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Cheshire Police and Crime Panel Confirmation Hearing

Agenda

Date:	**Wednesday, 22nd February, 2017**
Time:	**2.00 pm**
Venue:	**Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ**

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 Deputy Police and Crime Commissioner** (Pages 3 - 32)

   To consider the above report.

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Cheshire Police and Crime Panel

Date of Meeting: 22 February 2017

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

Subject: Confirmation Hearing for Deputy Police and Crime Commissioner

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 Deputy Police and Crime Commissioner.

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 Deputy Commissioner 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 Deputy Police and Crime Commissioner 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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Local Government Association

cfps Centre for Public Scrutiny
accountability, transparency, involvement

Community safety, policing and fire services

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.

Contents

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 Act[1] 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 2011[2].

Under the Act[3], 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 Committee[5] 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 date[6]. 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 commissioners[7]. 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 appointed[9].

Once this notification has occurred, the panel must review the senior appointment[10], and make a report on it to the PCC[11], which must include a recommendation as to whether or not the candidate should be appointed[12].

This must all happen within a period of three weeks, beginning on the day that the panel receives the notification from the PCC[13]. 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 recommendation[15]. 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 veto[16] over the appointment of the chief constable. The panel may recommend that the PCC does not make the appointment[17], but in the event of a veto then the candidate must not be appointed[18]. What happens once the veto has been exercised will be subject to regulations[19], 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 appoint[20].

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**.

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

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.

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 carefully[21].

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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For a copy in Braille, larger print or audio,
please contact us on 020 7664 3000.
We consider requests on an individual basis.

L12-545

Police & Crime Commissioner for Cheshire

Mr M Suarez
Chief Executive
Cheshire East Council
Westfields
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Sandbach
CW11 1HZ

David Keane
Police & Crime Commissioner

Clemonds Hey
Oakmere Road
Winsford
Cheshire
CW7 2UA

Date: 14 February 2017

Our Ref:	Your Ref:	Tel: 01606 364001	Email:
OPCC/DK/SLP		Fax: 01606 364006	police.crime.commissioner@cheshire.pnn.police.uk

Dear Mr Suarez

PROPOSED APPOINTMENT OF A DEPUTY POLICE & CRIME COMMISSIONER

In accordance with the provisions of Section 18 of the Police Reform & Social Responsibility Act 2011, I write to inform you that I propose to appoint Ms Sareda Dirir as Deputy Police & Crime Commissioner for Cheshire.

In accordance with the provisions of Schedule 1 of the Act, I am advising you, as Secretary to the Police & Crime Panel, so that arrangements may be made to hold a confirmation hearing in relation to this proposed appointment. As specified in Schedule 1 of the Act, I set out below the required information for the Panel's consideration.

This proposed appointment follows an open advertisement for the role between 19 December 2016 and 15 January 2017 which attracted 21 applications. Four candidates (2 male and 2 female) were shortlisted for interviews which took place on 27 January 2017. At the interviews, I received independent advice from the North Wales Police & Crime Commissioner, Arfon Jones. The Constabulary's Head of Human Resources and my Head of Scrutiny & Planning also attended to provide professional advice and guidance. The attached person specification and role profile was used to assess the suitability of the candidate for appointment.

In using this criteria, I concluded that Ms Dirir is an outstanding candidate and exceeds the criteria set. Ms Dirir was born and brought up in Cheshire and has worked across the county and the North West as a teacher and freelance policy and communications advisor. Through her work with a range of public and private sector clients including local authorities, football clubs, national construction companies, NHS bodies and housing trusts, she has developed a good understanding of organisational challenges and has worked across different agencies at a strategic and operational level. Ms Dirir has substantial experience of implementing strategic policy to deliver transformational changes and has led projects for a number of public and private sector bodies.

Ms Dirir has a good understanding of the diverse geographic social and economic nature of Cheshire. She has worked in schools across Cheshire and undertakes voluntary work for several local charities. Ms Dirir's teaching background has given her considerable experience of interacting with young people and a good understanding of the issues which matter to them. Ms Dirir is passionate about inclusion and equality & diversity matters. She has sound experience of working with a range of diverse communities; and has been an advocate on behalf of under-represented groups to improve outcomes for local people. Through her teaching and community work, Ms Dirir has gained first-hand experience of the police service and criminal justice system.

As a Councillor, Ms Dirir has served the community and acted as an advocate for local people, lobbying on neighbourhood issues. As an elected representative, Ms Dirir has gained extensive knowledge of the process of government and local authorities, gathered experience of chairing meetings, contributed to strategic financial management and demonstrated her ability to effectively scrutinise and challenge. Ms Dirir has the qualities necessary to support me in fulfilling my statutory duties, delivering the Police & Crime Plan and representing the views of local communities in order to make Cheshire a safer place.

The term of the appointment will be for a period of one year, which may be extended. Remuneration will be on a salary of £50,000 based on five days per week. Expenses will be paid in accordance with the Home Secretary's determination in relation to expenses for Police & Crime Commissioners.

