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Devon and Cornwall Police and Crime Panel

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9 January 2013

DEVON AND CORNWALL POLICE AND CRIME PANEL

Thursday 17 January 2013
11 am
Warspite Room, Council House

Members:

Councillor Croad (Devon County Council), Chair
Councillor Kennedy (Cornwall Council), Vice Chair
Councillors Barker (Teignbridge District Council), Boyd (Torridge District Council), Councillor (to be confirmed) (North Devon District Council), Diviani (East Devon District Council), Dolphin (Cornwall Council), Folkes (Cornwall Council), Hare-Scott (Mid Devon District Council), Hicks (Isles of Scilly), Maddern (Cornwall Council), Oliver (Torbay Council), Penberthy (Plymouth City Council), Saltern (South Hams District Council), Sanders (West Devon Borough Council), Sutton (Exeter District Council), Williams (Plymouth City Council) and Wood (Cornwall Council)

Independent members:

Yvonne Atkinson (Devon) and Mike Firbank (Cornwall and Isles of Scilly)

Members are invited to attend the above meeting to consider the items of business overleaf.

This meeting will be broadcast live to the internet and will be capable of subsequent repeated viewing. By entering the Council Chamber and during the course of the meeting, councillors are consenting to being filmed and to the use of those recordings for webcasting.

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DEVON AND CORNWALL POLICE AND CRIME PANEL

1. APOLOGIES

To receive apologies for non-attendance submitted by members.

2. MINUTES (Pages 1 - 6)

To sign and confirm as a correct record the minutes of the meeting held on 22 October 2012.

3. OFFICE OF THE POLICE AND CRIME COMMISSIONER AND THE POLICE AND CRIME PANEL - WAYS OF WORKING

The Chair, Councillor Roger Croad, will give a verbal update to the Panel about a recent meeting with the Devon and Cornwall Police and Crime Commissioner, Mr Tony Hogg, including potential ways of working between the Office of the Police and Crime Commissioner and the Police and Crime Panel.

4. EMERGING STRATEGIC THEMES, OBJECTIVES AND PRIORITIES FOR THE POLICE AND CRIME PLAN

Presentation by the Police and Crime Commissioner, Mr Tony Hogg.

5. CHIEF CONSTABLE APPOINTMENT - CONFIRMATORY HEARING PROCESS (Pages 7 - 48)

Members will consider a report about the process for the confirmatory hearing to appoint the Chief Constable of the Devon and Cornwall Police.

6. HANDLING NON-CRIMINAL COMPLAINTS (Pages 49 - 50)

The Panel will consider a report about an interim process for handling non-criminal complaints about the Police and Crime Commissioner.

7. PRECEPT REGULATION AND TIMELINE (Pages 51 - 58)

The Panel will consider a report about feedback from other Police and Crime Panels and the response from the Home Office concerning the precept-setting timetable.

8. PUBLIC QUESTIONS

To receive questions from (and provide answers to) members of the public that are relevant to the Panel's functions.

Questions should be no longer than 100 words and sent to Democratic Support, Plymouth City Council, Civic Centre, Plymouth PL1 2AA or

democraticsupport@plymouth.gov.uk. Questions must be received at least 5 complete working days before the meeting.

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Devon and Cornwall Police and Crime Panel**Monday 22 October 2012****PRESENT:**

Councillor Croad, in the Chair
Councillor Kennedy, Vice Chair
Councillors Atkinson, Barker, Boyd, Brown, Diviani, Firbank, Folkes, Hare-Scott, Oliver, Saltern, Sanders, Sutton, Williams and Wood.

Independent members: Yvonne Atkinson and Mike Firbank

Apologies for absence: Councillors Hicks, Penberthy, Robertson and Rowe.

Also in attendance: Peter Aley (Assistant Director for Safer Communities), Sarah Hopkins (Community Safety Partnership Manager and Judith Shore (Democratic and Member Support Manager)

The meeting started at 10.00 am and finished at 11.45 am.

Note: At a future meeting, the Panel will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

11. APPOINTMENT OF CHAIR

AGREED that Councillor Croad (Devon County Council) is elected Chair of the Devon and Cornwall Police and Crime Panel.

12. APPOINTMENT OF VICE CHAIR

AGREED that Councillor Kennedy (Cornwall Council) is elected Vice Chair of the Devon and Cornwall Police and Crime Panel.

