

NORTH YORKSHIRE POLICE AND CRIME PANEL

11 January 2024

Chief Constable Confirmation Hearing Procedure

1.0 PURPOSE OF REPORT

- 1.1 To outline the Panel's legal remit and responsibilities in discharging the confirmation hearing for the proposed appointment of Chief Constable under Item 6.

2.0 BACKGROUND

- 2.1 This report is intended to be used as supporting information for the Chief Constable confirmation hearing (Agenda Item 6) on 11th January 2024. It explains the process to be followed and legal remit of the North Yorkshire Police, Fire and Crime Panel ("the Panel") in respect of discharging the hearing.
- 2.2 The Police and Crime Commissioner ("the Commissioner") has responsibility for appointing the Chief Constable. Before making such an appointment the Commissioner has to notify the Panel and it must review the appointment. The Police Reform and Social Responsibility Act 2011 ("the Act") requires that Panels hold confirmation hearings for certain key appointments made by the Commissioner, including the proposed appointment of Chief Constable.
- 2.3 The Panel's role is to consider the proposed appointment at the hearing and either recommend that the preferred candidate is appointed or recommend not to appoint. Under the Act the Panel also has a power of veto in exceptional circumstances.

3.0 FORMAL NOTIFICATION BY THE COMMISSIONER

- 3.1 Under the Act, when the Commissioner formally notifies the Panel of the proposed appointment for Chief Constable, she must also provide the following information:
 - a) The name of the person whom the Commissioner is proposing to appoint ("the candidate");
 - 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.
- 3.2 In line with College of Policing guidance, the Commissioner will normally provide a report from the Independent Panel Member who sat on the appointment panel. This should "explicitly address the appointment principles of merit, fairness and openness and the extent to which the [appointment] panel was able to fulfil its purpose (e.g. to challenge and test that the preferred candidate meets the necessary requirements to perform the role)."
- 3.3 The candidate will also have been invited to provide a written statement or CV, to help outline for the Panel why they are suitable for the role.

4.0 ROLE AND POWERS OF THE PANEL

- 4.1 The Panel has functions conferred by Schedule 8 of the Act, which provide that it must:
- (a) *Review the proposed appointment by holding a confirmation hearing following receipt of notification of the proposed appointment. A 'confirmation hearing' within the meaning of the Act 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." Supporting guidance produced by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) advises that the confirmation hearing should not be another agenda item tacked on to an existing meeting in order to ensure that a separation of business lends the proper time and focus for the exercise.*
 - (b) *Make a report to the Commissioner on the proposed appointment;*
 - (c) *Include a recommendation to the Commissioner as to whether or not the candidate should be appointed and may include exercising the power of veto (decision to veto must be agreed by two-thirds of the Panel);*
 - (d) *Publish a report to the Commissioner;*
 - (e) *The process of reviewing and reporting on a proposed appointment must be completed within three weeks of a Panel being notified of it by the Commissioner.*
- 4.2 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.
- 4.3 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.
- 4.4 The focus will be on the individual's capabilities and expertise. The Panel will be seeking to establish whether the candidate meets the minimum standards of **professional competence** and **personal independence** in relation to the role profile. 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.
- 4.5 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
 - 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.
- 4.6 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.
- 4.7 The LGA guidance advises that "where a candidate does not meet these two minimum 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, it may be

appropriate for the Panel to use the veto. However, the veto would need to be accompanied by very clear reasons on which the Panel should take advice and due to the ramifications of using the veto against a candidate, an exceptionally high bar should be assumed for its use to be considered appropriate.

- 4.8 The Panel will need to be satisfied with the integrity and independence of the appointments process. The report of the Independent Panel Member will assist with this and the supporting information from the Commissioner, which may outline key bodies consulted such as HMICFRS or the College of Policing. However, aside from taking an interest in the rigour of the process, the Panel's only legal responsibility at the hearing is to establish that the appointment proposed is suitable.
- 4.9 The LGA/Centre for Public Scrutiny guidance on confirmation hearings also 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. The hearing ought not to be used to explore hypothetical instances i.e. 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 PROCEDURE AT THE HEARING

