



## **Durham Police and Crime Panel**

**6 June 2019**

### **Proposed Appointment of Chief Constable**

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#### **Joint Report of Lorraine O'Donnell, Director of Transformation and Partnerships and Helen Lynch, Head of Legal and Democratic Services**

##### **Electoral division(s) affected:**

None

##### **Purpose of the Report**

- 1 To provide information to Panel Members related to the confirmation hearing for the post of Chief Constable and to consider a report from the Police, Crime and Victims' Commissioner (PCVC) for the proposed candidate for the post of Chief Constable for Durham Constabulary.

##### **Executive summary**

- 2 The report provides detail of the procedure and required information within the Police Reform and Social Responsibility Act 2011 for Panel Members to hold a confirmation hearing to consider the proposed appointment of Jo Farrell as Chief Constable for Durham Constabulary.

##### **Recommendation**

- 3 Members of the Panel are asked to:
  - (i) note the process to be followed for the confirmation hearing for the post of Chief Constable as identified within Appendix 2.
  - (ii) consider the PCVC's report detailed at Appendix 3 and the recommendation to appoint Jo Farrell as Chief Constable to Durham Constabulary.
  - (iii) to respond to the PCVC endorsing the appointment or otherwise in accordance with the Police Reform and Social Responsibility Act 2011.

## **Background**

- 4 Section 38 of Police Reform and Social Responsibility Act 2011 states that “the Police and Crime Commissioner for a police area is to appoint the chief constable of the police force for that area.”
- 5 Following the announced retirement of Chief Constable, Michael Barton QPM, the Durham PCVC launched a recruitment exercise for the post of Chief Constable to Durham Constabulary. An advert was placed with a closing date of 12 April 2019 and a shortlisting exercise was carried out. A panel interview took place on 20 May 2019 following which Jo Farrell was selected as the proposed candidate for the post of Chief Constable to Durham Constabulary by the PCVC.
- 6 The PCVC, Ron Hogg formally notified the Police and Crime Panel of his proposed candidate by letter on 24 May 2019.
- 7 Schedule 8 of the Police Reform and Social Responsibility Act 2011 requires the PCP to undertake a confirmation hearing within three weeks of notification of the proposed candidate for the position of Chief Constable. The Act requires that following the confirmation hearing, within the three-week period the panel must also publish a report to the Commissioner that includes a recommendation as to whether or not the candidate should be appointed. A decision to veto the proposed appointment requires the support of two-thirds of the Panel members.
- 8 Appendix 2 to this report provides Panel Members with a briefing note to outline the process to be followed by the PCP in undertaking a confirmation hearing in accordance with Schedule 8 of the Act.
- 9 Appendix 3 to shows the the report of the PCVC which recommends Jo Farrell for the post of Chief Constable. The report details the criteria applied to assess the suitability of the candidate, how the candidate has satisfied the criteria and the terms and conditions on which the candidate is to be appointed.

## **Main implications**

### *Staffing*

- 10 The report proposes the appointment of a Chief Constable for Durham Constabulary.

### *Crime & Disorder*

- 11 The post holder has a key role in reducing crime and disorder within the Durham Constabulary Force Area.

### *Legal Implications*

- 12 The report and confirmation hearing are required in accordance with the Police Reform and Social Responsibility Act 2011.

### **Conclusion**

- 13 The report and attached appendices provide Members with the required information to hold its confirmation hearing to consider Jo Farrell for the post of Chief Constable to Durham Constabulary.

### **Background papers**

- None

### **Other useful documents**

- None

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<b>Contact:</b>	Lorraine O'Donnell	Tel: 03000 268060
	Helen Lynch	Tel: 03000 269732

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## **Appendix 1: Implications**

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### **Legal Implications**

The report and confirmation hearing are required in accordance with the Police Reform and Social Responsibility Act 2011.

### **Finance**

None.

### **Consultation**

None.

### **Equality and Diversity / Public Sector Equality Duty**

None.

### **Human Rights**

None.

### **Crime and Disorder**

The post holder has a key role in reducing crime and disorder within the Durham Constabulary Force Area.

### **Staffing**

The report proposes the appointment of a Chief Constable for Durham Constabulary.

### **Accommodation**

None.

### **Risk**

None.

### **Procurement**

None.

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## **Appendix 2: Briefing Note - Chief Constable Confirmation Hearing**

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This briefing note outlines the process to be followed by the Police and Crime Panel (PCP) to undertake a confirmation hearing for the post of Chief Constable.

Information contained within this briefing is in accordance with guidance issued within the Local Government Association(LGA), Centre for Public Scrutiny publication 'Police and Crime Panels – Guidance on Confirmation Hearings' (August 2012) and 'Police and Crime Panels – Scrutiny of Chief Constable Appointments' issued by the Home Office in October 2012.

### **The Rules Relating to Confirmation Hearings**

The rules concerning a confirmation hearing for appointment of a Chief Constable are set out in Schedule 8 of the Police Reform and Social Responsibility Act 2011 (the Act).

Schedule 8 of the Act sets out the confirmation process which must be completed before the Chief Constable can be appointed. The Regulations detail the process to be followed if the PCP exercises its power to veto the proposed appointment.