13. MINUTES

AGREED that the minutes of the meeting of the Shadow Panel held on 25 July 2012 are approved.

14. APPOINTMENT OF INDEPENDENT MEMBERS

Mrs Hopkins reminded members about the process, agreed at the previous Shadow Panel meeting, for recruiting independent members to the Panel. The Selection Panel for independent members met, interviewed applicants and recommended that the following two candidates were appointed:

Yvonne Atkinson (Devon, including Plymouth and Torbay)
Mike Firbank (Cornwall and the Isles of Scilly).

AGREED that Yvonne Atkinson and Mike Firbank are appointed as independent members of the Panel for a period of four years commencing 22 October 2012.

15. **HOME OFFICE RESPONSE TO PANEL COMPOSITION**

Councillor Croad advised that, following the meeting of the Shadow Panel held on 25 July, the panel arrangements and composition were submitted to the Home Office. On 14 September 2012, the Home Office agreed the composition, including the co-options.

AGREED that the letter from the Home Office is noted.

16. **PANEL ARRANGEMENTS AND RULES OF PROCEDURE**

The Chair reminded members that the Draft Panel Arrangements and Rules of Procedure presented at the meeting of the Shadow Panel in July was agreed subject to amendments (which had since been incorporated).

Mrs Hopkins suggested further amendments, in order to take account of additional guidance and regulations, as follows:

- Section 5.6 (Selection Panel for independent members) – amended to allow flexibility around the composition of the Selection Panel (a minimum of three members required)
- Section 7 (Substitution) – amended to allow councillors to send a substitute to the Panel meeting
- Section 15 (Voting) – amended to allow voting to be recorded
- Sections 22 (Scrutinising the precept) and 25 (Senior appointments) had been significantly amended in line with recent regulations
- Section 31 (Public attendance and participation) amended to be more concise
- Annex 1 (Guiding principles) amended following a provision in the Localism Act which came into force on 1 July
- Annex 2 (Rules of debate) had been added
- Annex 3 (Code of conduct) had been removed and partly included in Annex 1

Members agreed with the above and proposed that they were accepted.

Members discussed the Draft Panel Arrangements and Rules of Procedure and proposed amendments to Section 13 (Expenses for panel members) as follows:

- expenses for local authority members to be reimbursed upon production of receipts (as per the arrangement for independent panel members.)
- expenses for all panel members to be reimbursed by the Host Authority (who receive an amount from the Home Office for such expenses).

Mrs Shore would contact all members about the process for claiming expenses.

The following points and questions were raised:

- whether there was a mechanism to trigger a referendum if the proposed precept would result in an increase over a certain percentage? Mrs Hopkins undertook to investigate.
- would the existing police authority staff transfer to the Police and Crime Commissioner's (PCC) staff under TUPE legislation? Mrs Hopkins would clarify the matter.
- the police authority was recruiting a communications officer and it was queried whether that was appropriate given the forthcoming PCC elections.

AGREED that:

- 1. the revised Panel Arrangements and Rules of Procedure, as set out in the Appendix to the report, are approved subject to the amendments proposed at the meeting (as outlined above).**
- 2. the Panel Arrangements and Rules of Procedure will be further reviewed in light of further advice and Home Office regulations when required.**

17. **PRECEPT REGULATION AND REPORT TIMELINE**

Mrs Hopkins highlighted the requirements of the new regulations about precept setting and the associated tight timescales and budget setting implications this posed for the Panel and for local authorities. The date for the PCC to notify the Panel about the proposed precept had been amended from 22 December to 1 February each year which resulted in an exceptionally short timescale for the Panel to respond by 8 February. If the Panel vetoed the precept, the PCC had to respond, having considered the Panel's views, by 15 February. The Panel had to respond by 22 February and the PCC was then required to issue the precept by 1 March.

This meant that, if the PCC did not propose a precept prior to the deadline of 1 February, the Panel would not be able to comply with the legal requirements for agenda and report publication contained within the Local Government Act 1972, although it wasn't clear whether that legislation applied to the Panel. Also, the extremely tight timetable could create difficulties for local authorities in the Council Tax setting process.