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

Yours sincerely

David Keane
Police & Crime Commissioner

David Keane
Police & Crime
Commissioner
for Cheshire

OFFICE OF THE POLICE AND CRIME COMMISSIONER FOR CHESHIRE

DEPUTY POLICE & CRIME COMMISSIONER

PERSON SPECIFICATION AND JOB PROFILE

Salary:	**£50,000 (Pro rata)**
Term	**An initial 12 month fixed term contact with an option to extend**
Hours	**Hours of working will be determined with the successful candidate upon appointment**
Political Restriction	**This is not a politically restricted post**
Closing Date	**15 January 2017**

1. INTRODUCTION

The overall responsibility of the Police & Crime Commissioner is to maintain an effective and efficient police service and to play a leading role in crime prevention and community safety in the Constabulary area.

To assist him in this, David Keane, Police & Crime Commissioner for Cheshire (Commissioner) is seeking to appoint a Deputy Police and Crime Commissioner. The role of Deputy Police and Crime Commissioner was created by statute in 2011. The post-holder will report directly to, work in conjunction with and be answerable to the Police and Crime Commissioner.

2. OVERALL PURPOSE

To directly support the Commissioner through undertaking a full deputising role with delegated responsibility for set functions to discharge the statutory duties of the Commissioner.

To contribute to the development of the Commissioner's police and crime initiatives

and take a strategic lead on the implementation of specific elements, which are seen by the Commissioner as being critical to the delivery of the Police & Crime Plan 2016-21.

3. KEY ACCOUNTABILITIES

The Deputy will be allocated specific lead responsibilities dependent on the skills, experience and potential of the appointed individual and will deputise for the Commissioner on the basis set out in the Police Reform and Social Responsibility Act 2011.

4. KEY WORKING RELATIONSHIPS

- With the Commissioner and Staff of the Office of the Police & Crime Commissioner
- With Chief Officers, senior officers and managers of Cheshire Constabulary,
- With external bodies such as criminal justice partners, local authorities and the voluntary sector.

5. NATURE AND SCOPE OF THE ROLE

- The post holder is responsible to the Commissioner for the satisfactory performance of all aspects of the post.
- The post holder is responsible for the development and maintenance of effective working relationships with partners.
- The post holder's freedom to act is prescribed by the appropriate Statutes and Regulations by which the Office of the Police & Crime Commissioner is bound.
- The post holder provides personal support and advice directly to the Commissioner and will be expected to assist in the resolution of complex issues and problems and will be also expected to make a significant contribution to challenging developments in the police and crime environment.

6. DECISION MAKING FUNCTIONS

The post holder will work within a broad framework of duties but will be supervised by the Commissioner. The post holder will be required to demonstrate strategic leadership, initiative and discretion required to ensure the delivery of the responsibilities and main tasks within the job profile.

7. PERSON SPECIFICATION

Experience & qualifications

- a good understanding and experience of organisational challenges and ensuring the right balance between cost and value in an environment of reducing resources
- substantial experience of working across different agencies at strategic and operational levels
- experience in translating strategic objectives into operational change
- broad understanding and experience of the diverse geographic, social and economic nature of Cheshire
- sound experience of working with diverse communities and working to secure improved outcomes for local people
- Must have a full driving licence

Additional knowledge & experience

- Knowledge and understanding of the operation of the police service and the criminal justice system
- Knowledge of the process of government in terms of local authorities and UK Governments
- Good communication and problem solving skills as contributing effective and chairing of meetings is very likely to be a key part of the job.
- Experience of contributing to strategic financial planning and management
- Experience of working at a management level. This could be within the private, public or third sector
- A commitment to continuous professional development for themselves and the staff within the Office of the Police and Crime Commissioner
- A good level of ICT skills
- Excellent personal skills
- Good leadership skills including an ability to inspire, motivate and create the right working climate

- Well-developed influencing and negotiating skills
- The ability to work to enhance collaborative working

Qualities

- Able to secure credibility, respect and recognition from peers and stakeholders
- Shares the Commissioner's aspirations, values and commitment
- Able and confident in taking personal responsibility for the success or failure of leading major projects
- Is committed to the seven principles of public life (Nolan Principles) and the Code of Ethics
- A flexible approach to hours of working and a commitment to be available for frequent weekend and evening duties

Disqualifications and Restrictions

There are a number of restrictions and disqualifications that would prevent an individual from becoming the Deputy Police & Crime Commissioner. Applicants are asked to confirm they have read and are not affected by the restrictions and disqualifications criteria.

A copy of the disqualification criteria is available at www.cheshire-pcc.gov.uk

8. RECRUITMENT AND APPOINTMENT PROCESS

Applicants are asked to submit a covering letter and curriculum vitae which address their suitability for the role to PCC@cheshire.pnn.police.uk . The closing date for application is 15 January 2017. If successful at shortlisting stage, applicants will be asked to attend for interview during the week commencing 23 January 2017.

The successful candidate will also be subject to a Confirmation Hearing held by the Police and Crime Panel for Cheshire as required by Schedule 1 of the Police Reform and Social Responsibility Act 2011. The date of this hearing is yet to be confirmed.