

Durham Police and Crime Panel

Confirmation Hearing

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 proposed appointment of Deputy Police and Crime Commissioner (DPCC).

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 1 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
- 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.

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 invite the Clerk and Monitoring Officer to the Panel to 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 complement, 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.

The Guidance acknowledges that personal independence is likely to be a nuanced issue in relation to the PCC's deputy as these are likely to be political appointments. As such, a lower standard of independence might be expected, reflecting the fact that deputies have been appointed to provide political support and to directly assist the PCC in delivering her vision and priorities. The Panel still need to be assured that the candidate recognises the separation of political and operational responsibilities. Key lines of enquiry of the panel for a Deputy commissioner might focus around her/his understanding of the commissioner's vision and priorities and the role that the Deputy would play in support of the commissioner's strategy and delivery of the plan.

The panel might also ask questions in relation to public engagement or other criteria used to assess the appointment.

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 and Clerk to the Panel should be present to provide advice to the Panel.

At this point the Panel will need to evaluate whether it considers that the candidate has met the minimum standards of professional competence and personal independence required for the role as set out in the role profile. Suggested areas of evaluation include:

Professional Competence

- Do they have a good understanding of the role and the Commissioner's vision and priorities
- 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 saying whether it is accepted or rejected.
- 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.

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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