Members expressed considerable concern about the above and proposed that a letter was sent to the Home Office, and copied to other Panels, outlining the potential difficulties of complying both with the LGA 1972 (if applicable) and the precept regulations and why the shortened timetable was a disadvantage for the democratic oversight of the proposed precept. A longer timetable was considered necessary to allow the Panel to properly scrutinise the PCC's proposals.

Mrs Hopkins agreed to collate any feedback received from other Panels.

Members considered that the relationship between the Panel and the PCC was critical and that the Chair should establish a good working relationship with the PCC

in order to consider timetables and processes which would achieve the best outcome in terms of the democratic scrutiny of the PCC and the precept.

AGREED that the Panel:

1. notes the requirements of the **Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012**
2. will hold a meeting on **8 February 2013** in order to consider the **PCC's proposed precept**
3. will hold a meeting on **22 February 2013** (if required in order to consider the **PCC's revised precept**)
4. notes that it is unclear whether the provisions of the **LGA 1972** apply to the Panel and the potential difficulty for complying with that Act given the deadlines contained within the precept regulations
5. mandates the Panel Chair to seek talks with the **PCC** with a view to maximising cooperation over the precept-setting timetable.
6. will send a strongly worded letter of concern to the **Home Secretary** containing the views expressed at the meeting
7. will copy the letter to all other **Police and Crime Panels** across the country.

18. **DRAFT 'MEMORANDUM OF UNDERSTANDING' BETWEEN THE OFFICE OF THE POLICE AND CRIME COMMISSIONER AND THE POLICE AND CRIME PANEL**

Mr Aley advised that the document had been drafted by police authority staff who were seeking the Panel's views on the proposals contained within it. He drew members' attention to a number of the provisions that he considered they may wish to take a view on including:

- Section 7 (Veto) – the Panel will not inform any other party ... of its intention to exercise the veto until the PCC had been informed
- Section 9 (Panel meetings) – it is expected that meetings of the Panel will be held at a variety of locations across Devon and Cornwall
- Section 15 (Engagement with third parties) – all communications from the Panel will be copied to the office of the PCC

Members commented that:

- Section 7 (Veto) – the Panel could not inform the PCC about its intention to exercise the veto until it had met, in public, and made a decision
- Section 9 (Panel meetings) – the Panel would decide where it wished to meet
- Section 15 (Engagement with third parties) – this was an unreasonable request
- Section 16 (Engagement with the press and the media) – the Panel would not be inhibited from agreeing the format of media briefings about its meetings
- Discussions should be held with the PCC around scrutiny mechanisms and how the Panel could interact with the PCC in order to fulfil its role

- If, after such discussions, it was felt a memorandum of understanding was still required, this should be jointly drafted between the PCC and the Panel; the Panel favoured a more general document based on principles rather than prescription

The Chair advised members that he had previously spoken to the Chief Executive of the police authority and advised her that he thought the memorandum was unacceptable in its current form.

AGREED that:

1. **The draft memorandum of understanding is rejected**
2. **the Chair and officers from the Host Authority enter into discussions with the PCC about working together**

19. **WORK PROGRAMME AND FUTURE MEETING DATES**

Ms Shore explained that the work programme had been amended to take account of the recent regulations and that meeting dates had been revised following consultation with Members to identify the best day of the week for Panel meetings (trying to accommodate, as far as reasonably practical, the needs and travel arrangements of members from all 13 local authorities). Fridays, whilst not ideal for some, appeared to be the most suitable. Monday meetings were not possible as any councillor representing the Isles of Scilly was not able to reach the mainland at an appropriate time.

Some members considered Friday to be the most suitable day and others thought that a mix of days, excluding Mondays, was preferable.

A proposal to meet on the 2nd or 3rd Friday in each month was made, put to the vote and lost.

A proposal to meet on all weekdays, excluding Mondays (members to be consulted about dates), noting that meeting dates on Friday 8 and Friday 22 February had already been agreed was made, put to the vote and **AGREED**.

Members confirmed that continuing to meet in Plymouth was preferable as it was a central location and agreed that meetings could be held elsewhere, if appropriate.

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DEVON AND CORNWALL POLICE AND CRIME PANEL

Subject: Chief Constable Appointment – Confirmatory Hearing
Date: 17 January 2013
Author: Sarah Hopkins, Community Safety Partnership Manager
Organisation: Plymouth City Council
Contact: Tel (01752) 305542 e-mail sarah.hopkins@plymouth.gov.uk

Executive summary

Police and Crime Panels (PCP) are required to carry out, as one of their ‘special functions’, a confirmation process before the Police and Crime Commissioner (PCC) can formally appoint a Chief Constable¹. The Panel has a power of veto. The interviews for the Devon and Cornwall Chief Constable are scheduled for Tuesday 15 January 2013.

