

## AVON AND SOMERSET POLICE AND CRIME PANEL

14<sup>th</sup> December 2015

**Title:** Confirmation Hearing for the role of Chief Constable of Avon and Somerset Police – Information Report

**Report of:** Patricia Jones, Clerk to the Police and Crime Panel

### 1. Purpose of the Report

To notify the Police and Crime Panel of the process for conducting a Confirmation Hearing for the post of Chief Constable in accordance with the Police Reform and Social Responsibility Act 2011.

### 2. Introduction

2.1 Section 38(1) of the 2011 Act sets out the responsibility of the Police and Crime Commissioner to appoint a Chief Constable for the Avon and Somerset Constabulary.

2.3 Paragraph 3 of Schedule 8 requires the Commissioner to notify the Panel of the proposed appointment to the post.

2.4 The Commissioner must include the following information in the notification:

- a. The name of the person she 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.

2.5 Police and Crime Commissioners have flexibility in deciding how to undertake the recruitment process and which candidate they wish to appoint. However, the process should involve an independent member during assessment, shortlisting and interviewing of candidates. The panel appointed to assist the Commissioner in making a decision is as follows:-

- Angus Macpherson, PCC for Wiltshire & Swindon;
- John Long, retired Deputy Chief Constable, Avon & Somerset Constabulary;
- Independent Member – Carolyn Dhanraj MBE JP; and
- Stuart Brown the Chief Executive of Mendip District Council

John Smith Chief Executive Officer in the OPCC will be advising the panel.

### 3. **Role of the Panel**

3.1 Paragraph 4 of Schedule 8 sets out the Panel's responsibility to review the proposed appointment and make a report within a period of three weeks from when the panel received notification from the Commissioner of the proposed appointment. This should include a recommendation as to whether or not the candidate should be appointed.

3.2 The Panel must hold a public Confirmation Hearing before making a recommendation to the Commissioner in relation to a proposed appointment or before vetoing the appointment (as detailed at paragraph 3.4 below). At the Confirmation Hearing, the candidate is requested to appear to answer the Panel's questions. This hearing is scheduled for **3.00pm on Monday 14<sup>th</sup> December 2015**.

3.3 The Confirmation Hearing must:-

- Observe employment law requirement for fairness
- Focus on individual's experience and capabilities whilst avoiding unwarrantable intrusion and unreasonable questioning
- Complement and not restage the Commissioner's interview process
- Focus on professional competence and personal independence. Personal independence relates to the need for a candidate to act in a manner that is operationally independent of the Commissioner. Professional competence relates to a candidate's ability to carry out the role.

The Panel will:

- Welcome the candidate
- Introduce those present
- Explain the process and key themes
- Explain the process for making a report and recommendations to the Commissioner as to whether or not the candidate should be appointed and the power of veto
- Treat the candidate fairly and politely
- Ask appropriate questions
- Not make statements
- Give the candidate an opportunity to clarify answers or ask questions

3.4 Immediately following the hearing, the Panel will go into closed session to decide on its recommendations, taking officer advice as necessary.

#### 4. **Decision-making by the Panel**

4.1 The Panel's decision-making process will comprise two linked steps. Taking account of the minimum standards of professional competence and personal independence, the Panel should consider whether the candidate meets the criteria set out in the role profile :-

(a) Do they have the professional competence to carry out the role?

(b) Do they have the personal independence to carry out the role?

4.2 Having reviewed the proposed appointment, the Panel may veto the appointment of the candidate. Two-thirds of Panel members (12) must vote in favour of a veto for it to be carried and it is only exercisable within the three week period referred to above. In the event of a veto, the report must include a statement that the panel has vetoed it and the Commissioner must not appoint this candidate as Chief Constable.

A veto would normally only be exercised in exceptional circumstances, e.g. where it is clear to the Panel that there has been a significant failure of the 'due diligence' checks carried out earlier in the appointments process, to the extent that the candidate is not 'appointable'.