- 5.1 The meeting will be conducted in public and live broadcasted where possible. It will be structured as follows:
- The Chair of the Panel will welcome the candidate and invite Panel members and host authority officers present to introduce themselves;
 - The Chair will explain the process and key themes, seeking input from the Panel Secretariat or Monitoring officer where necessary;
 - The Chair will ask the candidate if he has any questions on the procedure;
 - The Chair will invite the Commissioner to outline the proposed appointment and introduce the candidate;
 - The Panel will have opportunity to ask the Commissioner any questions as necessary at this point if required, in order to be satisfied regarding the merit, fairness and openness of the recruitment and selection process.
 - The Chair will then invite Panel members to ask questions of the candidate which relate to his professional competence and personal independence;
 - When all Panel members' questions have been asked and addressed the Chair will invite the candidate to clarify any answers that he has given during the hearing and to ask the Panel any questions, for example about the next steps in the process.
 - Where the Panel has already made a resolution to exclude the press and public at this point in the meeting, the Chair will then invite the candidate, Commissioner (and team) and any members of the press and public to withdraw from the meeting while the Panel goes into closed session. The public broadcast will also be suspended at this point.
 - The Panel will normally invite all parties back into the meeting room once a decision has been made in order to share the outcome on the day (in which case the meeting and broadcast will resume).

6.0 DECISION-MAKING, RECOMMENDATION AND REPORTING

- 6.1 The Panel's decision making process is as follows :-
- 6.2 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?

6.3 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.

6.4 If the Panel is satisfied that the candidate meets the required standards it can recommend to the Commissioner that the appointment be made. The Commissioner may accept or reject such a recommendation and must notify the Panel of her response.

6.5 If the Panel considers that the candidate meets the required standards but has a query or concern related to their suitability it can make a recommendation to this effect to the Commissioner and/or can choose to outline its concerns within its report. Ultimately, the Panel has the option of recommending to the Commissioner that the candidate is not appointed. The Commissioner may accept or reject such a recommendation and must notify the Panel of her response.

6.6 If the Panel considers that the candidate clearly does not meet the minimum standards necessary for the position the Panel can veto the proposed appointment. A decision to veto a proposed appointment must be supported by at least two-thirds of the members of the Panel. Where the veto is used, the Commissioner must not appoint that candidate as Chief Constable. The Panel will hold a further confirmation hearing for that candidate although will not be able to use the power of veto for this second choice of candidate. As highlighted in section 4.7, the veto should only be used in exceptional circumstances. A Commissioner's power to appoint a Chief Constable should be backed up by appropriate human resources functions and appointment procedures designed to provide a 'due diligence' check on the suitability of the candidate that a Commissioner proposes for appointment. A proposed appointment should only be vetoed if the Panel considers that there has been a significant failure of this 'due diligence' check, to the extent that the candidate is not appointable.

6.7 The Panel's report and recommendation will be sent to the Commissioner within two working days of the Confirmation Hearing.

6.8 The Panel's report must be issued within three weeks of the day that the Panel received formal notification from the Commissioner of the proposed appointment. If the Panel does not issue its report in this timeframe then the Commissioner can go ahead and make her appointment and the scrutiny process has ended.

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 candidate 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.

9.0 FINANCIAL IMPLICATIONS

9.1 There are no significant financial implications arising from this report.

10.0 LEGAL IMPLICATIONS

10.1 There are no significant legal implications arising from this report.

11.0 EQUALITIES IMPLICATIONS

11.1 There are no significant equalities implications arising from this report.

12.0 CLIMATE CHANGE IMPLICATIONS

12.1 There are no significant climate change implications arising from this report.

13.0 RECOMMENDATIONS

13.1 That the Panel notes the guidance provided regarding its legal role and responsibilities in relation to discharging the confirmation hearing at Item 6.

BACKGROUND DOCUMENTS:

Guidance for appointing chief officers (College of Policing)

[Guidance for appointing chief officers \(college.police.uk\)](https://college.police.uk)

Policing and fire governance: guidance for police and crime panels (LGA/CfPS/Frontline Consulting)

[Police and Crime Panel Guidance.pdf \(local.gov.uk\)](https://www.local.gov.uk)

Police and crime panels: Guidance on confirmation hearings (LGA/CfPS)

[police-and-crime-panels-on-confirmation-hearings.pdf \(cfqs.org.uk\)](https://www.cfqs.org.uk)

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