The PCC’s power to appoint – subject to the confirmation hearing process – has been provided by the government to allow the PCC to appoint the person thought most appropriate. This will be a corporate decision, led by the PCC as an individual, but backed up through his office, whose Human Resources (HR) functions and internal appointment procedures will provide a ‘due diligence’ check on the candidate’s suitability.

This report formulates recommendations for the process for the confirmation hearing regarding the appointment of the Police and Crime Commissioner’s selection of Chief Constable for Devon and Cornwall Police.

Implications: Police and Crime Plan, Annual Report, Peninsula Partnership Strategic Assessment, Panel Functions, Panel Arrangements and Rules of Procedure

It will be important for the Panel to be satisfied that the candidate has demonstrated the level of skills, knowledge and experience needed to deliver efficient and effective policing in Devon, Cornwall and the Isles of Scilly and support the PCC in the delivery of the strategy and objectives set out in the Police and Crime Plan.

Implications: resources including finance, human and IT

In order to ensure that the process is handled with due regard to employment law and the Equality Act 2010, the LGA recommends that the Host Authority provides a Monitoring Officer and Senior HR Advisor to support the Panel. Any decision to veto the PCC’s proposed selection could be viewed as calling into question the appointment procedures of Devon and Cornwall Police as well as having implications for the candidate.

Recommendations & Reasons for recommended action:

It is recommended that the Devon and Cornwall Police and Crime Panel:

¹ Schedule 8 of the Police Reform and Social Responsibility Act 2011
<http://www.legislation.gov.uk/ukpga/2011/13/contents/enacted>
and Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012) -
<http://www.legislation.gov.uk/uksi/2012/2271/contents/made>

- Adopts the process outlined in this report and in Appendix 2 for the confirmatory hearing of the PCC's proposed Chief Constable appointment.
- Adopts the principles of professional competence and personal independence contained in Appendix 4 of this report, for the evaluation of the candidate.
- Holds further discussions, in private, following this meeting to formulate questions to be asked at the confirmatory hearing.
- Delegates authority to agree any further refinements to the questions following receipt of any additional information from the PCC to the Head of Safer Communities, in consultation with the Panel chair before the confirmatory hearing is held.
- Agrees that, subject to having received the PCC's notification, the confirmation hearing takes place on Friday 8 February 2013
- Agrees that, if there is any further delay in the PCC notifying the Panel, the confirmation hearing meeting is provisionally scheduled to take place on Friday 22 February 2013.

Agreeing these recommendations will ensure the Panel meets fully the requirements of the Act and Regulation whilst considering practical implications.

Alternative options considered, and reasons for recommended action

Failure to hold a confirmatory hearing would mean that the Devon and Cornwall Police and Crime Panel would not meet the requirements of the Police Reform and Social Responsibility Act 2011 and the appointment of the PCC's selection of Chief Constable would be decided by default.

Background Papers

None

I. Background

- I.1 Police and Crime Panels are required to carry out a confirmation process before the Police and Crime Commissioner (PCC) can formally appoint a Chief Constable (Schedule 8 of the Police Reform and Social Responsibility Act 2011 and Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012). The Panel has a power of veto. The interviews for the Devon and Cornwall Chief Constable are scheduled for Tuesday 15 January 2013.
- I.2 The PCC's power to appoint – subject to the confirmation hearing process – has been provided by the government to allow the PCC to appoint the person thought most appropriate. This will be a corporate decision, led by the PCC as an individual, but backed up through the PCC's office, whose HR functions and internal appointment procedures will provide a 'due diligence' check on the candidate's suitability.
- I.3 In summary, the Act and Regulation require that:
- the PCC notifies the PCP of the proposed Chief Constable appointment;
 - the PCC provides the PCP with specific information in relation to the individual and the appointment;
 - the PCP reviews the proposed appointment within three weeks of receiving the notification from the PCC;
 - the PCP holds a public confirmation hearing to question the candidate;
 - the PCP writes a report to the PCC on the proposed appointment, this must include a recommendation as to whether the individual should be appointed and may include exercising the power of veto;
 - any decision to veto is agreed by two-thirds majority of all PCP members; and
 - the PCP's report is published.

