

Cheshire Police and Crime Panel Agenda

Date: Monday 16th July 2018
Time: 6.15 pm
Venue: Council Chamber, Wyvern House, The Drummer, Winsford
CW7 1AH

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. Apologies

Members are reminded that, in accordance with governance procedure rule 2.7, Panel Members, or their constituent authority, may nominate substitute members of the Panel in the event that the appointed representative(s) is/are unable to attend the meeting. Advance notice of substitution should be given to the host authority wherever possible. Members are encouraged wherever possible to secure the attendance of a substitute if they are unable to be present.

2. Code of Conduct - Declaration of Interests. Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.

3. Confirmation Hearing for Chief Finance Officer to the Police and Crime Commissioner for Cheshire (Pages 3 - 38)

To consider the above report and conduct a confirmation hearing.

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Cheshire Police and Crime Panel

Date of Meeting: 16 July 2018

**Report of: Brian Reed, Head of Governance and Democratic Services,
Cheshire East Council**

Subject: Confirmation Hearing for the proposed appointment of a Chief Finance Officer to the Police and Crime Commissioner for Cheshire

1. Report Summary

- 1.1 This report sets out the statutory timetable and requirements relating to the Panel's responsibility for reviewing and reporting to the Police and Crime Commissioner on his proposed appointment of a Chief Finance Officer for the Office of Police and Crime Commissioner for Cheshire

2. Recommendation

- 2.1 That the Panel receives this report and conducts the Confirmation Hearing within the statutory framework relating to the proposed appointment.

3. Background information

- 3.1 The legal requirements relating to the process for the Panel's scrutiny of the Commissioner's proposed appointment of a Chief Finance Officer for the Office of Police and Crime Commissioner for Cheshire are set out in Schedule 1 of the Police Reform and Social Responsibility Act 2011. This legislation sets out that:

- (i) A Police and Crime Commissioner must notify the relevant Police and Crime Panel (PCP) of any proposed appointment of a senior member of staff to his Office and must also notify the relevant PCP of the following:

- The name of the person proposed for appointment;
- The criteria used to assess their suitability;
- Why the person meets those criteria; and
- The terms and conditions on which the candidate is to be appointed.

- (ii) The Police and Crime Panel must within three weeks of receiving notification of the proposed appointment:

- Review the proposed appointment;



- Make a report to the Commissioner on the proposed appointment, which must include a recommendation as to whether or not the candidate should be appointed; and
- Before making the report and recommendation the PCP must hold a Confirmation Hearing. This is a meeting of the Panel, held in public at which the candidate is requested to appear for the purpose of answering questions relating to the appointment (either by attending the meeting in person, or by participating in the proceedings at the meeting by any means that enable them to hear, and to be heard in, the proceedings as they happen).

(iii) The Police and Crime Commissioner may accept or reject the recommendations of the Panel as to whether or not the candidate should be appointed and must notify the Panel of his decision.

3.2 A copy of the Local Government Association publication “Police and Crime Panels – Guidance on Confirmation Hearings” is attached for reference.

4. Financial Implications

4.1 There are no specific financial implications to this report.

5. Equality implications

5.1 There are no specific equality implications to this report.

6. Contact information

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David Keane
Police & Crime Commissioner
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Date: 2 July 2018

Our Ref:
OPCC/DK/CH

Your Ref:

Tel: 01606 364001
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Dear Mr Fousert

PROPOSED APPOINTMENT OF A CHIEF FINANCE OFFICER

In accordance with Schedule 1 of the Police Reform & Social Responsibility Act 2011, I write to inform you that I propose to appoint Ms Clare Hodgson as Chief Finance Officer for the Office of the Police of Crime Commissioner for Cheshire.

In accordance with the provisions of Schedule 1 of the Act, I am advising you, as Chair of the Police & Crime Panel, so that arrangements may be made to hold a confirmation hearing to review the proposed appointment and make a recommendation as to whether the candidate should be appointed. As specified in Schedule 1 of the Act, I set out below the required information for the Panel's consideration, namely:

- a) the name of the person whom the commissioner is proposing to appoint
- b) the criteria used to assess the suitability of the candidate for the appointment;
- c) why the candidate satisfies those criteria; and
- d) the terms and conditions on which the candidate is to be appointed.

Following a robust recruitment process, Ms Hodgson has been selected as my preferred candidate.

The statutory duties of the Chief Finance Officer will only form part of Ms Hodgson's responsibilities, as her full role will be as Head of Finance, Operations and Governance. To reflect these wider responsibilities Ms Hodgson will be employed on a full time basis. This letter focuses on Ms Hodgson's suitability in relation to the duties of Chief Finance Officer, as this is the role which is subject to Police & Crime Panel review.

Due to the importance of the role, the office engaged with a recruitment agency to source candidates. This approach worked well, with a number of highly skilled individuals applying for the post (18 in total). From this pool of applications, 6 candidates were shortlisted for assessment and interview; conducted by the OPCC Chief of Staff, Cheshire Constabulary Head of Human Resources and Cheshire Constabulary Head of Finance. The assessment and interview process comprised of:

- Psychometric Profile
- Presentation
- Competency based interview.

The job description, presentation topic and interview questions, and scoring matrix are attached for information.

From the above process, three candidates performed exceptionally well and scored very closely. These three candidates were selected for a follow-up interview with the PCC, OPCC Chief of Staff and representative from Cheshire Constabulary Human Resources.

Ms Hodgson was the highest scoring candidate and was selected as my preferred candidate. Ms Hodgson performed particularly well in the areas of leading strategic change, leading the workforce, managing performance and decision making; all of which will be crucial in her role as key advisor to the Police & Crime Commissioner.

Ms Hodgson has since accepted a conditional offer subject to vetting and references, which have now been satisfactorily completed.

Ms Hodgson is a very talented, highly qualified and experienced candidate and I am sure she will play a key role in shaping the organisation and delivering my objectives. Through the recruitment process Ms Hodgson demonstrated that she is an experienced senior finance professional with strategic level expertise who will be a great asset for the Office of the Police & Crime Commissioner for Cheshire and Cheshire residents.

Ms Hodgson's CV is attached for your and Panel members' information and to assist you with the confirmation hearing. I would ask that the CV remains a private document for panel members use only and not for publication.

