

# NORTH YORKSHIRE POLICE, FIRE AND CRIME PANEL

12 June 2024

## 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 Deputy Mayor for Policing, Fire and Crime under Item 6.

### **2.0 BACKGROUND**

- 2.1 This report is intended to be used as supporting information for the Confirmation Hearing for Deputy Mayor for Policing, Fire and Crime (agenda item 6) on 12<sup>th</sup> June 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 Within the terms of the Police Reform and Social Responsibility Act 2011 (the 2011 Act) and The York and North Yorkshire Combined Authority Order 2023 (the Order), the Mayor of York and North Yorkshire is able to appoint a Deputy Mayor for Policing and Crime and arrange for that person to exercise any police and crime commissioner function on behalf of the Mayor, with some exceptions as are listed at section 3.
- 2.3 The Mayor may also arrange for the Deputy Mayor for Policing and Crime to exercise fire and rescue functions pursuant to the Local Democracy, Economic Development and Construction Act 2009, not including those exceptions as listed in section 3 of this paper. The Mayor therefore proposes to designate the role as 'Deputy Mayor for Policing, Fire and Crime' (referred to hereafter as 'DMPFC').
- 2.4 The Mayor must notify the Police Fire and Crime Panel of their proposed appointment of a DMPFC and under the 2011 Act, the Panel must hold a Confirmation Hearing to consider the proposed appointment. This statutory process culminates in their making a report and recommendation to the Mayor as to whether the proposed candidate should be appointed. The Mayor may decide to accept or reject the Panel's recommendation and must notify the Panel of their decision accordingly. The Panel does not have the power to veto the proposed appointment and the Mayor makes the final decision.

### **3.0 THE LEGAL REMIT OF A DEPUTY MAYOR FOR POLICE, FIRE AND CRIME**

- 3.1 The role of the DMPFC is often a senior political appointment with substantial delegated authority within the Mayor's police, fire and crime responsibilities. Due to the substantial level of delegation, the role of DMPFC will be closer to the role of other Police and Crime Commissioners rather than that of Deputy Police and Crime Commissioners. However, there are some key exclusions to the remit of a DMPFC. A DMPFC may not:
- (a) issue a Police and Crime Plan or Fire and Rescue Plan;
  - (b) appoint the Chief Constable/Chief Fire Officer;
  - (c) suspend the Chief Constable/Chief Fire Officer or call upon the Chief Constable/Chief Fire Officer to retire or resign; or
  - (d) calculate a budget requirement/set the precept for the police or fire and rescue services.

3.2 The term of appointment for a DMPFC runs only until the current term of office of the appointing Mayor ends.

3.3 The DMPFC post is not a politically restricted post.

#### **4.0 KEY ROLES AND RESPONSIBILITIES OF THE MAYOR AND THE PANEL**

4.1 The Mayor must provide formal notification to the Panel of their intention to make a DMPFC appointment. Normally, the submission to the Panel providing supporting information about the role and the preferred candidate constitutes formal notification (see in this case agenda item 6(b)). The supporting information must also supply the evidence required for the Panel to determine whether the Mayor's judgement has been properly exercised.

4.2 In particular, the 2011 Act dictates that the supporting information should include:

- (a) the name of the person whom the Mayor 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.

4.3 The Panel must hold a Confirmation Hearing as soon as possible after it receives formal notification from the Mayor. The 2011 Act stipulates that a report and recommendation has to be sent from the Panel within 3 weeks of the day that the Panel receives notification from the Mayor; this includes holding a Confirmation Hearing and setting out the Panel recommendation in a short report.

4.4 The Panel's role within the Confirmation Hearing is to assess the suitability of the preferred candidate against the requisite skills and competencies by reviewing the information provided by the Mayor and asking appropriate questions of the candidate at the Hearing. It is an opportunity for Panel members to reassure themselves that minimum standards have been met across the following two general principles:

- Professional competence
- Personal independence (a pragmatic understanding of the separation of political and operational responsibilities)

4.5 Guidance developed by the LGA and Centre for Governance and Scrutiny (CfGS) regarding Confirmation Hearings for Deputy Police and Crime Commissioners identifies that 'personal independence' is a more nuanced consideration in these appointments when compared for example with a Hearing for chief officer appointments. This is because these can be political appointments and as such a lower standard of independence (from the Commissioner) might be expected, reflecting the fact that a deputising role in this context is often appointed to provide political support and to directly assist in driving their particular vision and priorities. A parallel can to some extent also be drawn in the case of considering personal independence for a DMPFC, which is similarly often a political appointment. However, the Panel will still need to be assured that the DMPFC recognises the separation of political and operational responsibilities.