#### 5. **The Terms and Conditions on which the Candidate is to be appointed**

5.1 Should the Panel confirm the Commissioner's choice of candidate, the terms and conditions of appointment will be as follows:-

- a fixed term appointment to July 2018
- a salary of £152,685.00

#### **Appendices:-**

Appendix 1 – Advert

Appendix 2 – Role Profile

Appendix 3– Terms and Conditions

Appendix 4 – LGA Guidance on Confirmation Hearings



Avon & Somerset's Police & Crime Commissioner invites applications for the post of Chief Constable.

The successful candidate will support the vision of the Police and Crime Commissioner to deliver a customer focused style of policing based on the following priorities:

- Putting the public first;
- Delivering significant savings while maintaining a passionate commitment to performance improvement;
- Ability to motivate officers and staff and boost and maintain morale through change;
- A truly collaborative approach both internally and externally;
- Delivering significant improvements in criminal justice services with partners and putting victims at the heart of this work;
- The highest possible personal standards of integrity and the ability to inspire this in others;
- Embracing diversity, equality and respect of Human Rights.

We are looking for a motivated and experienced senior officer to be part of our successful team and to play a leading role in the drive to maintain and improve performance by effective management and by working with other partner agencies to deliver strong collaboration.

Avon and Somerset faces challenging times and we seek an individual who will embrace change and the opportunities it brings. Above all we seek leadership which will enthuse and motivate those around them.

Applicants must have passed the Senior Police National Assessment Centre and successfully completed the Strategic Command Course.

The appointment will be offered for a fixed term to July 2018 at an annual salary of £152,685.00. The appointment will be subject to relevant legislation and to such other conditions as may be agreed by the Police and Crime Commissioner in relation to the appointment.

Complete applications must be submitted by noon on 26 November 2015. To download an application pack please visit [www.avonandsomerset-pcc.gov.uk](http://www.avonandsomerset-pcc.gov.uk). Alternatively please contact Kate Watson on 01275 816825.

Avon and Somerset is committed to Equal Opportunities and would particularly welcome applications from members of minority ethnic groups, female applicants and people who consider themselves to be disabled. All applicants will be selected on an equal basis that determines their suitability to the post applied for.

# Chief Constable Role Profile

## Role Overview

<b>Post:</b>	Chief Constable
<b>Accountable to:</b>	Avon & Somerset Police & Crime Commissioner
<b>Location:</b>	Police Headquarters, Portishead, Bristol
<b>Salary:</b>	£152,685.00 (subject to Confirmation Hearing)
<b>Term:</b>	Fixed term appointment to July 2018

We need a Chief Constable with a far sighted strategic vision and inspirational leadership skills with the ability to manage, motivate and innovate in equal measure. We are looking for a high achiever to deliver the best outcomes and service for the public whilst working within significantly reduced budgets to make the most of opportunities to engage partners and build public confidence.

## Priorities

- Putting the public first
- Delivering significant savings while maintaining a passionate commitment to performance improvement
- Ability to motivate officers and staff and boost and maintain morale through change
- A truly collaborative approach both internally and externally
- Delivering significant improvements in criminal justice services with partners and putting victims at the heart of this work
- The highest possible personal standards of integrity and the ability to inspire this in others

## Responsibilities

The successful candidate will be responsible for:

- the direction and control of the Avon & Somerset Constabulary, in order to provide an effective, efficient and ethical police service;
- delivery in line with the mission, vision, values and priorities as defined in the Police & Crime Commissioner's Police and Crime Plan and in accordance with the Code of Ethics;
- the fulfilment of all statutory and legal obligations of the Office of Chief Constable;
- leading the organisation successfully through the strategic alliance with Wiltshire Constabulary, the regional collaboration programme and other potential collaborations as they arise;
- representing the best interests of Avon & Somerset in addressing national policing issues.

The Chief Constable will also be responsible for:

### **1. Managing the Organisation**

- Develop and implement Force policy;
- Monitor, review and improve Force performance;
- Promote and develop quality within the Force;
- Lead organisational change;
- Formulate organisational objectives and standards of performance;
- Promote equality, diversity and human rights in working practices and service delivery;
- Create effective working relationship with the Police & Crime Commissioner and their office.