The appointment will be made on a permanent full-time basis at salary scale SM5; £66,342 - £70,812 and expenses will be paid in accordance with office policy. The post is politically restricted and has been subject to Police Management Vetting. The appointment of new employees to the Office of the Police & Crime Commissioner (OPCC) is subject to a period of probation not exceeding six months.

The job description sets out the roles key areas of responsibility. Specifically regarding the confirmation hearing, the Panel will note that as outlined, the role will have responsibility for the fulfilment of all statutory obligations of the Chief Finance Officer for the Police and Crime Commissioner as set out in paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011 and Sections 113 and 114 of the Local Government Finance Act 1988. The role will also oversee the management of the governance and assurance arrangements to support the statutory oversight and scrutiny function of the Police & Crime Commissioner.

I look forward to receiving the Panel's report on this proposed appointment in this regard.

Yours sincerely,



David Keane
Police & Crime Commissioner

Cheshire Police & Crime Commissioner

Job Description

Job Title: Head of Finance, Operations & Governance

Grade SM5

Directly Responsible to: Chief of Staff

Location: Stockton Heath Police Station

Job Purpose:

The fulfilment of all statutory obligations of the Chief Finance Officer in the Office of the Police and Crime Commissioner as set out in paragraph 6 of Schedule 1 to the Police Reform and Social Responsibility Act 2011 and Sections 113 and 114 of the Local Government Finance Act 1988, overseeing the management of the governance and assurance arrangements to support the statutory oversight and scrutiny function of the OPCC

Main Duties & Responsibilities

1. Act as the professional lead officer to the Commissioner on all financial matters; financial propriety; and the financial aspects of corporate governance. Ensure the financial affairs of the Commissioner are properly administered and that financial regulations are observed and updated.
2. Contribute to the strategic leadership, direction and management of the OPCC, holding accountability for all functions of team outcomes and delivery ensuring these are recorded as part of their Performance Development Reviews to ensure an efficient and effective operational service is maintained in adherence with agreed timescales.
3. Ensure regularity, propriety and value for money (VFM) in the use of public funds and in particular advise the Commissioner of the application of VFM principles by the Constabulary to support them in holding the Chief Constable to account.
4. Work with the Commissioner to develop an ambitious strategic financial strategy and ensure that the requisite funding is available from the Government, precept, other contributions and recharges, to discharge the Chief Finance Officer's statutory responsibility for the police fund.
5. Act as the Commissioner's professional lead officer on budgetary matters, including the robustness of the budget and adequacy of financial reserves, representing the Commissioner's financial interests on all relevant projects and groups.
6. Arrange for the determination, issue and transfer of the precept.
7. Ensure that accurate, complete and timely financial management information is provided to the Commissioner.
8. Advise on the safeguarding of assets, including risk management and insurance.

9. Ensure the production of the statement of accounts of the Commissioner, ensure receipt and scrutiny of the statement of accounts of the Chief Constable and ensure production of the group accounts.
10. Report to the Commissioner, the Police and Crime Panel and the external auditor (as appropriate) any unlawful or potentially unlawful expenditure by the Commissioner or his officers or when expenditure is likely to exceed resources.
11. Ensure the provision of efficient and effective audit services and liaise with both internal and external auditors in reporting to the Audit Committee.
12. Secure effective treasury management, including loans and investments and report annual policy and performance to the Commissioner.
13. Ensure the effective management of the complaints process within the OPCC.
14. Promote, develop and sustain effective working relationships at a local, regional and national level, particularly the Association of Police and Crime Commissioners, Chief Executive, the Chief Constable and senior officers of the Constabulary, Her Majesty's Treasury, the Home Office, HMIC and the National Audit Office.
15. Work with the Commissioner and where applicable other forces, to help the Commissioner deliver their manifesto and develop new strategies to address the funding gap.
16. Work with the Chief Constable's Chief Finance Officer in a mutually supportive way to facilitate the execution of their duties.

Must be able to travel across the County

This post has been identified as politically restricted

This post is subject to an enhanced level of vetting

For the post holders level of responsibility ensure that all; arrangements, activities, equipment, supervision and staff health, welfare and training are complied with as fully detailed in the Health and Safety Policy.

It is the responsibility of all staff to promote equality, diversity and Human Rights in working practices including developing and maintaining positive working relationships, ensuring that colleagues are treated fairly, contributing to developing equality of opportunity in working practices and challenging inappropriate conduct. Staff should treat everyone with fairness and impartiality, whilst recognising differences in needs, perspectives, backgrounds and cultures.

Notwithstanding the details in this job description, the job holder may be required to undertake other duties up to a level consistent with the principal responsibilities of the job.

Qualifications

Given section 151 responsibility the post holder must be a qualified accountant with a CCAB professional body, preferably CIPFA

Experience

Evidence of continual professional and personal development with awareness of latest developments, thinking and best practice in Business Management.

Substantial experience of managing large budgets, including the management of financial planning, budget setting and medium term strategies.

Substantial experience of operating at a strategic level, preferably within a political or high profile environment.

Experience of transactional governance management.

Skills & Knowledge

Knowledge of the financial environment within which policing operates.

Ability to network and build effective partnerships both internally and externally

Knowledge and understanding of the importance of scrutiny, audit, governance and risk management arrangements.

Ability to network and build effective partnerships both internally and externally

