

Warwickshire Police and Crime Panel

19th December 2014

Report of the Head of Law and Governance – Procedure for Confirmation Hearing

Recommendations

That the Warwickshire Police and Crime Panel:

- 1) Undertakes a Confirmation Hearing for the appointment of a Chief Constable for Warwickshire Constabulary, in accordance with legislative requirements;
- 2) Makes a report and recommendation to the Police and Crime Commissioner on the outcome of the confirmation hearing; and
- 3) Authorises the Panel's support officer to draft and submit the report and recommendations in accordance with the findings of the Panel.

1.0 Legislation and Background

- 1.1 Chief Constables are appointed by the Police and Crime Commissioner in accordance with Schedule 8 of the Police Reform and Social Responsibility Act 2011¹. The Commissioner is required to notify the Police and Crime Panel of the proposed appointment, once a decision has been reached about the preferred candidate.
- 1.2 It is then the duty of the Police and Crime Panel to a) hold a public confirmation hearing within three weeks to review the proposed appointment; b) determine whether it agrees, vetoes or has certain recommendations regarding the proposed appointment; c) notifies the PCC of its decision and any recommendations; and d) publishes its report and any recommendations.
- 1.3 The confirmation hearing must be held in public session but the Panel can retire in private to discuss their views and recommendations regarding the proposed appointment.
- 1.4 The purpose of the confirmation hearing is for the Panel to assess the suitability of the candidate proposed by the Police and Crime Commissioner and put questions to him/her. The Police and Crime Commissioner must provide the Panel with as a minimum the following information:

¹ <http://www.legislation.gov.uk/ukpga/2011/13/schedule/8/enacted>

- 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.

1.5 The above information, together with a report from the Commissioner on the recruitment and selection process that has been undertaken, is provided at Item 3 on the agenda.

2.0 Guidance on Conduct of the Confirmation Hearing

2.1 The Panel will need to operate within the requirement in employment law for a particular degree of procedural fairness and should complement, rather than duplicate, other steps in the appointment process.

2.2 Candidates should be treated with courtesy and respect at the Confirmation Hearings and in all correspondence and statements relating to the Panel's decision and any recommendations; however, this does not mean that the Panel should not be transparent about its findings.

2.3 The questions for the candidate at the hearing should focus on the following two key areas:

i) Professional competence:

- ability to carry out the required role
- professional judgement and insight

ii) Personal independence:

- ability to act in a manner that is operationally independent of the commissioner where appropriate to the post.

Questions eliciting background information, such as past career and the selection process, are acceptable.

2.4 A veto or recommendation not to appoint should be used very rarely.

2.5 A Briefing Note regarding the statutory role of the Police and Crime Panel, its responsibilities and the procedure in respect of the Confirmation Hearing has been circulated to the Panel previously. For information, this is attached at **Appendix A**.

Background Papers:

None.

Host Authority	Name	Contact Information
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Chief Constable Confirmation Hearing Briefing/Procedure Note

Background and Legislation

Schedule 8, Police Reform and Social Responsibility Act 2011

Chief Constables are appointed by the Police and Crime Commissioner in accordance with Schedule 8 of the Act¹. It is the duty of the Police and Crime Panel to a) hold a public Confirmation Hearing and to review the proposed appointment; b) determine whether it agrees, vetoes or has certain recommendations regarding the proposed appointment; c) notifies the PCC of its decision and any recommendations; and d) publishes its report and any recommendations.

The Procedure for Confirmation Hearings

1. Notification of Proposed Senior Appointment

The PCC will notify the Panel of the proposed appointment in writing to the Chair of the Panel, i.e. once a decision has been reached about the preferred candidate. This notification should be accompanied by background information such as a CV or a personal statement to assist the Panel in its assessment of the candidate. At the very least, and in accordance with legislation, the PCC is required to provide the following information:

- The name and contact details of the candidate;
- The criteria used to assess the suitability of the candidate for the appointment and how the candidate satisfies these criteria; and
- The terms and conditions on which the candidate is to be appointed.

This information will be published with the Panel's agenda pack and will therefore be available at five clear working days before the Hearing.

2. Arrangement of Confirmation Hearing and Notifying the Candidate

Once the notification from the PCC has been arranged, and date of the Hearing has been scheduled, the Chair of the Panel will write to the candidate to confirm the date and notify them of the process to be followed. The letter will set out the legislative provisions underpinning the Hearing and inform the candidate that any information they provide will be heard in public.

