Terms of Reference that the investigation must be demonstrably fair to all concerned and compliant with the statutory pathway.</p> <p>In addition, it outlined that the investigator was required to undertake a thorough, proportionate and timely investigation into the allegations, act at all times in accordance with the relevant legislation and as soon as practicable submit a report on the investigation to the PCC in accordance with paragraph 22 of Schedule 3 PRA.</p>

Date	Event
1 March 2017	Investigator serves Regulation 16 Police (Complaints and Misconduct) Regulations 2012 notice of allegations on Mr Byrne.
4 May 2017	Mr Byrne serves his Regulation 18 Police (Complaints and Misconduct) Regulations 2012 response in which he denies allegations of misconduct.
15 June 2017	<p>Investigator's report received accompanied by statement and duty reports in relation to 26 individuals and 62 exhibits.</p> <p>Case to answer for multiple allegations of misconduct identified by the investigator.</p>
31 July 2017	<p>Advice from Queen's Counsel in the form of an 'in person' conference and conference note following receipt of the investigator's report.</p> <p>The legal advice relevant to the case to answer dealt with the legal approach to be taken in case to answer decisions, rather than whether or not Mr Byrne has a case to answer. It set out the test for a case to answer and the process the PCC should follow to reach his own determination.</p> <p>That advice is, of course, covered by Legal Professional Privilege which the PCC does not, by referring to it, waive.</p>
17 August 2017	<p>PCC takes Regulation 19 determination that there is a case to answer for gross misconduct.</p> <p>In making the decision that there was a case to answer for gross misconduct the PCC considered that the investigator had not in fact applied the "case to answer" test properly and had not taken into account the aggregate effect of the allegations.</p>
22 August 2017	<p>PCC takes Regulation 10 determination that the public interest requires that Mr Byrne be suspended pending the conclusion of the hearing.</p> <p>In making the decision the PCC had regard to Mr Byrne's exemplary police record, carefully considered the nature of the allegations ranged against him and considered temporary redeployment.</p>

Date	Event
	<p>Deputy Chief Constable Janette McCormick was immediately put in place as the Acting Chief Constable for Cheshire Constabulary</p> <p>The (former) Chair of the Police &amp; Crime Panel was briefed confidentially.</p>
29 September 2017	Regulation 21 notice (including details of the alleged charge) served by the PCC.
29 September 2017 – 13 October 2017	<p>Independent Panel as required by the Regulations confirmed as:</p> <ul style="list-style-type: none"> <li>▪ Ms Rachel Crasnow QC – Legally Qualified Chair</li> <li>▪ Her Majesty’s Inspector of Constabulary Mr Matt Parr OB</li> <li>▪ Sir Professor Robert Boyd (replaced by Mr Mansoor Shah following the April 2018 hearing due to Professor Sir Robert Boyd’s availability in July 2018)</li> </ul>
3 November 2017	Mr Byrne’s representatives serve Regulation 22 response in which Mr Byrne denies all the allegations.
16 November 2017	<p>Advice from Queen’s Counsel in the form of an ‘in person’ conference and conference note focused on four matters:</p> <ul style="list-style-type: none"> <li>▪ Abuse of process arguments</li> <li>▪ Disclosure</li> <li>▪ Live witnesses</li> <li>▪ Regulation 27A</li> </ul> <p>That advice is, of course, covered by Legal Professional Privilege which the PCC does not, by referring to it, waive.</p>
6 December 2017	Independent Chair of the misconduct panel makes determination under Regulation 23 regarding witnesses required to attend to give live evidence.
15 December 2017	<p>PCC serves:</p> <ul style="list-style-type: none"> <li>▪ Opening note</li> <li>▪ Amended Regulation 21 charge (particularisation)</li> <li>▪ Hearing Bundles</li> </ul>
18 December 2017	A telephone Case Management Hearing was attended by both prosecution and defence representatives, chaired by the independent Chair of the misconduct panel. The Chair ordered that the gross misconduct hearing listed for 3 January 2017 be postponed to 16 April 2018 to enable adequate preparation time

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	for the hearing, given the volume of materials. The decision was taken following an application made by Mr Byrne's legal representatives. The application had been opposed by the PCC.
7 February 2018	Regulation 27A notice published on PCC's website including the details of the amended charge.
16 – 24 April 2018	<p>Public Hearing - This was primarily taken up by a legal argument concerning an application on behalf of Mr Byrne to stay the proceedings on the grounds that they were an abuse of process. This application was rejected.</p> <p>Hearing adjourned until 2 July 2018 at which time the substantive hearing would begin.</p>
22 April 2018	<p>Advice from Queen's Counsel in the form of a briefing note prior to, and what might happen on receipt of the Independent Panel's judgement on the application to stay proceedings.</p> <p>That advice is, of course, covered by Legal Professional Privilege which the PCC does not, by referring to it, waive.</p>
30 April 2018	<p>Independent Panel issues report outlining written judgement and reasons regarding the rejection of Mr Byrne's application to stay the proceedings.</p> <p>Report published on the PCC's website.</p>
6 June 2018	<p>Advice from Queen's Counsel in the form of a briefing note providing advice on the procedural implications of the expiry of Mr Byrne's fixed term appointment.</p> <p>That advice is, of course, covered by Legal Professional Privilege which the PCC does not, by referring to it, waive.</p>
2 – 13 July 2018	<p>Public Hearing – 24 witnesses gave evidence for the presenting side, and Mr Byrne gave evidence in his defence.</p> <p>Hearing adjourned to 17 September 2018 for oral closing submissions.</p>
1 September 2018	Written closing submissions provided to the panel by the PCC and Mr Byrne.

<b>Date</b>	<b>Event</b>
17 September 2018	Public Hearing – Oral closing submissions were given to the panel by representatives of the PCC and representatives of Mr Byrne.
8 November 2018	Panel issues a full written report of their findings to the PCC and Mr Byrne.
11 December 2018	Regulation 34 Hearing undertaken in compliance with the Police (Conduct) Regulations 2012. The Police & Crime Commissioner confirmed, in public, that the independent panel found that no allegations of misconduct or gross misconduct were proved against Mr Byrne and that all allegations were dismissed.  Panel's report published on the PCC website.