Personal Qualities

Skill Category: Policing Professional Framework	
Serving the Public	<p><u>Serving the public – Level Executive</u></p> <p>Promotes a real belief in public service, focusing on what matters to the public and will best serve their interests. Ensures that all staff understand the expectations, changing needs and concerns of different communities, and strive to address them. Builds public confidence by actively engaging with different communities, agencies and strategic stakeholders, developing effective partnerships at a local and national level. Understands partners' perspectives and priorities, working co-operatively with them to develop future public services within budget constraints, and deliver the best possible overall service to the public.</p>
Leading Strategic Change	<p><u>Leading Strategic Change – Level Executive</u></p> <p>Thinks in the long term, establishing a compelling vision based on the values of the Police Service, and a clear direction for the force. Instigates and delivers structural and cultural change, thinking beyond the constraints of current ways of working, and is prepared to make radical change when required. Identifies better ways to deliver value for money services that meet both local and national needs, encouraging creativity and innovation within the force and partner organisations.</p>
Leading the Workforce	<p><u>Leading the Workforce – Level Executive</u></p> <p>Inspires people to meet challenging organisational goals, creating and maintaining the momentum for change. Gives direction and states expectations clearly. Talks positively about policing and what it can achieve, building pride and self-esteem. Creates enthusiasm and commitment throughout the force by rewarding good performance, and giving genuine recognition and praise. Promotes learning and development within the force, giving honest and constructive feedback to colleagues and investing time in coaching and mentoring staff.</p>
Managing Performance	<p><u>Managing Performance – Level Executive</u></p> <p>Translates the vision into action by establishing a clear strategy and ensuring appropriate structures are in place to deliver it. Sets ambitious but achievable timescales and deliverables, and monitors progress to ensure strategic objectives are met. Identifies and removes blockages to performance, managing the workforce and resources to deliver maximum value for money. Defines what good performance looks like, highlighting good practice. Confronts underperformance and ensures it is addressed. Delegates responsibilities appropriately and empowers people to make decisions, holding them to account for delivery.</p>
Professionalism	<p><u>Professionalism – Level Executive</u></p> <p>Acts with integrity, in line with the values and ethical standards of the Police Service. Delivers on promises, demonstrating personal commitment, energy and drive to get things done. Defines and reinforces standards, demonstrating these personally and fostering a culture of personal responsibility throughout the force. Asks for and acts on feedback on own approach, continuing to learn and adapt to new circumstances. Takes responsibility for making tough or</p>

	<p>unpopular decisions, demonstrating courage and resilience in difficult situations. Remains calm and professional under pressure and in conditions of uncertainty. Openly acknowledges shortcomings in service and commits to putting them right.</p>
Decision Making	<p><u>Decision Making – Level Executive</u></p> <p>Assimilates complex information quickly, weighing up alternatives and making sound, timely decisions. Gathers and considers all relevant and available information, seeking out and listening to advice from specialists. Asks incisive questions to test facts and assumptions, and gain a full understanding of the situation. Identifies the key issues clearly, and the inter-relationship between different factors. Considers the wider impact and implications of different options at a local and national level, assessing the costs, risks and benefits of each. Prepared to make the ultimate decision, even in conditions of ambiguity and uncertainty. Makes clear, proportionate and justifiable decisions, reviewing these as necessary.</p>
Working with Others	<p><u>Working with Others – Level Executive</u></p> <p>Builds effective working relationships through clear communication and a collaborative approach. Maintains visibility and ensures communication processes work effectively throughout the force and with external bodies. Consults widely and involves people in decision-making, speaking in a way they understand and can engage with. Treats people with respect and dignity regardless of their background or circumstances, promoting equality and the elimination of discrimination. Treats people as individuals, showing tact, empathy and compassion. Negotiates effectively with local and national bodies, representing the interests of the Police Service. Sells ideas convincingly, setting out the benefits of a particular approach, and striving to reach mutually beneficial solutions. Expresses own views positively and constructively. Fully commits to team decisions.</p>



INTERVIEW QUESTIONS

Thursday 26th April 2018

PRESENTATION

A key part of this position will be to develop proposals to the public for future funding requirements needed for policing. How would you approach this challenge, what would you consider and how will you present for public release.

Serving the Public

1. Can you talk to us about your experience of working in a political environment?

Leading Strategic Change

2. Can you give an example of where you have had to influence senior managers to ensure the right outcome for an organisation where they did not accept your proposal?
 - a. What influencing strategy do you use and what was the outcome?
3. Can you give an example of where you have led on difficult negotiations?
 - a. What lessons did you learn and what might you have done differently?
 - b. How do you maintain good employee relations both within the OPCC and within Cheshire Constabulary?

Leading the Workforce

4. Please give an example of how you have led a team through a complex or difficult problem and what methods you employed to ensure engagement and support at all levels.

OPCC HEAD OF FINANCE, OPERATIONS & GOVERNANCE

5. Can you provide an example of where you have translated governance outcomes into messages that were easily understood by the staff?
 - a. How effective was this approach and what lessons did you learn for the future?
 - b. Evidence your adaptability of changing working environments.

Managing Performance

6. Where do you see the balance between the strategic overview and the detailed planning and delivery of this role? When is it appropriate to involve yourself in the detail?
7. A key part of this role will be the commissioning of internal and external audit and running the joint audit committee, please evidence your experience in this area.

Professionalism

8. Tell us about a time when someone asked you to do something you objected to. How did you handle the situation?

Decision Making

9. In this role you will have responsibility for the management of large budgets, including the management of financial planning, budget setting and medium term strategies. Can you tell us about your comparable experience across a similar remit?
10. You will have statutory officer responsibility under Section 151 for financial management. Can you evidence your experience and what you consider to be the critical factors for success in this area?
 - c. What is your appetite to risk?

Working with Others

11. In this role you will be required to develop relationships with a range of key stakeholders. Please describe the approach that you will take and the process you will adopt to ensure that effective relationships are established and embedded?

HEAD OF FINANCE, OPERATIONS & GOVERNANCE

PANEL	CANDIDATE:
	DATE: 26.04.18

Rating 0 = Unacceptable 1 = Low 2 = Acceptable 3 = Good 4 = Very Good

Personal Competencies	Evidence	Score
PRESENTATION		
Serving the Public		
Leading Strategic Change		
Leading the Workforce		
Managing Performance		
Professionalism		
Decision Making		

Working with Others		
Additional Comments		
Total Score		

Signed:

