

NOTTINGHAMSHIRE POLICE AND CRIME PANEL

9 December 2016

PROCEDURE FOR CONFIRMATION HEARING

Purpose of the Report

1. The report is intended to advise the Nottinghamshire Police & Crime Panel of the procedure to be followed for a confirmation hearing in relation to the proposed appointment by the Police & Crime Commissioner for Nottinghamshire of a Chief Constable of Nottinghamshire Police.

Background

2. The Police Reform & Social Responsibility Act 2011 Section 38 specifies that the Police & Crime Commissioner (PCC) for a police area is to appoint the chief constable of the police force for that area.
3. Schedule 8 of the 2011 Act requires that a PCC must notify the relevant Police & Crime Panel of the proposed appointment of a chief constable. In such cases the PCC must also notify the Police & Crime Panel of 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.

Information and Advice

4. When a Police & Crime Panel is notified of such a proposed appointment it is required to review the proposed appointment and to make a report on it to the PCC. The report must state the outcome of the review by the Panel. In the case of the proposed appointment of a chief constable these outcomes are:
 - a) A recommendation as to whether or not the candidate should be appointed, or
 - b) A veto of the proposed appointment, if at least two-thirds of the members of the Police & Crime Panel vote in favour of making that decision.
5. The 2011 Act requires that a Police & Crime Panel must review the proposed appointment at a confirmation hearing. A confirmation hearing 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". Supporting guidance produced by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) advises that a confirmation hearing should not be dealt with as an item of business at a standard Panel meeting but conducted as a separate meeting.

6. The process of reviewing and reporting on a proposed appointment must be completed within three weeks of a Police & Crime Panel being notified of it by the PCC.
7. This confirmation hearing of the Nottinghamshire Police & Crime Panel has been convened to enable the Panel to review and make a report on the proposed appointment by the Police & Crime Commissioner for Nottinghamshire ("the Commissioner") of a Chief Constable of Nottinghamshire Police following notification of the proposed appointment by the Commissioner.

Confirmation Hearing Procedure

8. The Panel Chair will welcome the candidate to the hearing and invite Panel members and host authority officers present to introduce themselves.
9. The Chair will ask the Independent Member involved in the selection process to present his report and invite the Panel to ask questions.
10. When all Panel members' questions have been asked and addressed the Chair will invite the Commissioner to outline the proposed appointment and introduce the candidate.
11. The Chair will invite Panel members to ask questions of the candidate.
12. When all Panel members' questions have been asked and addressed the Chair will invite the candidate to clarify any answers that they have given during the hearing and to ask any questions of the Panel, for example about the next steps in the process.
13. The candidate will then withdraw from the meeting.
14. The Panel will be asked to agree a resolution to exclude the press and public from the meeting before it considers its report to the Commissioner.
15. The Panel will send its report to the Commissioner by the end of the working day following the date of the confirmation hearing.
16. The outcome of the Panel's decision will be published within 5 working days of the hearing.

Focus of Questions to the Candidate

17. The Panel should focus on the following areas:

- a) Professional competence: i.e. the candidate's ability to carry out the role, for example, their professional judgement and insight.
 - b) Personal independence: i.e. the need for the candidate to act in a manner that is operationally independent of the PCC.
18. The Panel should think in terms of minimum standards applying to particular attributes: i.e. there should be minimum standards below which it would not be appropriate to appoint a candidate under any circumstances. Above this level, the Panel might have concerns but the candidate would still be 'appointable' at the discretion of the PCC.

Possible Outcomes of the Review

19. 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 his response.
20. If the Panel considers that the candidate meets the required standards but has a query or concern about their suitability it can make a recommendation to this effect to the Commissioner. Ultimately, the Panel has the option of recommending to the Commissioner that the appointment not be made. The Commissioner may accept or reject such a recommendation, and must notify the Panel of his response.
21. 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. In the event that the Panel vetoes a proposed appointment the Commissioner must not appoint that candidate. The Commissioner must then propose another – reserve – candidate for appointment. This proposed appointment will be subject to review by the Panel at a second confirmation hearing, resulting in a report to the Commissioner making a recommendation about the appointment of the reserve candidate. The Commissioner may accept or reject such a recommendation, and must notify the Panel of his response.
22. The veto should only be used in exceptional circumstances. A PCC'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 PCC proposes for appointment. A proposed appointment should only be vetoed if a Police & Crime Panel considers that there has been a significant failure of this 'due diligence' check, to the extent that the candidate is not appointable.

Reasons for Recommendation/s

23. To inform the Panel of the procedure for the confirmation hearing in relation to the proposed appointment by the Police & Crime Commissioner for Nottinghamshire of a Chief Constable of Nottinghamshire

RECOMMENDATION/S

- 1) That the procedure for the confirmation hearing be noted.

Background Papers and Published Documents

Police Reform & Social Responsibility Act 2011

The Police & Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012

Police & Crime Panels Guidance on Confirmation Hearings Local Government Association and Centre for Public Scrutiny (August 2012)

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