4.6 The Panel must make a report and recommendation to the Mayor regarding whether or not the preferred candidate should be appointed. This report must be published. See also sections 7 and 8 below.

4.7 The Mayor may accept or reject the Panel's recommendation and must notify the Panel of their decision on this point.

## **5.0 CONFIRMATION HEARING PROCEDURE**

- 5.1 It is important that the process relating to the Hearing is scrupulously fair. It is an unusual situation for the candidates involved 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. 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.
- 5.2 The Panel will be seeking to establish if, in its opinion, there are any grounds to not follow the Mayor's proposal for appointment.
- 5.3 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 Mayor as to whether or not the candidate should be appointed
  - treat the candidate fairly and politely
  - ask appropriate questions
  - not make statements
  - give the candidate an opportunity to clarify answers or ask questions
- 5.4 The focus will 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 Mayor to provide the Panel with reliable and objective evidence about the candidate.
- 5.5 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.
- 5.6 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 scrutinised and challenged.
- 5.7 The Hearing should be a relatively focussed opportunity to explore key issues relating to these general principles. The LGA/CfGS 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 Mayor's policies, national policy issues or their plans once they assume the post, except insofar as those questions might relate directly to professional competence.
- 5.8 The Hearing ought not to be used to also 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.

## **6.0 DECISION MAKING BY THE PANEL**

6.1 The Panel may wish to reserve the right to retire into closed session to come to a decision on its report and recommendation, which would require excluding the press and public from the meeting.

6.2 The Panel's decision making process is as follows:–

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 (taking into account the guidance note at 4.5)?

6.3 The Panel must then determine whether to recommend that the preferred candidate is appointed or, recommend that the Mayor does not appoint that candidate. There is no power of veto for the Panel when considering the appointment of a DMPFC.

6.4 In a circumstance where the candidate meets the two standards, but there is still cause for concern about their suitability, the Panel may choose to outline those concerns in its response to the Mayor.

## **7.0 REPORT AND RECOMMENDATION**

7.1 The report and recommendation will be sent to the Mayor 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.)

7.2 There are essentially three options for the Panel following the Confirmation Hearing for the DMPFC:

- a) Report and endorse the appointment with no further recommendations;
- b) Report and endorse the appointment but include recommendations; or
- c) Report and recommend not to appoint. In these circumstances it is recommended that the Panel informs the Mayor of its decision as soon as practically possible within a letter, where an appendix to the letter is provided outlining the reasons for the refusal.

7.3 Where the Panel has decided that the candidate meets the minimum standards – and as such recommends the appointment – but there is still a cause for concern about their suitability, it may be appropriate to outline these concerns in the Panel's response to the Mayor.

## **8.0 RESPONSE BY THE MAYOR**

8.1 The Mayor will have regard to the report and then notify the Panel whether they accept or reject the Panel's recommendation within three working days.

8.2 The Mayor will notify the candidate of the decision.

## **9.0 PUBLICATION**

- 9.1 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.
- 9.2 The decision will be taken following consultation with the Mayor and the candidate, and they will be given at least two working days' notice of the date of publication.
- 9.3 The report and recommendation will normally be published within five working days of the Mayor taking a decision whether or not to appoint.
- 9.4 If the Mayor decides to appoint despite a recommendation from the Panel not to appoint, the Mayor will also publish the recommendation and the reasons for their decision.
- 9.5 If a candidate withdraws after a report and recommendation has been sent to the Mayor, the report and recommendation will still be published in accordance with the procedure set out above.
- 9.6 If, having regard to the report and recommendations from the Panel, the Mayor decides not to appoint, the Mayor will publish details of what they are going to do next in relation to the appointment within five working days.

## **10.0 FINANCIAL IMPLICATIONS**

- 10.1 The DMPFC post is a salaried role and the remuneration for the role has been approved by the Combined Authority Board following a recommendation by the Independent Remuneration panel. Further details of this are provided within the appendix to Item 6(b).

## **11.0 LEGAL IMPLICATIONS**

- 11.1 The Mayor is legally able to delegate some of their functions to a Deputy Mayor for Policing and Crime, as outlined in section 2. The Panel has legal responsibilities to consider and make recommendations on a proposed appointment for DMPFC as set out in this paper.

## **12.0 EQUALITIES IMPLICATIONS**

- 12.1 There are no significant equalities implications arising from this report.

## **13.0 CLIMATE CHANGE IMPLICATIONS**

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

## **14.0 RECOMMENDATIONS**

- 14.1 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:**

Policing and fire governance: guidance for police and crime panels (LGA/CfPS/Frontline Consulting)  
[Police and Crime Panel Guidance.pdf \(local.gov.uk\)](#)