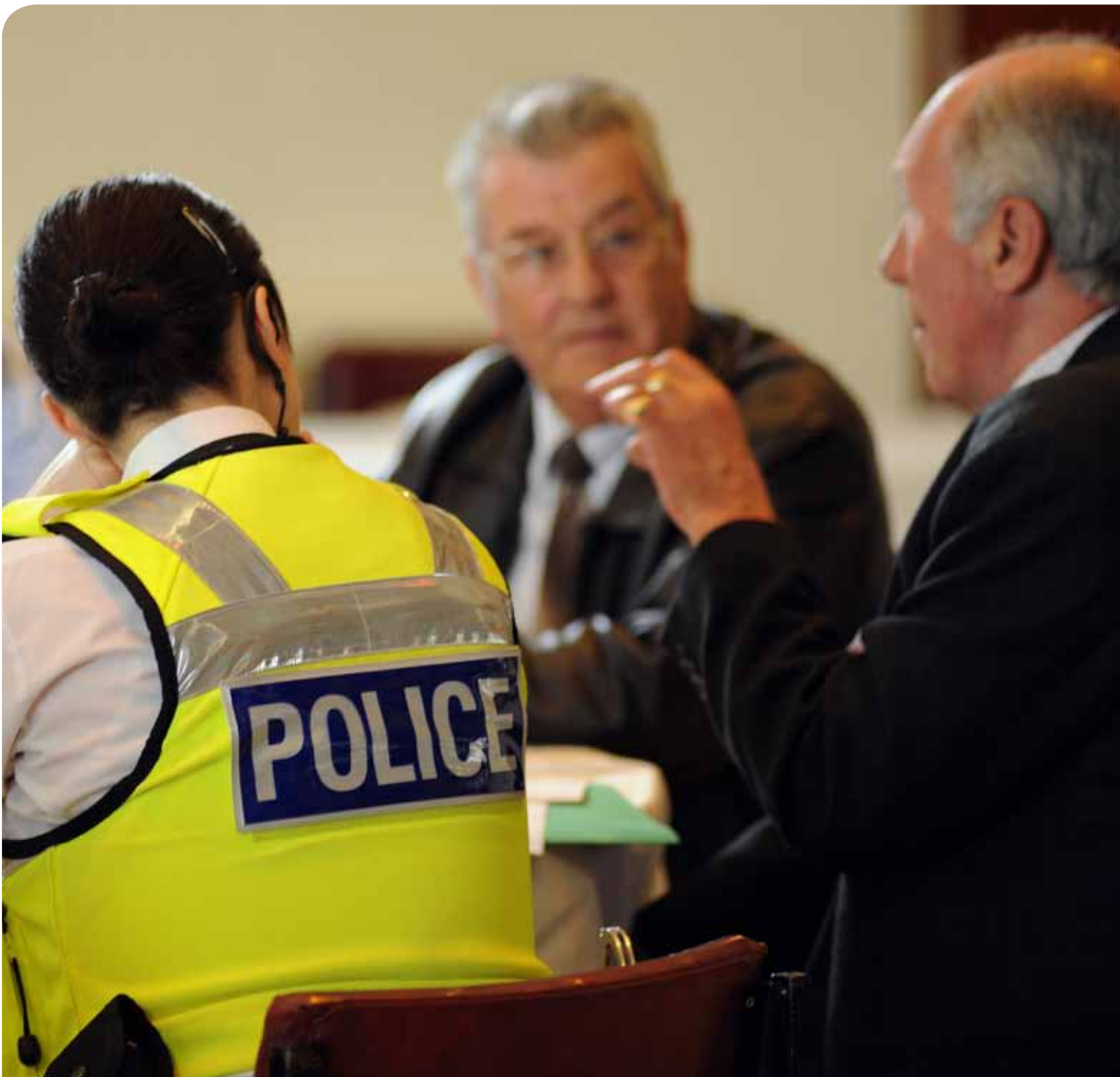
RATING SCALE

A scoring system of 0-4 is to be used, any officer scoring one 0 and/ or two 1s will not be successful at the interview stage

RATING	DEFINITION
4 = VERY GOOD	The candidate has provided evidence that directly relates to the quality/competency area being measured. This evidence clearly explains their role and what they did in relation to many of the behavioural descriptors associated with the area. The evidence/example used has direct relevance to the organisational objectives and the areas of importance as defined by the Chief Constable relating to this role.
3 = GOOD	The candidate has provided evidence that directly relates to the quality/competency area being measured. This evidence clearly explains their role and what they did in relation to many of the behavioural descriptors associated with the area. The evidence/example used has some relevant links to the organisational objectives and the areas of importance as defined by the Chief Constable relating to this role.
2 = ACCEPTABLE	The candidate has provided evidence that relates to some of the quality/competency area being measured. In the main the evidence explains their role and what they did in relation to some of the behavioural descriptors associated with the area. The evidence/example used has some relevant links to the organisational objectives and the areas of importance as defined by the Chief Constable relating to this role.
1 = LOW	The candidate has provided little evidence that relates to some of the quality/competency area being measured. In the main evidence clearly explains their role and what they did in relation to some of the behavioural descriptors associated with the area. The evidence/example used has some links indirectly to the organisational objectives and the areas of importance as defined by the Chief Constable relating to this role.
0 = UNACCEPTABLE	The candidate has provided very little or no evidence that relates to the quality/competency area being measured. The evidence does not clearly explain their role and what they did in relation to the behavioural descriptors associated with the area. The evidence/example used has no direct relevance to the organisational objectives and the areas of importance as defined by the Chief Constable relating to this role.

Police and crime panels

Guidance on confirmation hearings



This guidance has been prepared by the Centre for Public Scrutiny and the Local Government Association. Every attempt has been made to provide a fair picture of the current state of the law, to present an accurate and comprehensive assessment of our recommended interpretation of the provisions of the Police Reform and Social Responsibility Act 2011 as it applies to police and crime panels, and to suggest ways of working to ensure that panels can be effective, and their work proportionate, relevant and timely. However:

- This guidance should not be relied upon as giving legal advice, and it will be for monitoring officers in individual authorities to come to their own decisions, working with councillors, to decide on the right approach.
- This guidance should not be interpreted as setting out the view of the Home Office, and the recommendations, suggestions and advice given should not be interpreted as being endorsed or approved by the Home Office. The views expressed in the guidance are those solely of the Centre for Public Scrutiny and the Local Government Association.

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Introduction

Background

From November 2012, structural reforms in policing in England and Wales will result in the abolition of police authorities and the creation of new arrangements for accountability. The Police Reform and Social Responsibility Act¹ creates the post of elected police and crime commissioner (PCC) for each force area, who will be responsible for holding the chief constable to account. The PCC themselves will be scrutinised by a police and crime panel (referred to in this guidance as the panel) made up of local councillors from the force area, and some co-optees. More details on the general role of the panel can be found in the companion guidance to this publication produced by LGA/CfPS in October 2011².