### **2. Public Accountability**

Account to the Police & Crime Commissioner for:

- the efficient, effective and economic management of the Force;
- key areas of performance, financial strategy and allocation of resources;
- leading and inspiring integrity in the organisation.

### **3. Community Safety**

- Develop, implement and review Force community safety strategies consistent with the Commissioner's Commissioning Strategy;
- Lead the development of operational policing strategies;
- Promote and manage partnership policing.

### **4. Police Operations**

- Ensure the effective handling of major and critical incidents;
- Develop Force operational strategies and contingency plans for major incidents and public disorder;
- Set strategy for policing operations;
- Deliver effective and responsive local policing; and
- Put victims at the heart of the criminal justice system and encourage restorative approaches.

### **5. Marketing & Communications**

- Lead the development of the Force marketing and communications strategy in accordance with the agreed Communications Protocol;
- Promote and manage Force relations with the media;
- Communicate effectively with a range of audiences.

### **6. Intelligence**

- Lead the development and delivery of intelligence driven policing.

### **7. Custody and Prosecution**

- Lead the development and streamlining of Criminal Justice strategies;

- Develop, implement and review Criminal Justice strategies and procedures to improve outcomes;
- Work constructively and strategically with partner agencies on the LCJB in support of the PCC's duty to deliver an effective and efficient local criminal justice system.

## **8. Managing and Developing People**

- Coach and mentor senior staff;
- Set and live by high standards of professional conduct and integrity;
- Develop individuals and teams to enhance performance;
- Ensure rigour, value and motivation in performance review process and practice across the Force and engage in those processes with the PCC and Chief Officers as appropriate;
- Hold individuals and teams to account for performance against outcomes.

## **9. Investigation/Manage**

Improve effectiveness of investigations by:

- Developing, implementing and reviewing volume crime related strategies;
- Promoting and developing the effectiveness of major crime investigation;
- Effective working with criminal justice partners to ensure that relevant investigations lead to successful prosecutions;
- Deliver effective strategies in key operational policing areas including Public Protection, Reducing Harm, Multi Agency Public Protection and Counter Terrorism/Prevent.

## **10. Health, Safety and Welfare**

- Develop, implement and review welfare support processes;
- Provide for the safety, welfare and security of specialist role officers;
- Determine policy on Health and Safety.

## **11. Finance and Resources**

- Ensure the effective and efficient management of resources and finances within agreed budgets and in accordance with plans and strategies agreed from time to time with the PCC;
- Manage business risk across the Force;
- Be innovative in achieving the necessary savings as part of the latest Comprehensive Spending Review process whilst maintaining and where possible improving performance, visibility, public confidence and staff satisfaction.

## **12. Information Management and Technology**

- Develop and deliver the ICT strategy to ensure technology is used effectively to underpin performance improvement and efficiency;
- Lead the development of Force information management;
- Develop the use of IT infrastructure across all aspects of the service to drive efficiencies and improve service delivery;
- Develop the use of Force data and exchange of data with partners in order to improve effectiveness and efficiency.

### **13. Personal Responsibility**

- Lead by example;
- Integrity, honesty and a deep sense of what constitutes ethical practice;
- Authenticity, sincerity and the ability to be an effective role model;
- Takes responsibility for tough or unpopular decisions and is willing and able to explain their rationale and decision-making process.

### **14. Threat, Harm and Risk**

- Develop and understand evidence base for threat, harm and risk facing local communities and prioritise resources accordingly;
- Manage risk effectively, holistically and dynamically across the Force.

## **Person Specification**

All round strategic leadership and management skills, abilities and experience are required in accordance with the Policing Professional Framework – Personal Qualities and the Police Service Leadership Strategy. The Police & Crime Commissioner is particularly looking for a person who can evidence that they have the following qualities:

#### **(a) Professionalism and Integrity**

To act with integrity, in line with the values and ethical standards of the Police Service and the Code of Ethics:

- Delivers on promises, demonstrating personal commitment, energy and drive to get things done;
- Defines and reinforces standards, demonstrating personally and fostering a culture of personal responsibility within the operational unit;
- Asks for and acts on feedback on own approach, continuing to learn and adapt to new circumstances;
- Takes responsibility for making tough or unpopular decisions.

