

HAMPSHIRE POLICE AND CRIME PANEL

Report

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| Date considered: | 27 September 2021 | | |
| Title: | Confirmation Hearing Process for the role of Chief Executive of the Office of the Police and Crime Commissioner (OPCC) | | |
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1. Executive Summary

- 1.1. This document explains the process to be followed by the Hampshire Police and Crime Panel (hereafter referred to as 'the Panel') in respect of the proposed appointment of the preferred candidate to the role of Chief Executive of the OPCC.
- 1.2 This document summarises the Confirmation Hearing protocol, which is attached as appendix one.

2. Powers of the Hampshire Police and Crime Panel

- 2.1. The Panel have the functions conferred by Schedule 1 Part 10 of the Police Reform and Social Responsibility Act 2011 (Scrutiny of Senior Appointments). This enables them to:
- (i) Review the proposed appointment, by holding a Confirmation Hearing within three weeks of notification being given. A 'confirmation hearing' 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;
 - (ii) Make a report to the Commissioner on the proposed senior appointment;
 - (iii) Include a recommendation to the Commissioner as to whether or not the candidate should be appointed;
 - (iv) Publish the report to the Commissioner made under (ii).

3. Confirmation Hearing for the role of Chief Executive

Prior to the Hearing

- 3.1 The Panel received formal notification from the Hampshire Police and Crime Commissioner (hereafter referred to as 'the Commissioner') of the proposed appointment to the role of Chief Executive on 16 September 2021.
- 3.2 This appointment is a permanent appointment, and therefore it is subject to the public scrutiny that is required as part of a proposed senior appointment

within the meaning of Schedule 1 of the Police Reform and Social Responsibility Act 2011¹.

3.3 In order to assist the Panel in reviewing the suitability of the preferred candidate, the Commissioner has provided the following documentation, which has been attached as Appendix two:

- Name of the preferred candidate;
- Statement/report from the Commissioner stating why the preferred candidate meets criteria of role;
- Terms and conditions of appointment.

At the Hearing

3.4 The first part of the meeting will be conducted in public and structured as follows:

- a. The candidate will be welcomed to the meeting.
- b. The Commissioner will have the opportunity to make any comments on the candidate and the proposed appointment.
- c. The candidate will have an opportunity to present to the Panel their understanding of the role.
- d. The Panel will have the opportunity for to ask questions of the candidate.
- e. The candidate will be given opportunity to clarify any answers given during the hearing and ask questions of the Panel about the next stage of the process.

3.5 The Panel will ask questions of the candidate which relate to their professional competence and personal independence, the answers to which will enable the Members to evaluate their suitability for the role.

On the Close of the Hearing

3.6 The Panel will hold a closed session in order to decide on its recommendations to the Commissioner regarding the appointment of the preferred candidate to the role of Chief Executive at the end of the Confirmation Hearing session.

3.7 The Panel will discuss the following:

- Whether the candidate has the professional competence to exercise the role.
- Whether the Panel feels that the candidate has the personal independence to exercise the role.

3.8 Where a candidate does not meet the minimum standards in the areas set out in paragraph 3.7, this would suggest a significant failure in the appointments process undertaken by the Commissioner. If the Panel

¹ <http://www.legislation.gov.uk/ukpga/2011/13/schedule/1/enacted>

believes that there has been a significant failure in the appointments process, the Panel may choose to not recommend the candidate to the role of Chief Executive.

- 3.9 Where a candidate meets the standards but there is still cause for concern about their suitability, it may be appropriate to outline those concerns in the Panel's response to the Police and Crime Commissioner.
- 3.10 Where a candidate does not meet the minimum standards in the areas set out in paragraph 3.7, this would suggest a significant failure in the appointments process undertaken by the Commissioner. If the Panel believes that there has been a significant failure in the appointments process, the Panel may choose to not recommend the candidate to the role of Chief Executive.

