

NORTH YORKSHIRE POLICE, FIRE AND CRIME PANEL

18 July 2019

Confirmation Hearing – Chief Fire Officer

1.0 Introduction

- 1.1 This report can be used as supporting information for the confirmation hearing for Chief Fire Officer, North Yorkshire Fire and Rescue Service (**Agenda Item 7**) on **18 July 2019**.
- 1.2 The Police, Fire and Crime Commissioner (the Commissioner) has responsibility for appointing a Chief Fire Officer to the North Yorkshire Fire and Rescue Service. Before making such an appointment the Commissioner has to notify the Police, Fire and Crime Panel (the Panel) and it must review the appointment. The Panel must hold a public Confirmation Hearing prior to making a report to the Commissioner, which includes a recommendation as to whether or not the candidate should be appointed. This process applies equally to an interim appointment as it does to a substantive one.

2.0 Procedure

- 2.1 It is important that the process relating to Confirmation Hearings is scrupulously fair. It is an unusual situation for a candidate to be 'interviewed' for a job in a public forum. The process outlined below has been designed to ensure rigour and fairness in all circumstances.
- 2.2 Candidates will be treated with courtesy and respect throughout the whole appointment process, including at the Confirmation Hearing and in public statements relating to recommendations made by the Panel.
- 2.3 It is important to acknowledge that in contrast to the police service, where both chief constables and PFCCs can be responsible for employing staff, the PFCC as the Fire Rescue Authority is an employing authority that employs all Fire and Rescue staff. Another material difference in the relationship between employees and the employing body is that, in the Fire and Rescue Service, there is no requirement for the Chief Fire Officer and Firefighters to retain operational independence.
- 2.4 However, while there's no statutory guidance to specify the key principles against which a Chief Fire Officer appointment should be reviewed, it is considered that the previous guidance that applies to Chief Constables, is a good start in reviewing the confirmation of the Chief Fire Officer. This guidance suggests that the focus in a confirmation hearing should be on the individual's capabilities and expertise; their professional competence and personal independence. In order for the Panel to form a view on these issues, it will be important for the Commissioner to provide the Panel with reliable and objective evidence about the candidate.
- 2.5 Professional competence may include a reliable, objective assessment of the candidate's:
 - ability to carry out the role by comparing their background and experience, for example, with the role profile

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- professional judgment and insight
- understanding of the various stakeholders who need to be involved and engaged with, in what way and with what outcome
- experience in the development and delivery of a major strategy.

2.6 Personal Independence may include a reliable objective assessment of the candidate's:

- ability to advise effectively
- understanding of the separation of political and operational responsibilities
- ability to respond constructively to situations where they might be held to account.

2.7 Confirmation Hearings should take place as quickly as possible with minimal time between notification of the appointment, the hearing and reports and recommendations being made to the Commissioner. (The Act stipulates that a report and recommendation has to be sent within 3 weeks of the day that the Panel receives notification from the Commissioner.)

3.0 Formal Notification by the Commissioner

3.1 The Commissioner must formally notify the Panel of the proposed appointment. At the same time, the Commissioner will supply the evidence required for the Panel to determine whether his/her judgement has been properly exercised.

4.0 Confirmation Hearing

4.1 The Hearing will be held in public and the candidate will be requested to appear for the purpose of answering questions relating to the appointment.

4.2 The Panel will:

- welcome the candidate
- introduce those present
- explain the process and key themes
- explain the process for making a report and recommendation to the Commissioner as to whether or not the candidate should be appointed and (in the case of the Chief Constable only) the power to veto
- treat the candidate fairly and politely
- ask appropriate questions
- not make statements
- give the candidate an opportunity to clarify answers or ask questions

4.3 The Panel will be seeking to establish if, in its opinion, there are any grounds to not follow the Commissioner's proposal for appointment.

4.4 The questions need to relate to two general principles –

- i. Professional Competence
- ii. Personal independence

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- 4.5 The hearing should be a relatively focussed opportunity to explore key issues relating to these general principles. The LGA/Centre for Public Scrutiny guidance on confirmation hearings advises that a hearing should not be used as an opportunity for a Panel to explore the candidate's views on various areas of the Commissioner's policies, national policy issues or their plans once they assume the post, except insofar as those questions might relate directly to professional competence.
- 4.6 The hearing ought not to be used to explore hypothetical instances ie asking the candidate what they would do in a particular situation but should address issues of competence, suitability and expertise, priorities and vision, availability.

5.0 Decision Making by the Panel

- 5.1 The Panel will exclude the press and public to come to a decision on its report and recommendation.
- 5.2 The Panel's decision-making process is as follows :-
- 5.3 Taking account of the minimum standards of professional competence and personal independence does the candidate meet 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
- 5.4 The Panel must then determine whether to recommend that the preferred candidate is appointed. In the case of a Chief Fire Officer appointment, the Panel is able to exercise a power of veto (see also section 6, below).
- 5.5 A veto will only be used in exceptional circumstances by the Panel if the candidate does not appear to meet the minimum requirements of the post in relation to the individual's capabilities and expertise, their professional competence or personal independence.
- 5.6 In a circumstance where the candidate meets the two standards, but there is still cause for concern about his/her suitability, the Panel may choose to outline those concerns in its response to the Commissioner.

6.0 Report and Recommendation

- 6.1 The report and recommendation will be sent to the Commissioner within two working days of the Confirmation Hearing. (It has to be sent within three weeks of the day that the Panel received notification from the Commissioner.)
- 6.2 There are 3 options available to the Panel:
- 1. Report and recommendation to appoint
 - 2. Report and recommendation not to appoint
 - 3. Report and veto (in the case of the Chief Constable/Chief Fire Officer only)

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- An appointment can only be vetoed if two thirds of the Members of the Panel present at the time when the decision is made vote in favour of the veto.
- If a candidate is vetoed they cannot be appointed.
- The Commissioner may put forward another person as reserve candidate and the process will be followed again from 'Formal Notification by the Commissioner'. In these circumstances the Panel may only issue a report with a recommendation whether or not to appoint.

6.3 In the case of the Chief Constable/Chief Fire Officer only – if the Panel does not make a report (including a recommendation as to whether or not the candidate should be appointed or veto the candidate) within 3 weeks of the day on which the Panel received the notification from the Commissioner of the proposed appointment, the Commissioner can go ahead and make the appointment.

7.0 Response by the Commissioner

7.1 The Commissioner must have regard to any report made with recommendations and then notify the Panel whether she accepts or rejects the Panel's recommendation within three working days.

7.2 The Commissioner will give reasons for her decision.

7.3 If the Commissioner accepts the Panel's recommendation not to appoint a reserve candidate (relates to a Chief Constable/Chief Fire Officer only) then she can put forward another person as reserve candidate and the process will be followed again from 'Formal Notification by the Commissioner' until a candidate is appointed.

7.4 The Commissioner will notify the candidate of the decision.

8.0 Publication

8.1 The Panel will decide how and when to publish the report and recommendation. The standard procedure will be to publish it on the Panel website. It will be published in full.

8.2 The decision will be taken following consultation with the Commissioner and the candidate, and they will be given at least two working days' notice of the date of publication.

8.3 The report and recommendation will normally be published within five working days of the Commissioner taking a decision whether or not to appoint.

8.4 If a candidate withdraws after a report and recommendation has been sent to the Commissioner, the report and recommendation will still be published in accordance with the procedure set out above.

8.5 If, having regard to the report and recommendations from the Panel, the Commissioner decides not to appoint, the Commissioner will publish details of what she is going to do next in relation to the vacancy within five working days.

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Diane Parsons
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Background Documents - Nil