Under the Act³, a principal role for the new panels will be to conduct hearings for certain senior staff including the chief constable, before they are confirmed in their posts. There is little precedent for this activity in the context of local government, with the most prominent UK examples of such hearings being in the House of Commons, and the London Assembly. Even there, they are a relatively recent phenomenon.

Under the Act, a Part 2 panel operates as a local government joint committee, led by a host authority. Under Part 3, the Secretary of State reserves the right to run a panel directly where local agreement on its operation cannot be reached. All Welsh panels will be Part 3 panels. Support for the operation of Part 3 panels will be provided by the Home Office. However, it is not anticipated that there will be any material difference between Part 2 and Part 3 panels in their operation of confirmation hearings.

Key issues

Confirmation hearings will need to be handled in a different way to other evidence-gathering sessions. They will however need to operate within the requirement, in employment law, for a particular degree of fairness. They will be an important element of an appointment process that will need to focus closely on an individual's capabilities and expertise, but will need to be carried out so as to ensure that justified scrutiny of these attributes does not descend into unwarranted intrusion or lines of questioning that might be unfair or unreasonable.

¹ Referred to in this guidance as 'the Act'

² www.cfps.org.uk/publications?item=7002&offset=0%20

³ Schedules 1 and 8

Confirmation hearings will need to complement, rather than duplicate, the other internal systems for appointing staff. There is no point in a panel confirmation hearing being simply a restaging of a previous interview panel.

Lines of questioning will therefore need to be carefully designed, and used to get the maximum value out of the process – for the panel, candidate and for the local community.

This guidance will examine in detail the steps that local authorities, and the panels they support, should take in preparing for confirmation hearings and in carrying them out. There are clear pitfalls that careful planning can avoid, but inevitably there will be occasions where quick thinking, tact and diplomacy will be required from all involved in these hearings, to ensure that they are genuinely useful.

We suggest that PCCs and panels in individual force areas review this guidance and seek to incorporate it as part of any wider protocol that will govern their relationship. This would include, for example:

- timescales (supplementing and complementing existing provisions on timescales in Schedules 1 and 8)
- mutual expectations about the detail of information which will be provided on candidates and their background
- mutual expectations about the conduct of the hearings themselves.

Reaching agreement on these issues as soon as possible following the election of the PCC will minimise the risk of delay or misunderstandings when the first Schedule 1 or Schedule 8 appointment is scrutinised. The panel should have the systems in place ready to carry out its duties from November 2012.

Drawing comparisons

Experience of hearings elsewhere

UK examples of confirmation hearings can be drawn from the House of Commons, where they have operated since 2008, and from processes established in relation to the London Assembly, which has a role in confirming certain mayoral appointments.

In the USA, a number of local areas run confirmation hearings for police officials, especially where they are appointed by an elected commissioner or chief of police.

Research elsewhere has explored these confirmation hearings and a discussion of their strengths and weaknesses goes beyond the scope of this guidance; however, we have sought to recognise the experience in the US and other jurisdictions in this document.

In the UK, confirmation hearings (or ‘pre-appointment hearings’⁴) were initially proposed by government as part of the 2007 Governance of Britain Green Paper.

A process of negotiation between the government and the Commons Liaison Committee⁵ led to the adoption of a process in 2008 that focused on the professional competence and personal independence of candidates, covering a range of public appointments. The Liaison Committee produced a process for hearings which has been adopted and followed by all select committees and, since 2008, significant numbers have been carried out.

In 2010, the Constitution Unit carried out a review of confirmation hearings that had been held to date⁶. It highlighted some concerns about the operation of such procedures but overall concluded that the aim of increasing transparency in appointments had been achieved.

On the point of the exercise of a veto (not an option open to Select Committees) it has been suggested that this might deter candidates from applying. This is a risk we will consider and suggest a way to mitigate, through panels carefully restricting their use of the veto, which we discuss in more detail below.

⁴ Schedules 1 and 8 of the Act make clear that the confirmation hearing process is a pre-appointment, rather than a post-appointment, process.

⁵ Maer L, ‘Parliamentary involvement in public appointments’ (House of Commons Library Paper SN/PC/4387), <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-04387.pdf>

⁶ Waller, P and Chalmers M, “An evaluation of pre-appointment scrutiny hearings” (UCL Constitution Unit, 2010), <http://www.ucl.ac.uk/constitution-unit/research/consultancy/consultancy-projects/PASreport>

Lessons learned

There are several lessons that can be learned from the experiences in the UK Parliament, in the USA and at the London Assembly:

- Confirmation hearings need to be rigorously and carefully planned by the panels carrying them out – but this does not mean hearings are a bureaucratic, ‘tick box’ exercise.
- Candidates need to know what to expect and panels should keep to a relatively narrow set of questions which relate directly to professional competence and personal independence – but this does not mean hearings are not challenging.
- Both the veto (where legal), and the recommendation not to appoint, should be used very rarely, based on the principle that candidates will have already been subject to an internal recruitment process – but this does not mean that hearings are simply a rubber stamp.
- Hearings should take place quickly, with minimal time taken between notification of the appointment, the hearing and reports and recommendations being made to the PCC – but this does not mean the process should be rushed.
- Candidates should be treated with courtesy and respect, not just at hearings themselves, but also in correspondence or public statements relating to recommendations made by the panel (this is particularly important if there is a decision taken to veto) – but this does not mean that panels should not be transparent about their findings.

The legislation – initial considerations

Scope

Scrutiny of senior appointments by the police and crime panel is determined in Schedules 1 and 8 of the Act. These Schedules provide information on what the panel must do, in holding a confirmation hearing.

The rest of this guidance provides details on how these obligations could be interpreted, and how confirmation hearings could be used to add value to local policing. Throughout the guidance we have used the word ‘should’ to put forward how we would suggest that panels should plan their work. There is however no legal obligation on any panel to follow our recommendations.

Schedule 1

Schedule 1 covers the appointment of the PCC’s chief executive, chief finance officer and any deputy police and crime commissioners⁷. It states that the PCC must notify the panel of such a ‘proposed senior appointment’⁸, providing the name of the candidate, the criteria used to assess his or her suitability, why the candidate satisfies those criteria, and the terms and conditions on which the candidate is to be appointed⁹.