Following the Confirmation Hearing

- 3.10 The recommendations relating to the outcomes of the Confirmation Hearing will be communicated to the Commissioner in writing by the next working day.
- 3.11 It is suggested that a period of three working days should elapse before the embargo is lifted and the recommendations of the Panel are made public. This timeframe may, however, be varied through agreement between the Chairman of the Panel and the Commissioner, in accordance with the Panel's Confirmation Hearing protocol.

Hampshire Police and Crime Panel
Confirmation Hearing Protocol

Schedule 1 and 8 Appointments

Notification

- When the Police and Crime Commissioner (PCC) commences a recruitment exercise (in whatever form that may take) with a view to making:
 - (a) a Schedule 1 appointment i.e. that of the PCC's Chief Executive, Chief Finance Officer or a Deputy Police and Crime Commissioner;
or
 - (b) a Schedule 8 appointment i.e. that of a Chief Constable,

they will inform the Panel's democratic support officer that such steps are being taken, and the likely timeframe involved, so that preliminary arrangements can be made to schedule a confirmation hearing.

- When, in accordance with the Police Reform and Social Responsibility Act 2011 (the Act), the PCC notifies the Panel of a proposed Schedule 1 or 8 appointment, the PCC must provide the Panel with the following information:
 - (a) the name of the person whom the PCC 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.
- At the same time as they notifies the Panel of the proposed appointment, the PCC will also normally provide the Panel with the background information that the PCC has had access to during the rest of the appointment process e.g. the role profile, the candidate's CV, application and/or personal statement (suitably redacted of any sensitive personal or operational information), any references etc. The PCC will advise the candidate's referees that the references they submit will be put on public deposit to assist the Panel in the performance of its duties.

Immediate steps following notification

- The Panel must, within three weeks of receiving the PCC's notification, hold a confirmation hearing for the Panel to review the proposed appointment and make a report on it to the PCC. Therefore, on receipt of

the PCC's notification, the Panel's democratic support officer will by the end of the next working day after receiving the PCC's notification:

- convene a public meeting of the Panel to be held within 19 days of receiving the PCC's notification (this meeting will not normally be used for any other business) and confirm the date of the confirmation hearing to the Members of the Panel;
- arrange a private pre-meeting for the Chair and Vice-Chair of the Panel normally to take place at least three working days before the confirmation hearing (not normally to be held immediately before the confirmation hearing to allow sufficient time for any unexpected issues, or gaps in information provided, to be addressed) and confirm the date of the pre-meeting to the Chair and Vice-Chair. The Panel's democratic support officer will notify the Panel's legal adviser and a senior HR representative (from the lead authority) of the date of the pre-meeting so that specialist and technical advice will be available to the Panel; and
- prepare a letter to the candidate which:
 - (a) requests them to appear at the confirmation hearing for the purpose of answering questions relating to the appointment;
 - (b) advises them of the date of the hearing;
 - (c) notifies them of the principles on which the Panel will normally evaluate the candidate (see below);
 - (d) refers to the relevant statutory provisions; and
 - (e) advises them that the information provided by the candidate will normally need to be put on public deposit (as if it were a standard report going to the Panel).

Preparing for the confirmation hearing

- Prior to the private pre-meeting, the Panel's democratic support officer will draw together a list of relevant issues for the Chair and Vice Chair to consider, in particular highlighting possible question topics and themes, and background information on which Members might wish to focus. The Chair and Vice Chair will consider these at their private pre-meeting and determine a final draft for the Panel's consideration.
- Following the pre-meeting, the Panel's democratic support officer will circulate this information electronically to all Members of the Panel for their consideration and comment. The aim of this process is to enable the necessary preparatory work to be undertaken as efficiently as possible within the tight timescale but to ensure that all Members of the Panel have the opportunity to consider the relevant issues and lines of questioning, and raise any queries, prior to the confirmation hearing itself. The Panel's democratic support officer will also remind Members of the process taken at the hearing.