Following a veto the Regulation requires that:

- the PCC proposes another individual, a "reserve candidate" for appointment as Chief Constable;
 - the PCC provides the PCP with specific information in relation to the individual and the appointment;
 - the PCP reviews the proposed appointment within three weeks of receiving the notification from the PCC
 - the PCP holds a public confirmation hearing to question the candidate;
 - the PCP writes a report to the PCC on the proposed appointment, this must including a recommendation as to whether the individual should be appointed (there is no right of veto for the reserve candidate); and
 - the PCP's report is published.
- I.4 The Local Government Association (LGA) has provided detailed guidance² (see Appendix I) and makes recommendations as to how Confirmatory Hearings should be handled. Their guidance and recommendations have been referred to throughout this report to formulate some recommendations for the process for the confirmation hearing regarding the appointment of the Police and Crime Commissioner's selection of Chief Constable for Devon and Cornwall Police. This includes a pre-meeting (i.e. a private meeting) in to agree the scope and thrust of the questioning. The LGA Guidance suggests that additional meetings may be required; given the impracticalities of arranging meetings at short notice such suggestions have been avoided where possible.

² http://www.local.gov.uk/web/guest/publications/-/journal_content/56/10171/3787661/PUBLICATION-TEMPLATE

- 1.5 The Panel cannot delegate its scrutiny of the appointment of the Chief Constable to a sub-committee, as it is a 'special function' under Paragraph 27 of Schedule 6.
- 1.6 The Panel should carry out this special function with due regard to Employment Law and the Equality Act 2010.
- 1.7 Attached at Appendix 3 are key papers drawn from the application pack³ for the Devon and Cornwall position.
- 1.8 There are at least 10 forces around the country including others in the South West region, currently going through this process. There is a risk that, with this number of Chief Constable positions currently available, an offer made to the successful candidate on, or shortly after, Tuesday 15 January 2013, would not be immediately responded to whilst the candidate makes up their mind/attends other interviews. This has the potential to delay the PCC's notification to the Panel of the selected candidate and therefore, the confirmatory hearing.

2. **Notification of Chief Constable Selection**

- 2.1 Following receipt of the PCC's notification to the Panel, a hearing must take place within three weeks. LGA guidance suggests that although hearings should take place quickly, with minimal time taken between notification of the appointment, the hearing and reports and recommendations being made to the PCC, the process should not be rushed. A date has therefore provisionally been set for the confirmation hearing to take place on an already scheduled meeting of the Panel, ie Friday 8 February 2013. LGA guidance recommends that this meeting should not be used for any other business, but it is proposed that in this instance, this cannot be avoided.
- 2.2 When the PCC notifies the Panel of his proposed appointment, in order to assist the Panel in carrying out the hearing properly, he will need to provide information relating to the candidate. Notification from the PCC should therefore be accompanied by some form of background information. This should usually be the same information that the PCC has had access to during the rest of the appointment process. Under the Police Reform and Social Responsibility Act 2011 the Panel must be provided with the following information:
 - the name of the person whom the PCC is proposing to appoint
 - the criteria used to assess the suitability of the candidate for the appointment
 - why the candidate satisfies those criteria
 - the terms and conditions on which the candidate is to be appointed.
- 2.3 The PCC might provide other information about the candidate, for example background information (such as a CV or personal statement). The PCC should advise the candidate that this information will be published in the same way as a standard report going to the Panel.
- 2.4 If it has been agreed that the candidate's references will be provided to the Panel, the PCC will need to advise the relevant referees that the references will be published in the same way as a standard report going to the Panel.

³ <http://www.devonandcornwall-pcc.gov.uk/News-and-Events/News-Archive/2012/Chief-Constable-Recruitment.aspx>

2.5 Following the PCC's notification to the Panel, and the scheduling of the hearing, the chair of the Panel should write to the candidate, advising them of the date of the meeting and notifying them of the principles of professional competence and personal independence on which it proposes to evaluate the candidate.

2.6 Candidates need to know what to expect and the Panel should keep to a relatively narrow set of questions which relate directly to professional competence and personal independence – but this does not mean the hearing should not be challenging.

