



Shadow Durham Police and Crime Panel

12th October 2012

The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012 and Guidance on Confirmation Hearings

Joint Report of Lorraine O'Donnell, Assistant Chief Executive and Colette A Longbottom, Monitoring Officer, Durham County Council

Purpose of the Report

1. To provide Members of the Panel with information on Statutory Instrument 2012, No 2271 'The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012' and a 'Guidance on Confirmation hearings' document published by the Centre for Public Scrutiny (CfPS) and the Local Government Association (LGA).

Background

2. Schedules 5 and 8 of the Police Reform and Social Responsibility Act 2011 respectively make provision about the scrutiny, by the Police and Crime Panel (PCP), of a proposal from the Police and Crime Commissioner (PCC) as to the issuing of a precept and the appointment of a Chief Constable. The Schedules confer powers on the PCP to veto a proposed precept or appointment.
3. The PCP is also required under Schedule 1 of the 2011 Act to hold confirmation hearings for a proposed appointment by the PCC to the posts of Deputy Police and Crime Commissioner, Chief Executive Officer and Chief Finance Officer. It is to note that the PCP does not have a power of veto on these appointments but following a confirmation hearing is required to submit a recommendation to the PCC.

Detail

4. The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012 were laid before Parliament on 6th September 2012 and come into force when the PCC officially takes office on 22nd November 2012. There are three Parts to the Regulations:
 - Part 1 General
 - Part 2 Precept
 - Part 3 Appointment of Chief Constable

5. *Part 1 General*
Provide general details of its citation, commencement date as provided in paragraph 4 and interpretation. For the purpose of this report information focuses on Parts 2 and 3.
6. *Part 2 Precept*
Provide details on the issuing of precepts and set deadlines for taking steps as set out to ensure that a precept is issued in accordance with Part I of the Local Government Finance Act 1992.
7. In summary, the Regulations within the Statutory Instrument require the PCC to notify the PCP of its proposed precept by the 1st February and the PCP to have reviewed it by the 8th February. If the PCP exercises its power of veto, the PCC is to issue a revised precept by the 15th February and the PCP must review and a report to the PCC by the 22nd February. The regulations require that by the 1st March the PCC must have regard to the second report, respond to the PCP, publish the response and issue the precept. Appendix 2 to this report illustrates the process and deadlines that are to be met by the PCP.
8. Within this context, it is to note that the timescales identified within the Regulations may have implications with regard to reporting the PCC's precept to Darlington Borough Council (DBC) and Durham County Council (DCC). At the time of preparing this report, discussions are currently underway between Durham Police Authority, DBC and DCC to identify a timeframe to report the precept in order for the respective Councils to set their Council Tax precepts. Once this agreement has been reached dates are to be identified within the PCP's Work Programme.
9. To exercise the PCP's power of veto requires a minimum of two-thirds majority vote from Members present at the meeting. Where a PCP decides to veto a proposed precept but does not report to the PCC within the deadline set out in the regulations allows the PCC to issue the proposed precept in any event.
10. *Part 3 Chief Constable Appointment*
Schedule 8 of the 2011 Act covers the appointment of the Chief Constable and that the PCP is required to hold a confirmation hearing within three weeks of notification from the PCC of a proposed candidate. Following the confirmation hearing, the Panel may recommend appointing but has also got a power of veto over the appointment of the Chief Constable. The Panel may also recommend that the PCC does not make the appointment, but in the event of a veto then the candidate must not be appointed.
11. Part 3 of the Regulations identifies the steps that are to be taken in the event that the PCP vetoes a proposed appointment of a chief constable. The PCC shall propose a reserve candidate and the PCP is to consider and report on the proposed appointment of this reserve candidate within three weeks, making a recommendation as to whether or not the candidate should be appointed. The PCP must hold a confirmation hearing to assess the suitability of the reserve candidate and publish a report containing its recommendation.
12. On receiving the PCP's report, the PCC is to have regard to their recommendation and notify the panel as to whether the recommendation is

accepted. The PCC may then appoint the reserve candidate as Chief Constable, or may propose another reserve candidate. In the latter eventuality, the procedure under Part 3 of these Regulations is conducted once again in relation to a further candidate. The PCC can continue to propose reserve candidates in this way if necessary.

13. *Guidance on Confirmation Hearings*

As identified the PCP is required to hold confirmation hearings for the Chief Constable and Senior Appointments proposed by the PCC. To provide guidance to PCPs the LGA and the CfPS has produced a document attached in Appendix 3 that suggests a format on how to undertake and conduct confirmation hearings. The guidance provides information on:

- Legislation
- Professional competence and personal independence
- Planning and preparation
- The Hearing itself
- The decision making process
- Making recommendations on Schedule 1 and 8 appointments
- The veto for Schedule 8 appointments

14. Appendix 3 is a guidance document and provides a framework to undertake confirmation hearings. It is not known at present when the Commissioner will make appointments to these positions but is suggested that Members receive training in advance of the confirmation hearings being undertaken.

Recommendations

- 1) That Members note information contained within this report and Appendices 2 and 3.
- 2) That following agreement of timescales for reporting the PCC's precept with Durham County Council and Darlington Borough Council, dates are to be identified within the PCP's work programme.
- 3) That a training session be arranged for Panel Members to conduct confirmation hearings for Schedule 1 and 8 appointments.

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Appendix 1: Implications

Finance

The report identifies the process and timescales for consideration of the Police and Crime Commissioner's precept. None at this stage.

Staffing

This report includes information and procedures for Schedule 1 and 8 appointments as identified within the Police Reform and Social Responsibility Act 2011.

Risk

Failure to act in accordance with the regulations could lead to legal challenge over appointments and impact upon on deadlines for constituent local authorities to set their respective Council tax precepts

Equality and Diversity / Public Sector Equality Duty

None

Accommodation

None

Crime and Disorder

The report is linked to proposed precept and senior appointments to contribute to addressing crime and disorder issues

Human Rights

None

Consultation

None at this stage of development

Procurement

None

Disability Issues

None

Legal Implications

In line with risk above