#### **(b) Putting People First**

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 local stakeholders, developing partnerships and ensuring people can engage with the police at all levels;
- Understands partners' perspectives and priorities, and works co-operatively with them to deliver the best possible overall service to the public.

#### **(c) Strategic Perspective, Managing Change and Innovation**

Looks at issues with a broad view to achieve the organisation's goals. Looks ahead and prepares for the future. Has the ability to match medium and long term strategic operational planning with financial planning and provide a clear direction for the Force.

Understands outside expectations and influences on the organisation. Identifies common goals and interests by seeking and recognising views and priorities of other agencies. Creates a vision for the future and a strategy for how it can be achieved.

- Instigates and delivers structural and cultural change, thinking beyond the constraints of current ways of working and is prepared to make radical changes 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;
- Understands broad political, social, economic and legislative trends and predicts what effect they will have on the demand for police services;
- Understands and manages complex political agendas;
- Sets and agrees clear aims and objectives for the Constabulary that support delivery of the Police & Crime Plan.

**(d) Inspirational Leadership**

Inspires officers and staff to meet challenging organisational goals, creating and maintaining the momentum for change.

- Communicates effectively with the organisation, including setting out clear objectives and stated expectations for the Constabulary;
- Develops a high performing, motivated chief officer team;
- Establishes a positive, can-do culture by setting the example and encouraging achievement of maximum potential;
- Exhibits core values of integrity, honesty, impartiality, exclusivity in all aspects of how the role is performed;
- Sets a clear vision for the Constabulary consistent with the vision of the PCC;
- Creates enthusiasm and commitment throughout the force by rewarding good performance and giving genuine recognition and praise;
- Demonstrates a commitment to improving the response to public complaints, continuous improvement and embedding organisational learning.

**(e) Working Relationships**

Debate and agree policing strategy with the Police & Crime Commissioner in an open constructive manner, proactively offering solutions to PCC priorities.

- Consults widely and involves a range of people in decision-making policies, speaking in a way they understand and can engage with;
- Establishes and develops effective and collaborative working relationships;
- Early engagement with PCC to consider options for strategic and sensitive projects, changes, investments, announcements in a way which is consistent with commissioning strategies;
- Treats people with respect and fairness, regardless of their background or circumstances, promoting equality and elimination of discrimination;
- Negotiates effectively with local and national bodies, representing the interests of the Police Service;
- Balances effectively and appropriately the internal and external aspects of the role;
- Communicates in a way that is understandable and meaningful to everyone;

- Presents ideas convincingly, setting out the benefits of a particular approach, and striving for mutually beneficial solutions;
- Listens to and considers seriously the ideas and views of others.

**(f) Managing Performance**

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 to deliver.

# Chief Constable Terms of Appointment

## **Appointment**

The appointment of the chief constable will be subject to the role profile and made in accordance with the provisions of the Police Acts, regulations and determinations.

The appointment will be subject to a confirmation hearing by the Police & Crime Panel.

The appointment will be subject to satisfactory references and medical clearance.

The appointment will also be subject to security clearance at Management (MV) and DV (Developed Vetting) level if not in place on appointment and this will remain a requirement of the post.

## **Qualifications**

The following courses or assessment centres must be satisfactorily completed:

- a) The Senior Police National Assessment Centre ("Senior PNAC")
- b) The Strategic Command Course ("SCC")

## **Term**

The appointment will be for a fixed term until 1 July 2018. Any extensions to this term shall require the approval of the Police & Crime Commissioner.

The written notice period for termination of the appointment is three months by either party.

## **Base salary**

Base Salary will be set at the national "spot rate" for the region which is currently £152,685 per annum. Pay, terms and conditions are subject to Confirmation Hearing by the Police & Crime Panel. Salary is paid on a monthly basis.

## **The Post**

The nature of the post will require the post holder to work outside normal office hours and at weekends on a regular basis. There is a requirement to be contactable 24 hours per day when not on leave or in the absence of a designated deputy.