3. **Briefing and pre-meeting of the Panel**

3.1 The private meeting is one of the most important elements of the preparation for the confirmation process, because it is here that members of the Panel will decide on the scope and thrust of their questioning. This should not be held immediately before the confirmation hearing itself, to allow sufficient time for any unexpected issues, or gaps in information provided, to be addressed.

3.2 The LGA recommends that members of the panel should be assisted by the Monitoring Officer and a senior HR representative from the host authority to provide specialist and technical advice, along with the officer responsible for providing wider support to the Panel.

3.3 The information provided alongside the notification by the PCC should be used by the chair of the Panel and the lead officer supporting the Panel to draw together a list of potential issues for the Panel to discuss in private. This could highlight possible question topics and themes, highlight background information on which members might wish to focus and remind members of the process to be undertaken at the confirmatory meeting itself.

3.4 The interviews take place on 15 January 2013 and it is recommended that the Panel discusses the scope of questioning after the meeting on 17 January 2013 and delegates the final wording of the questions to the Head of Safer Communities in consultation with the Panel chair and refines questions, if required, at the start of the meeting on 8 February 2013.

3.5 Whilst some Panel Members may have some experience of councillor-level appointment panels, it should be noted that confirmation hearings are different in several crucial ways, which require them to be managed even more carefully. The Panel will need to bear these factors in mind at the pre-meeting:

- confirmation hearings will be held in public, and are likely to be high profile
- the appointment is being made to an external body, not the councils represented on the Panel.
- hearings are an integral, but independent, part of the appointment process.

4. **Scope of Questioning**

4.1 Confirmation hearings need to complement, rather than duplicate, the internal systems for appointing the candidate, and should not be a restaging of a previous interview panel.

4.2 The Panel needs to focus closely on an individual's capabilities and expertise, but will need to ensure that justified scrutiny of these attributes does not descend into unwarranted intrusion or lines of questioning that might be unfair or unreasonable.

- 4.3 Questions need to be carefully designed and used to get the maximum value out of the process – for the Panel, candidate and for the local community - and will need to rely on the documents provided to support the Panel’s deliberations.
- 4.4 The candidate should be treated with courtesy and respect, not just at the hearing but also in correspondence or public statements relating to recommendations made by the Panel (this is particularly important if there is a decision taken to veto).
- 4.5 Whilst there will likely be a fair amount of information already in the public domain relating to the candidate, the LGA advises caution in researching and analysing this information. If members decide to do so, this should be considered by the Monitoring Officer and the HR representative to ensure that the process remains fair, and that it will assist the Panel to assess competence and independence.

The LGA recommends that confirmation hearings focus on issues of professional competence and personal independence and with reference to the role profile, and the Police and Crime Plan, which will allow the Panel to understand the regular duties that the post-holder will be expected to undertake, and the key policies that they will have to implement:

- Professional competence: demonstrates the candidate’s ability to carry out the role. This should be apparent from a comparison of the candidate’s CV and the role profile, and from the answers to questions which relate to (for example) issues around professional judgment and insight which might be asked as part of the confirmation hearing process and an understanding of the various stakeholders that would need to be involved and engaged with (and in what way, with what outcome) in the development and delivery of a major strategy.
- Personal independence: demonstrates that the candidate has a pragmatic understanding of the separation of the PCC from operational responsibility.

- 4.6 Under each of these themes individual questions should be drawn out, and assigned to relevant members of the Panel. It may be necessary for the Panel member asking questions at the meeting to ask supplementary questions, to ‘tease out’ the response to an answer. The chair of the Panel will, under these circumstances, need to monitor closely such supplementary questions, and their responses, to be assured that they are relevant. The chair should receive senior officer support at the meeting.

5. **The Confirmation Hearing**

- 5.1 The confirmation hearing itself needs to be relatively short and focused. Members will have agreed questions, and questioning themes, in private and these should be kept to (other than to ask necessary supplementary questions – see above). At all times the candidate should be treated fairly and politely.
- 5.2 Members of the Panel should refrain from making general statements about any issue, other than a short opening and closing statement. At the end of the session the candidate should be given the opportunity to clarify any answers that he or she has given in the course of the hearing, and ask any questions of the Panel, for example about the next steps or the decision-making process

6.0 **Panel Decision**

- 6.1 Immediately following the confirmation hearing, the Panel should go into closed session to decide on its recommendations. The Local Government Act 1972 Schedule 12A applies to the Panel's operation so, at this point, the Panel may exclude the press and public from the meeting. Given the Panel will be discussing the suitability of an individual for a post, the LGA recommends that the Panel takes this course of action.