At the confirmation hearing

- The Chair will open the meeting and will outline the key themes that the Panel hopes to explore. The Chair will explain the process for approval, refusal or, where the proposed appointment is that of Chief Constable, veto of appointments and will allow the candidate to ask any procedural questions.
- The Panel will normally focus on issues of professional competence (this relates to the candidate's ability to carry out the role, his/her professional judgment and insight) and personal independence (this relates to the need for a candidate to act in a manner that is operationally independent of the PCC, the ability to advise the PCC effectively and to understand the need to respond constructively in situations where they might be held to account by the Panel).
- At the end of the session, the candidate will be given the opportunity to clarify any answers given and ask any questions of the Panel. Immediately following the hearing, the Panel will go into closed session to decide on its recommendations, taking legal and HR advice as necessary.

Decision-making by the Panel

- The Panel's decision-making process, will normally comprise two linked steps:
 - 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?
 - Should, consequently, the Panel:
 - (a) recommend that the candidate should be appointed; or
 - (b) recommend that the candidate should not be appointed or,
 - (c) in the case of a Chief Constable appointment, use its power of veto
- Where a candidate does not meet the minimum standards, it will normally be self-evident (thus indicating a failure in the appointments process to date) and, in the case of a Chief Constable appointment, the Panel may decide to exercise its power of veto. Where the candidate meets these standards, but there is still cause for concern about their suitability, the Panel may outline these concerns in its response to the PCC. Where a Schedule 1 candidate does not meet the minimum standards, the Panel has no power of veto but may provide advice to the PCC in the form of a letter.

Making recommendations on Schedule 1 and Chief Constable appointments

- The Panel may decide to 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, as in the case of a Chief Constable appointment, the same as a veto (see below) and the PCC can still choose to appoint the candidate.
- The Chair will make an informal communication on the decision of the Panel to the PCC by the end of the working day on which the Confirmation Hearing is held.
- By the next working day after the Panel has made its decision, the Panel's democratic support officer will, in consultation with the Chair of the Panel, send a report on the proposed appointment to the PCC confirming the Panel's recommendation as to whether or not the candidate should be appointed. The report will be copied to the candidate. Where the Panel is recommending refusal, a summary of the principal reasons will be included.
- The Panel will normally publish its decision and report three working days after the Confirmation Hearing has taken place. In exceptional circumstances, the PCC may request to the Chair that the Panel bring forward or delay publication of the decision. In such cases, the Chair will liaise with the PCC in such cases to agree a proposed way forward, and a final decision on any such proposal will be taken by the Panel.
- In response to the Panel's report, the PCC must notify the Panel whether they will accept or reject the Panel's recommendation. Where the Panel has recommended refusal and the PCC continues with the appointment, they will normally make a response at the same time as the publication of the Panel's report, focusing on why they felt that the candidate did in fact meet the minimum standards for the post. If, before the result of the appointments process is made public, the candidate withdraws from the process only the Panel's report, and no other information from either the PCC or the Panel, will be published. Where the PCC decides not to appoint, the Panel's report will normally be published alongside a statement by the PCC setting out a timetable and process to make a new appointment.
- The Panel will not liaise with the candidate, either directly or through any officer, in relation to the Panel's decision

The veto (for Chief Constable appointments only)

- The veto will 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'.

- The Panel has the power to veto a Chief Constable appointment only in the three-week period starting with receipt of the PCC's notification.
- Where the Panel decides (on a two-thirds majority of the total Panel membership) to veto the proposed appointment, on the next working day after the Panel has made its decision, the Panel's democratic support officer will, in consultation with the Chair of the Panel, send a report on the proposed appointment to the PCC confirming the Panel's decision to veto the appointment and including a summary of the Panel's principal reasons for its decision. Following this, the PCC must not appoint the candidate. The PCC will be responsible for notifying the candidate. The parties will liaise with each other over the issue of public communication of the Panel's decision. At the same time as the publication of the Panel's report, the PCC will normally publish information setting out the steps that will be taken to make another appointment.
- Following a veto of the proposed appointment, the PCC must propose another individual for appointment as Chief Constable. The PCP must, within three weeks of receiving a notification by the PCC, review the proposed appointment. The process is the same for an initial candidate and any reserve candidate following a veto, however the PCP's power of veto only applies to the first candidate.