Once this notification has occurred, the panel must review the senior appointment¹⁰, and make a report on it to the PCC¹¹, which must include a recommendation as to whether or not the candidate should be appointed¹².

This must all happen within a period of three weeks, beginning on the day that the panel receives the notification from the PCC¹³.

Under Schedule 6 to the Act, confirmation hearings carried out under Schedule 1 are ‘special functions’ of the panel, and so may not be discharged by a sub-committee.

A confirmation hearing must be held before the report is submitted to the PCC. This is defined as ‘a meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment’¹⁴.

In response to the panel’s report, the PCC must then notify the panel whether they will accept or reject the recommendation¹⁵. There is no duty for the PCC to give reasons for their decision.

⁷ Paragraph 9(1) of Schedule 1

⁸ Paragraph 9(2) of Schedule 1

⁹ This will include the candidate’s salary

¹⁰ Paragraph 10(2) of Schedule 1

¹¹ Paragraph 10(3) of Schedule 1

¹² Paragraph 10(4) of Schedule 1

¹³ Paragraph 10(5) of Schedule 1

¹⁴ Paragraph 11(2) of Schedule 1

¹⁵ Paragraph 12(1) and (2) of Schedule 1

Schedule 8

Schedule 8 covers the appointment of the chief constable. Most of the provisions are identical to those in Schedule 1. There are two crucial differences:

- The panel has a veto¹⁶ over the appointment of the chief constable. The panel may recommend that the PCC does not make the appointment¹⁷, but in the event of a veto then the candidate must not be appointed¹⁸. What happens once the veto has been exercised will be subject to regulations¹⁹, which are likely to go into this matter in more detail. The procedure suggested at the end of this document for the exercise of the veto has been designed so that it should fit with the regulations once they are published.
- Although the panel is obliged to conduct a confirmation hearing for the chief constable and then report its recommendations to the PCC, if a report is not made following a period of three weeks, then the PCC can go ahead and appoint²⁰.

It should also be noted that the panel cannot delegate its scrutiny of the appointment of the chief constable to a sub-committee, as it is a 'special function' of the panel under Paragraph 27 of Schedule 6.

In this guidance, we will refer to appointments of the chief constable as **Schedule 8 appointments**. All other appointments subject to a confirmation hearing under the Act will be referred to as **Schedule 1 appointments**.

Existing staff

Some staff may be transferred, via TUPE, from police authorities to the PCC's secretariat. Even if under normal circumstances such transfers would be subject to a hearing, this would not be necessary during the November 2012 transition phase when the PCC's secretariat is first being established. However, the appointment by the PCC of a deputy will require a confirmation hearing to be held.

¹⁶ Under the Act, the panel may veto such an appointment with a two-thirds majority

¹⁷ Regulation 4(4) of Schedule 8

¹⁸ Paragraph 8 of Schedule 8

¹⁹ Paragraph 9 and 10 of Schedule 8 (Regulations to be issued)

²⁰ Paragraphs 2(3) and 6(1) of Schedule 8

Professional competence and personal independence

We recommend that confirmation hearings focus on issues of **professional competence and personal independence**. These are the standards that have been adopted in the House of Commons and have been identified by MPs as providing them with the focus necessary to carry out effective confirmation hearings.

Minimum standards should be seen as applying to particular attributes; ie there should be minimum standards below which it would not be appropriate to appoint under any circumstances. Above this bar, the panel might have concerns but the candidate will be 'appointable' subject to the discretion of the PCC. We comment on minimum standards in more detail in the section on the exercise of the veto.

Professional competence relates to a candidate's ability to carry out 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 judgment and insight which might be asked as part of the confirmation hearing process.

Personal independence relates to the need for a candidate to act in a manner that is operationally independent of the PCC (although see below on how this will apply to deputy commissioners).

This will be particularly important for Schedule 8 candidates, but for Schedule 1 candidates the panel will still need to assure themselves that the candidate will have the ability to advise the PCC effectively, and to understand the need to respond constructively in situations when they might be held to account by the panel.

Planning and preparation

Receiving notification from the PCC

When the PCC notifies the panel of a proposed senior appointment, the panel will need information relating to the candidate in order to carry out the hearing properly.

Notification from the PCC should therefore be accompanied by some form of background information (to minimise the risk that time will be wasted chasing this information up through other means). This should usually be the same information that the PCC has had access to during the rest of the appointment process. Under the Act the panel **must** be provided with the following information:

- the names of the person whom the PCC is proposing to appoint
- the criteria used to assess the suitability of the candidate for the appointment
- why the candidate satisfies those criteria
- the terms and conditions on which the candidate is to be appointed.

The PCC might provide other information about the candidate, for example background information (such as a CV) or a personal statement.

This information would be used to allow the panel to draw together questions around whether the candidate could evidence both **professional competence and personal**

independence. It is unlikely that the panel would be able to, or would wish to, carry out its own research on the candidate within the three week timescale because:

- resource constraints would make this level of research unfeasible
- this raises the prospect of questions being asked on issues which do not relate to professional competence and personal independence.

The issue of additional information is covered in the section on pre-meetings below.

Given that notification triggers a hearing within three weeks, the first task for the panel on receiving the notification will be to set a date for a meeting. This meeting should not be used for any other business (ie if there is already a panel business meeting scheduled for that period, the appointment meeting should be held separately).

Notifying the candidate

Following the PCC's notification to the panel, and the scheduling of the hearing, the chair of the panel should write to the candidate, advising them of the date of the meeting and notifying them of the principles of professional competence and personal independence on which they propose to evaluate the candidate.

This should refer to the relevant provisions in legislation.

This letter should advise that the information provided by the candidate (see above) would need to be put on public deposit in the same manner as a standard report going to the panel.

If it has been agreed that the candidate's references will be provided to the panel, the PCC will need to advise the relevant referees that the references they submit will be put on public deposit to assist the panel in the performance of its duties.

Briefing and pre-meeting

Steps should be taken to arrange a pre-meeting for the panel to go through some of the key issues and possible questions. The pre-meeting should not be held immediately before the confirmation hearing itself, to allow sufficient time for any unexpected issues, or gaps in information provided, to be addressed.