The primary focus of the post holder is the delivery and development of the Police and Crime Plan for Avon and Somerset. National work may be undertaken, but only with the agreement of the Police & Crime Commissioner.

The post holder must be prepared to be permanently resident within the Force Area unless otherwise agreed by the Police & Crime Commissioner.

## **Car Allowance**

The Chief Police Officer is provided with an unmarked operationally equipped vehicle which is fully maintained and insured. The business use costs of the vehicle will be fully covered. The Chief Police Officer will make a one off contribution to the capital value of the vehicle if it is above the authorised limit and will pay for the private use of the vehicle via payroll. An agency fuel card is provided and all private fuel use is paid by the Chief Officer. Further details are available upon request to the Office of the Police & Crime Commissioner.

**Holiday**

The post holder is entitled to leave in accordance with Police Regulations.

**Normal Place of Residence**

The post holder is expected to have their normal place of residence within the force area and be readily accessible to meet the operational needs and exigencies of the force.

Post holders on appointment who otherwise live outside the force area are expected to relocate at the earliest opportunity.

**Housing Allowance**

Transitional rent allowance will be paid (for those officers so entitled) at the level set by Police Regulations.

**Relocation Expenses**

Removal expenses will be considered in accordance with Police Regulations.

Expenses will be considered where they fall within one of the criteria set out in Regulations and are deemed to be reasonable. All relocation expenses will be subject to approval of the Police and Crime Commissioner.

Only costs agreed in advance will be considered for reimbursement.

HMRC tax free limit for relocation expenses is currently £8,000. Any expenses incurred over and above this level will be reported through the P11D process for which the post holder may incur a personal tax liability.

**Home Security**

This will be assessed on a case by case basis and details are available upon request to the Office of the Police & Crime Commissioner.

**Private Medical Scheme**

The Police & Crime Commissioner will provide access to a private medical scheme. Full details are available on request.

**Subscriptions**

CPOSA insurance (non-personal) element will be paid for by the Police & Crime Commissioner. This will be reviewed by the PCC from time to time in accordance with national policy developments.

# 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 Act<sup>1</sup> 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<sup>2</sup>.

Under the Act<sup>3</sup>, 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.

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1 Referred to in this guidance as 'the Act'

2 [www.cfps.org.uk/publications?item=7002&offset=0%20](http://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'<sup>4</sup>) 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<sup>5</sup> 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<sup>6</sup>. 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.

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

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<sup>5</sup> 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>

<sup>6</sup> 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<sup>7</sup>. It states that the PCC must notify the panel of such a ‘proposed senior appointment’<sup>8</sup>, 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<sup>9</sup>.

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

This must all happen within a period of three weeks, beginning on the day that the panel receives the notification from the PCC<sup>13</sup>. 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’<sup>14</sup>.

In response to the panel’s report, the PCC must then notify the panel whether they will accept or reject the recommendation<sup>15</sup>. There is no duty for the PCC to give reasons for their decision.

<sup>7</sup> Paragraph 9(1) of Schedule 1

<sup>8</sup> Paragraph 9(2) of Schedule 1

<sup>9</sup> This will include the candidate’s salary

<sup>10</sup> Paragraph 10(2) of Schedule 1

<sup>11</sup> Paragraph 10(3) of Schedule 1

<sup>12</sup> Paragraph 10(4) of Schedule 1

<sup>13</sup> Paragraph 10(5) of Schedule 1

<sup>14</sup> Paragraph 11(2) of Schedule 1

<sup>15</sup> 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<sup>16</sup> over the appointment of the chief constable. The panel may recommend that the PCC does not make the appointment<sup>17</sup>, but in the event of a veto then the candidate must not be appointed<sup>18</sup>. What happens once the veto has been exercised will be subject to regulations<sup>19</sup>, 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<sup>20</sup>.

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**.

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

<sup>17</sup> Regulation 4(4) of Schedule 8

<sup>18</sup> Paragraph 8 of Schedule 8

<sup>19</sup> Paragraph 9 and 10 of Schedule 8 (Regulations to be issued)

<sup>20</sup> 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<sup>21</sup>.

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.

<sup>21</sup> 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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