

Durham Police and Crime Panel

Confirmation Hearing – Chief Constable

Briefing Note

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

Legal Framework

Information in this note is consistent with the Police Reform and Social Responsibility Act 2011, the Police & Crime Panels (Precepts & Chief Constable Appointments) Regulations 2012 and the Local Government Association and Centre for Public Scrutiny publication “Police and Crime Panels – Guidance on Confirmation Hearings (August 2012).

Schedule 8 of the Police Reform and Social Responsibility Act 2011 requires that the following process is followed in respect of senior appointments:

- i) the PCC notifies the Panel of the proposed appointment.
- ii) the PCC provides the Panel with specific information in relation to the proposed candidate and the appointment – this must include the name of the proposed candidate, the criteria used to assess the suitability of the candidate, how the candidate has satisfied the criteria and the terms and conditions on which the candidate is appointed.
- iii) within three weeks of receiving notification from the PCC, the Panel must hold a public confirmation hearing to question the proposed candidate;
- iv) within the same three-week period, the Panel must write a report which includes a recommendation as to whether the individual should be appointed or whether the Panel veto's the appointment; and
- v) the Panel's report must be published.
- vi) in response to the Panel's report, the PCC must notify the Panel whether they will accept or reject the recommendation to appoint or refuse to appoint. If the Panel veto the proposed appointment, the PCC must not appoint.

Purpose

The confirmation hearing should be a short and focused meeting, which follows a two stage process.

- i) The Panel will question the candidate to determine if he/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
- ii) The Panel will determine whether to endorse the candidate's appointment or recommend that the candidate should not be appointed. This second stage of the hearing will be held in closed session (see below).

At the start of the hearing

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.

Stage One – Questions to the candidate

The confirmation hearing should compliment, rather than duplicate, the other internal systems for appointing staff. Lines of questioning must relate to areas of professional competence and personal independence and used to get the maximum value out of the process.

Questioning will rely on the documents provided to support the Panel's deliberations.

LGA guidance suggests that broad questioning themes should be developed, such as evidence that 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.

Questions which do not relate to the professional competence and personal independence of the candidate are likely to be inappropriate. The Chair is to be aware of and manage any inappropriate questions. The LGA guidance gives the following examples of inappropriate questions:

- Relating to 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 practice
- On what the candidate will do, substantively, once in 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.

At the end of stage one, 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 of decision-making process.

Stage Two – Decision Making

Immediately following the conclusion of questioning and points of clarification, the Panel will go into closed session to determine whether to endorse the candidate's appointment or recommend that the candidate should not be appointed. The Monitoring Officer or a representative of the Monitoring Officer should be present to provide advice to the Panel.

At this point the Panel will need 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 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 Police and Crime Commissioner, but to resist any attempt at improper influence?
- Do they have the ability and confidence to take personal responsibility for relevant successes and failures?

Panel Recommendations

Endorsement

If the Panel is content with the proposed appointment, it can agree to report to the Police and Crime Commissioner its endorsement of the appointment.

Refusal to endorse

If the Panel determines that the candidate does not meet the minimum standards required as set out in the role profile, the Panel can refuse to endorse the appointment. It is anticipated that refusal should be recommended rarely. A summary of the principal reasons for refusing to endorse the appointment should be appended to the notification of the recommendation to the PCC.

A refusal recommendation is likely to result in one of three scenarios:

- i) The PCC continues with the appointment. If this happens, the Panel's recommendation will be published with a summary of why the recommendation was made. At the same time, the PCC should publish a response to the Panel which focuses on why they consider that the recommended candidate did meet the minimum standards for the post.
- ii) The candidate decides to withdraw. If this happens the recommendation to refuse will be published after five working days with a summary of why the recommendation was made. No further information will be published.
- iii) The PCC decides not to appoint. If this happens, the recommendation to refuse and summary will be published alongside a statement from the PCC setting out the timetable and process to make a new appointment.

Veto

The power of veto should only be exercised where it is clear to the Panel that there has been a significant failure of the internal HR functions and internal appointment procedures which provide a "due diligence" check on the candidate's suitability, to the extent that the candidate is not appointable.

The veto must be supported by a majority of the Panel Members at the time the decision is taken. Where the veto is exercised, the PCC must not appoint.

The PCC will publish information setting out the steps that will be taken to make another appointment alongside the publication of the Veto.

Publication of recommendations

The LGA/CfGS guidance recommends that the Panel wait five working days before it publishes any information about its recommendations. The Panel should also ensure that the Police and Crime Commissioner has received and acknowledged the Panel's recommendations before making its recommendations public.

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