The information provided alongside the notification by the PCC should be used by the chair of the panel and the lead officer supporting the panel to draw together a list of potential issues for the panel to discuss at a pre-meeting. This could highlight possible question topics and themes, highlight background information on which members might wish to focus and remind members of the process taken at the meeting itself.

The pre-meeting is the most important element of the preparations for the confirmation process, because it is here that members of the panel will decide on the scope and thrust of their questioning.

This meeting should be held in private, and members of the panel should be assisted by the monitoring officer and a senior HR representative from the host authority to provide specialist and technical advice, along with whichever officer is responsible for providing support to the panel (ie a scrutiny officer).

People serving on panels may already have some experience of councillor-level appointment panels, for example to fill senior management posts. However, confirmation hearings are different in several crucial ways, which require them to be managed even more carefully. The panel will need to bear these factors in mind at the pre-meeting:

- confirmation hearings will be held in public, and Schedule 8 appointments (those of the chief constable) in particular are likely to be high profile
- the appointment is being made to an external body, not the councils represented on the panel
- hearings are an integral, but independent, part of the appointments process.

The focus of questioning will, therefore, need to rest on the professional competence of the candidate and their personal independence. Questioning will need to rely on the documents provided to support the panel's deliberations.

Where members of the panel propose to consider additional information relating to the candidate, not provided by the PCC but available elsewhere, this should be considered by the monitoring officer and the HR representative to ensure that the process will be fair, and that it will help the panel assess competence and independence.

This will be of particular importance for Schedule 8 appointments, where there may be a fair amount of information in the public domain relating to the candidate on which the panel might like to draw, but care will be needed in researching and analysing this information.

Within the two broad themes of competence and independence the panel might wish to focus on particular areas. These should be discerned with reference to the role profile, and the police and crime plan, which will allow the panel to understand the regular duties that the postholder will be expected to undertake, and the key policies that they will have to implement.

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 (personal independence).

Personal independence is likely to be a nuanced issue in relation to the PCC's deputy. These are likely to be political appointments, and as such a lower standard of independence might be expected, reflecting the fact that these deputies have been appointed to provide political support, and to directly assist the PCC in driving his or her particular vision and priorities.

However, the panel in these cases, will still need to be assured that the deputy recognises the separation of political and operational responsibilities.

Members of the panel should consider, at the pre-meeting, the kind of evidence they would want to adduce to demonstrate under each theme that the minimum standards for the post had been met.

Under each of these themes individual questions should be drawn out, and assigned to relevant members of the panel. It may be necessary for the panel member asking questions at the meeting to ask supplementary questions, to 'tease out' the response to an answer. The chair of the panel will, under these circumstances, need to monitor closely such supplementary questions, and their responses, to be assured that they are relevant. The chair should receive senior officer support at the meeting.

Inappropriate questions are considered below.

The hearing itself

The hearing will be a relatively focused opportunity to explore key issues relating to professional competence and personal independence.

As we have made clear it should not be treated as a chance for the panel to explore the candidate's views on various areas of the PCC's policies, national policy issues, or their plans once they assume the post, except insofar as those questions might relate directly to professional competence and personal independence.

Confirmation hearings should therefore be relatively short and focused. Members will have agreed questions, and questioning themes, at the pre-meeting and these should be kept to (other than to ask necessary supplementary questions – see above).

In broad terms, the meeting should be framed so as to allow the panel to make an informed decision about the candidate. In the next section the decision-making process is looked at in more detail but, fundamentally, it comprises two linked steps:

- Does the person meet the criteria set out in the role profile for the post?
 - Do they have the professional competence to carry out the role?
 - Do they have the personal independence to carry out the role? (although see comments elsewhere in this guidance on political appointments)
- Should, consequently, the panel recommend that the candidate should not be appointed or use its power of veto?

The chair should open the meeting by welcoming the candidate, and others present, and outlining for the benefit of the candidate the key themes that the panel hopes to explore. The chair should explain the process for approval, refusal or veto of appointments and allow the candidate to ask any procedural questions that he or she might have before the questioning gets under way.

The chair should be aware – notwithstanding the pre-meeting – of the risk that inappropriate questions might be asked. An inappropriate question is one 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. Some examples might be questions:

- relating to the personal political (or other) views of the candidate – eg whether the candidate agrees or disagrees with the police and crime plan, and so on
- 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 (ie questions relating to operational strategy)
- which are hypothetical and designed to obtain the candidate's views on a position of local controversy.

This is not an exhaustive list. The panel's senior HR adviser will be able to further advise the panel and the chair as to appropriate, and inappropriate, questions in this context.

The panel should also be able to use its own considered judgment on this matter, and does not have to take the officer advice it is given.

At all times the candidate should be treated fairly and politely. The panel should avoid getting into debate and discussion with the candidate on any issue, remembering that it has a task to perform and a limited amount of time to do it.

Members of the panel should refrain from making general statements about any issue, other than the short opening and closing statements referred to above.

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

The decision-making process

Immediately following the confirmation hearing, the panel should go into closed session to decide on its recommendations. Whilst the Local Government Act 1972 Schedule 12A would normally apply to the panel's operation at this point, the Home Office suggests that panels are joint committees under the Police Reform and Social Responsibility Act rather than the Local Government Act 1972. The Home Office will shortly issue Regulations to clarify how parts of the 1972 Act will apply to panels. The monitoring officer and a senior HR professional should be present to provide advice to the panel on its deliberations.

Meeting the role profile requirements

The following questions follow on from the issues mentioned in the section above. They are indicative only, suggesting the kind of issues that the panel would most need to be able to evaluate in order to come to a judgment on the suitability of the candidate.

Depending on the role, and the role profile, different questions could be asked specific to the candidate's forthcoming responsibilities, for example:

- Whether the panel feels that the candidate has the professional competence to exercise the role, as set out in the role profile
 - 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?
- Whether the panel feels that the candidate has the personal independence to exercise the role, as set out in the role profile
 - 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?

Minimum standards

In an earlier section we made reference to 'minimum standards' of professional competence and personal independence. Members should be familiar with the required minimum standards in the role profile and should use these to make an assessment as to whether the candidate fulfils those standards.