Schedule 8 requires:

- 1) The Police and Crime Commissioner (PCC) to notify the PCP of the proposed chief constable appointment.
- 2) The PCC to provide the PCP with specific information in relation to the individual and the appointment.
- 3) The PCP to review the proposed appointment within three weeks.
- 4) The PCP to hold a public confirmation hearing to question the candidate.
- 5) The PCP to write a report to the PCC on the proposed appointment, this must include a recommendation as to whether the individual should be appointed and may include exercising the power of veto.
- 6) A decision to veto to be agreed by two-thirds of the PCP members.
- 7) The PCP's report to be published.

### **Important information to note**

The Panel has a power of veto over the appointment of the Chief Constable. A two thirds majority of current membership is needed.

The Panel can recommend that the PCC does not make the appointment but if the Panel exercises the veto the candidate cannot be appointed; and

If the Panel fails to conduct a confirmation hearing and report to the PCC within the three-week period then the appointment of the candidate can be made.

### **PCC to propose a candidate to the PCP**

The Act and the Regulations require that when notifying the PCP of a candidate for appointment as chief constable, a PCC must provide the PCP with the following information:

- the name of the proposed candidate;
- the criteria that were used to assess the suitability of the candidate;
- how the candidate has satisfied those criteria; and
- the terms and conditions on which the candidate is to be appointed.

Following receipt of notification, the Chair of the PCP is to write to the Candidate to confirm the date of the hearing and notify them of the principles of professional competence and personal independence on which they propose to evaluate the candidate. The letter should advise that the information provided by the candidate will be placed in public domain.

### **The Confirmation Hearing**

#### **Purpose**

This should be a short and focused meeting and be in a two-stage process

- The Panel will question the candidate to determine if she meets the criteria set out in the role profile and whether they possess the professional competence and personal independence to carry out the role; and
- The Panel will determine whether to endorse the candidate's appointment; to recommend that the candidate should not be appointed; or, in respect of Schedule 8 appointments, to use its power of veto. This second stage of the hearing will be held in closed session (see below).

#### **Start**

At the start of the hearing the Chair will outline the order of business and will explain the process and powers of the Panel. The candidate will be permitted to ask any procedural questions before the questioning starts.

The Panel will question the candidate and will ensure that the candidate is treated fairly and politely at all times.

## **Process**

The Confirmation hearing will need to complement, rather than duplicate, the other internal systems for appointing staff. The panel's confirmation hearing should not be a restaging of a previous interview panel. Lines of questioning are to be on areas of professional competence and personal independence and used to get the maximum value out of the process.

## **Questioning**

The Chair is to be aware of any potentially inappropriate questions that does not relate to the professional competence or personal independence of the candidate. Some questions that may appear to the questioner to relate to one or both of these issues might still be inappropriate. Guidance provided by the LGA identifies the following as examples of inappropriate questions:

- relating to the personal political (or other) views of the candidate – e.g. whether the candidate agrees or disagrees with the police and crime plan.
- seeking to substantively hold to account the candidate for decisions made in a previous role, unless they are phrased in such a way that directly relates to (for example) learning lessons from past experience.
- on what the candidate will do, substantively, once in the post (i.e. questions relating to operational strategy).
- which are hypothetical and designed to obtain the candidate's views on a position of local controversy.

Questioning will rely on the documents provided to support the panel's deliberations. LGA guidance suggests broad questioning themes should be developed, such as evidence the candidate has:

- an understanding of the various stakeholders that would need to be involved and engaged with (and in what way, with what outcome) in the development and delivery of a major strategy (professional competence).
- a pragmatic understanding of the separation of the PCC from operational responsibility (personal independence).

## **Conclusion**

At the end of the session the candidate has the opportunity to clarify any answers that he or she has given in the course of the hearing, and ask any procedural questions of the Panel, for example about the next steps or the decision-making process.

### **Decision making process**

Immediately following the completion of questioning and points of clarification, the Panel will go into closed session to take its decision and prepare any recommendations to the PCC. The Monitoring Officer should be present to provide advice to the Panel.

At this point the Panel will need to be able to evaluate whether it feels the candidate has the professional competence and personal independence as set out in the role profile. Suggested areas of evaluation include:

#### **Professional competence**

- Do they have the ability and insight to work across multiple different agencies to achieve the PCC's priorities, and wider priorities for the area?
- Do they have the ability to respond, credibly and proportionately, to pressures such as the need to make short-term responses to unexpected requirements?
- Do they have the ability to translate strategic objectives into operational change on the ground?

#### **Personal Independence**

- Do they have the ability to advise the PCC, but to resist any attempt at improper influence?
- Do they have the ability and confidence to take personal responsibility for relevant successes and failures?

#### **Approval**

If the Panel is content with the proposed appointment it can agree to report to the PCC its endorsement of the appointment.

#### **Refusal**

If the Panel determines that the candidate does not meet the standards in the role profile it can use the veto. Requires 2/3rds of the PCP Membership.

Where a candidate meets the standards but the Panel has concerns about suitability, such concerns can form part of the Panel's report and recommendations to the PCC.

### **Making Recommendations**

The Chair of the PCP will write to the PCC following the Confirmation hearing to outline the decision and recommendations of the panel, Candidate to be sent a copy of letter.

Guidance suggests the Panel wait five working days before it publishes any information about its recommendations. The Panel should also ensure that the PCC has received and acknowledged the Panel's recommendations before making its recommendations public.