7. **Agreeing the Appointment**

- 7.1 If the Panel agree to the PCC's first candidate, the Police Reform and Social Responsibility Act 2011 requires that the recommendation to appoint should be communicated to the PCC in writing. This should happen immediately following the making of the decision (ie the next working day).
- 7.2 The candidate should be copied into the communication. The LGA recommends that five working days elapse between the hearing and the release of information about agreeing the appointment.

8. **Vetoing the Appointment**

- 8.1 A veto should only be exercised rarely, where it is clear to the Panel that there has been a significant failure of 'due diligence' checks, to the extent that the candidate is not appointable. The veto should only be used where the Panel feels that the candidate fails to make the minimum standards for the post. It is also important to appreciate that any negative determination by the Panel could have an adverse effect on the candidate's career options.
- 8.2 Where the veto is exercised, the PCC must not appoint. The veto should be notified to the PCC on the next working day following the hearing. The PCC will be responsible for notifying the candidate.
- 8.3 The LGA recommends that a five working day period elapses between the hearing and the release of information about the decision to veto the appointment. This period, following the hearing, can be used by the relevant parties to consider their responses and allows the affected candidate to have at least a few days to consider their position and ask any further questions they may have about the process before information is released to the press and general public. If, however, the candidate's interests would be better served by a quicker release of information, this can be discussed and agreed with the PCC. Following this period the PCC can then, alongside this information regarding the decision, publish information setting out the steps that will be taken to make another appointment.
- 8.4 The PCC shall then propose another person for appointment as the Chief Constable - "a reserve candidate" - which triggers the same process and timeline as in paragraphs 2 - 6⁴.
- 8.5 Regulations state that the Panel is not able to veto the PCC's second choice of candidate if the Panel has already used its veto on the previous candidate.
- 8.6 Any exercise of the veto should act as the impetus to a discussion between the Panel and PCC about how HR processes within the PCC's office might be reviewed.

⁴ The eligible pool for Chief Constable appointments is very small as only Deputy and Assistant Chief Constables can apply – so there is only likely to be one 'reserve candidate'.

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Police and crime panels

Guidance on confirmation hearings



This guidance has been prepared by the Centre for Public Scrutiny and the Local Government Association. Every attempt has been made to provide a fair picture of the current state of the law, to present an accurate and comprehensive assessment of our recommended interpretation of the provisions of the Police Reform and Social Responsibility Act 2011 as it applies to police and crime panels, and to suggest ways of working to ensure that panels can be effective, and their work proportionate, relevant and timely. However:

- This guidance should not be relied upon as giving legal advice, and it will be for monitoring officers in individual authorities to come to their own decisions, working with councillors, to decide on the right approach.
- This guidance should not be interpreted as setting out the view of the Home Office, and the recommendations, suggestions and advice given should not be interpreted as being endorsed or approved by the Home Office. The views expressed in the guidance are those solely of the Centre for Public Scrutiny and the Local Government Association.

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Introduction

Background

From November 2012, structural reforms in policing in England and Wales will result in the abolition of police authorities and the creation of new arrangements for accountability. The Police Reform and Social Responsibility Act¹ creates the post of elected police and crime commissioner (PCC) for each force area, who will be responsible for holding the chief constable to account. The PCC themselves will be scrutinised by a police and crime panel (referred to in this guidance as the panel) made up of local councillors from the force area, and some co-optees. More details on the general role of the panel can be found in the companion guidance to this publication produced by LGA/CfPS in October 2011².

Under the Act³, a principal role for the new panels will be to conduct hearings for certain senior staff including the chief constable, before they are confirmed in their posts. There is little precedent for this activity in the context of local government, with the most prominent UK examples of such hearings being in the House of Commons, and the London Assembly. Even there, they are a relatively recent phenomenon.

Under the Act, a Part 2 panel operates as a local government joint committee, led by a host authority. Under Part 3, the Secretary of State reserves the right to run a panel directly where local agreement on its operation cannot be reached. All Welsh panels will be Part 3 panels. Support for the operation of Part 3 panels will be provided by the Home Office. However, it is not anticipated that there will be any material difference between Part 2 and Part 3 panels in their operation of confirmation hearings.