Where a candidate does not meet these standards it should be self-evident, and this will be suggestive of a significant failure in the appointments process undertaken by the PCC.

Under these circumstances (and only these circumstances) it may be appropriate to use the veto, if the candidate is a Schedule 8 appointment.

Where a candidate meets these standards, but there is still a cause for concern about his or her suitability, it may be appropriate to outline these concerns in the panel's response to the PCC.

Where a Schedule 1 candidate does not, in the panel's view, meet the minimum requirements for the post, providing advice to the PCC in the form of a letter is the only option open to the panel. For these situations for Schedule 8 candidates, making a recommendation provides an alternative to use of the veto.

Making recommendations on Schedule 1 and Schedule 8 appointments

Under the Act the panel may recommend to the PCC that the appointment be made, or that it not be made. A recommendation that an appointment is not made is not the same as a veto, and the PCC can, if he or she chooses, ignore such a recommendation.

The only example of a pre-appointment hearing in the Commons leading to a recommendation not to appoint was that of the proposed children's commissioner. In this section, we will draw lessons from that experience and examine how a process for recommending approval, and rejection, might work in practice.

It is important to appreciate that any negative determination by the panel could have an undesirable effect on the candidate's career options. It is suggested therefore that the affected candidate should ideally have at least a few days to consider their position and ask any further questions they may have about the process before information is released to the press and general public.

To achieve this, it is suggested that a five working day period should elapse between the hearing and the release of information about ANY recommendation from the panel whether positive or otherwise.

An understanding about this arrangement would need to be discussed and agreed with the PCC and their staff who might otherwise release information about appointments separately from the panel.

Delaying any announcement about favourable panel recommendations and associated appointment announcements would be necessary to avoid unfavourable recommendations becoming automatically associated with a delay. This would in effect create the same outcome for unfavourable recommendations as if the information had been released straight away.

Although the five day period is suggested in order to ensure fairness to the candidate, it is recognised that there may be some circumstances where their best interest would be served by a quicker release of information. In all cases, a consistent approach to the release of information would need to be discussed and agreed with the PCC and their staff.

Recommending approval

This will be straightforward. The Act requires that recommendations to appoint should be communicated to the PCC in writing. This should happen immediately following the making of the decision (ie the next working day).

The candidate should be copied into the communication. It is suggested however that the PCC should be asked not to make the result of the appointment public until five days has elapsed following the date of the hearing for the reasons explained above.

Similarly the panel should wait five working days before it releases any information about its recommendations. In any event the panel should also ensure that the PCC has received and acknowledged the panel's recommendations before making its recommendations public.

Recommending refusal

This will involve more work. Refusal should only be recommended rarely, under the circumstances identified in the section on the decision-making process.

Where refusal is recommended, on the next working day the PCC should be notified of the refusal in writing. Appended to the refusal should be a summary of the principal reasons for that refusal.

Both should be treated as separate documents so that the letter recommending refusal can later be formally published without risking a breach of the Data Protection Act.

The next four working days will be available to all parties – including the candidate – to consider their next moves before the recommendation is made public. The reason why we suggest that no information be disseminated publicly until after this time is to ensure that the process is fair to the candidate as explained above.

There are three likely scenarios that might follow a refusal recommendation by the panel:

- The PCC continues with the appointment. If this happens the recommendation to refuse would be published after five working days, along with a summary as to why the recommendation was made. The PCC should make a response at the same time as the publication of the recommendation, focusing on why he/she felt that the candidate did in fact meet the minimum standards for the post.
- The candidate decides to withdraw. If this happens the recommendation to refuse would be published after five working days along with the relevant summary, but no further information would be published from either side.
- The PCC decides not to appoint. If this happens, the recommendation to refuse, and the summary, would be published alongside a statement by the PCC setting out a timetable and process to make a new appointment.

At each point the candidate will need to liaise with the PCC. The panel should not attempt to liaise with the candidate either directly, or through the host authority's monitoring officer or leading HR officer.

The panel may wish to recommend refusal, rather than exercising the veto, in the case of a Schedule 8 appointment.

This might be considered when the panel feels that the candidate essentially meets the minimum standards, but has shortcomings that mean it would be inappropriate to appoint. It is envisaged that the veto would only be used in exceptional situations.

The veto (for Schedule 8 appointments only)

Use of the power of veto

In an earlier section we considered the effect that the veto might have on potential candidates for the role of chief constable. Research carried out by the Constitution Unit in 2010 concluded that the introduction of a veto into the existing system of select committee pre-appointment hearings might well act to dissuade candidates from coming forward.

It should be recognised that the PCC's power to appoint – subject to the confirmation hearings process – has been provided by the Government to allow the PCC to appoint the person thought most appropriate. This will be a corporate decision, led by the PCC as an individual, but backed up through their secretariat, whose HR functions and internal appointment procedures will provide a 'due diligence' check on the candidate's suitability. The veto should only be exercised where it is clear to the panel that there has been a significant failure of those 'due diligence' checks, to the extent that the candidate is not appointable. This is, rightly, a very high bar.

Systems and processes will therefore need to be designed to ensure that the veto is used extremely rarely. It should be used only where the panel feels that the candidate fails to make the minimum standards for the post.

Process for the veto

A possible process for the veto is set out below. In designing arrangements for the use of the veto, the content of any relevant Home Office Regulations should also be considered carefully²¹.

Where the veto is exercised on a Schedule 8 appointment, the PCC must not appoint. The veto should be notified to the PCC on the next working day following the hearing. The PCC will be responsible for notifying the candidate.

It is suggested that after five working days the panel will publish its veto and the PCC, alongside this information, will publish information setting out the steps that will be taken to make another appointment. As we have suggested for recommendations of refusal of appointments, the five day period following the hearing can be used by the relevant parties to consider their responses. If however the candidate's interests would be better served by a quicker release of information, this can be discussed and agreed with the PCC.

²¹ At the time of writing this guidance, the content of pending Home Office Regulations covering the use of the veto has not been finally determined. Early drafts of the Regulations indicate that the panel will not be able to veto the PCC's second choice of candidate if the panel has already used its veto on the previous candidate.

The exercise of the veto (or a recommendation for refusal) should act as the impetus to a discussion between the panel and PCC about how HR processes within the PCC's secretariat might be reviewed.



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