¹ <http://www.legislation.gov.uk/ukpga/2011/13/schedule/8/enacted>

Chief Constable Confirmation Hearing Briefing/Procedure Note

3. Pre-Meeting

A pre-meeting for the Panel will be scheduled, prior to the Hearing, to allow for consideration of the background information provided by the PCC. The pre-meeting will provide an opportunity to consider and agree the scope and thrust of the questioning at the Hearing. It is recommended that questioning primarily focuses on the “**professional competence**” of the candidate and their “**personal independence**”² and whether the candidate meets the minimum standards for the post, as defined in the role profile.

- **Professional Competence** – the candidate’s ability to undertake the role. This should be apparent from a comparison of the candidate’s CV and the role profile, and from the answers to questions which relate to (for example) issues around professional judgement and insight.
- **Personal independence** – the candidate’s ability to act in a manner that is operationally independent of the PCC.

The pre-meeting will be held in private and, where possible, will be attended by the lead support officer, Monitoring Officer (or Deputy) and a senior HR adviser from the host authority (if necessary) – the officers will assist the Panel in the provision of specialist and technical advice and the devising of a list of appropriate questions.

It is recommended that a list of questions is agreed and assigned to members of the Panel, with the option to ask supplementary questions if necessary.

Additional information relating to the candidate, not provided by the PCC but available elsewhere, should be considered by the officers to ensure that the process is fair, and that it will help the Panel assess professional competence and personal independence.

4. The Hearing

Key issues that members need to be mindful of during the Hearing:

- it will be held in public and likely to be high profile;
- the appointment is being made to an external body and not the councils represented on the Panel; and
- hearings are an integral, but independent, part of the appointment process.

² Guidance on Confirmation Hearings (LGA, August 2012)

Chief Constable Confirmation Hearing Briefing/Procedure Note

With preparation and planning at the pre-meeting, Confirmation Hearings should be short and focused. The Hearing will be a four stage process:

	Present:		
	Panel	PCC	Candidate
Stage 1: Chairman outlines the process to be followed and the powers of the Panel.	✓	✓	✓
Stage 2: Brief introduction by the PCC explaining why the candidate meets the job description, the criteria he/she meets for the post and the terms and conditions for the post.	✓	✓	✓
Stage 3: Panel to question the candidate to determine if he/she meets the criteria set out in the job description and whether they possess the necessary professional competence and personal independence to carry out the role. <i>Candidates may make a presentation at the start of this stage of the process if they wish.</i>	✓	x	✓
PANEL GOES INTO CLOSED SESSION			
Stage 4: Panel will make its decision and prepare any recommendations to the PCC.	✓	x	x

5. Coming to a View

This will be undertaken in private, closed session. The Panel will need to evaluate the responses provided by the candidate in order to come to a judgement on their suitability for the role. The key areas to consider are:

- Does the Panel feel that the candidate has the professional competence to exercise the role, as outlined in the role profile?
- Does the Panel feel that the candidate has the personal independence to exercise the role?
- Does the Panel feel that the candidate has met the minimum standards for the role?

The Panel has three principal options, as follows:

- i) If the Panel is content with the proposed appointment, it can agree to report its endorsement to the PCC.
- ii) Where a candidate meets the standards, but the Panel has concerns about their suitability, such concerns can form part of the Panel's report and recommendations to the PCC. The Panel may also recommend that the appointment is not made (this is not the same as a veto), to which the PCC will choose whether to accept (or not).

Chief Constable Confirmation Hearing Briefing/Procedure Note

- iii) The Panel can veto the proposed appointment if it does not feel that the candidate meets the minimum standards – this legally prevents the PCC from appointing the candidate. There must be a minimum two-thirds majority of the total Panel membership in agreement to the veto. It is noted in the LGA Guidance that a veto should be used in only “exceptional” circumstances.

6. Reporting the Panel’s Recommendation

The Chairman of the Panel will write to the PCC on the next working day, following the Confirmation Hearing, to outline the decision and recommendations of the Panel. The candidate will also be sent a copy of the letter.

The Panel will wait five working days before it publishes any information about its recommendations unless it has been agreed with the PCC that this information can be released at an earlier stage. The Panel will ensure that the PCC has received and acknowledged receipt of the Panel’s recommendations before making its recommendations public.

7. In the Event of a Veto

If the Panel vetoes the appointment of the candidate, the report to the Commissioner must include a statement that the Panel has vetoed the appointment with clear reasons for the veto. Once vetoed, the PCC **must not** appoint the candidate. Subsequently, there are a number of further steps to be taken³ which is attached at **Appendix A**.

³ Part 3 of the Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012 - <http://www.legislation.gov.uk/uksi/2012/2271/part/3/made?view=plain>

Process for PCP scrutiny of chief constable appointments