Key issues

Confirmation hearings will need to be handled in a different way to other evidence-gathering sessions. They will however need to operate within the requirement, in employment law, for a particular degree of fairness. They will be an important element of an appointment process that will need to focus closely on an individual's capabilities and expertise, but will need to be carried out so as to ensure that justified scrutiny of these attributes does not descend into unwarranted intrusion or lines of questioning that might be unfair or unreasonable.

¹ Referred to in this guidance as 'the Act'

² www.cfps.org.uk/publications?item=7002&offset=0%20

³ Schedules 1 and 8

Confirmation hearings will need to complement, rather than duplicate, the other internal systems for appointing staff. There is no point in a panel confirmation hearing being simply a restaging of a previous interview panel.

Lines of questioning will therefore need to be carefully designed, and used to get the maximum value out of the process – for the panel, candidate and for the local community.

This guidance will examine in detail the steps that local authorities, and the panels they support, should take in preparing for confirmation hearings and in carrying them out. There are clear pitfalls that careful planning can avoid, but inevitably there will be occasions where quick thinking, tact and diplomacy will be required from all involved in these hearings, to ensure that they are genuinely useful.

We suggest that PCCs and panels in individual force areas review this guidance and seek to incorporate it as part of any wider protocol that will govern their relationship. This would include, for example:

- timescales (supplementing and complementing existing provisions on timescales in Schedules 1 and 8)
- mutual expectations about the detail of information which will be provided on candidates and their background
- mutual expectations about the conduct of the hearings themselves.

Reaching agreement on these issues as soon as possible following the election of the PCC will minimise the risk of delay or misunderstandings when the first Schedule 1 or Schedule 8 appointment is scrutinised. The panel should have the systems in place ready to carry out its duties from November 2012.

Drawing comparisons

Experience of hearings elsewhere

UK examples of confirmation hearings can be drawn from the House of Commons, where they have operated since 2008, and from processes established in relation to the London Assembly, which has a role in confirming certain mayoral appointments.

In the USA, a number of local areas run confirmation hearings for police officials, especially where they are appointed by an elected commissioner or chief of police.

Research elsewhere has explored these confirmation hearings and a discussion of their strengths and weaknesses goes beyond the scope of this guidance; however, we have sought to recognise the experience in the US and other jurisdictions in this document.

In the UK, confirmation hearings (or 'pre-appointment hearings'⁴) were initially proposed by government as part of the 2007 Governance of Britain Green Paper.

A process of negotiation between the government and the Commons Liaison Committee⁵ led to the adoption of a process in 2008 that focused on the professional competence and personal independence of candidates, covering a range of public appointments. The Liaison Committee produced a process for hearings which has been adopted and followed by all select committees and, since 2008, significant numbers have been carried out.

In 2010, the Constitution Unit carried out a review of confirmation hearings that had been held to date⁶. It highlighted some concerns about the operation of such procedures but overall concluded that the aim of increasing transparency in appointments had been achieved.

On the point of the exercise of a veto (not an option open to Select Committees) it has been suggested that this might deter candidates from applying. This is a risk we will consider and suggest a way to mitigate, through panels carefully restricting their use of the veto, which we discuss in more detail below.

⁴ Schedules 1 and 8 of the Act make clear that the confirmation hearing process is a pre-appointment, rather than a post-appointment, process.

⁵ Maer L, 'Parliamentary involvement in public appointments' (House of Commons Library Paper SN/PC/4387), <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-04387.pdf>

⁶ Waller, P and Chalmers M, "An evaluation of pre-appointment scrutiny hearings" (UCL Constitution Unit, 2010), <http://www.ucl.ac.uk/constitution-unit/research/consultancy/consultancy-projects/PASreport>

Lessons learned

There are several lessons that can be learned from the experiences in the UK Parliament, in the USA and at the London Assembly:

- Confirmation hearings need to be rigorously and carefully planned by the panels carrying them out – but this does not mean hearings are a bureaucratic, ‘tick box’ exercise.
- Candidates need to know what to expect and panels should keep to a relatively narrow set of questions which relate directly to professional competence and personal independence – but this does not mean hearings are not challenging.
- Both the veto (where legal), and the recommendation not to appoint, should be used very rarely, based on the principle that candidates will have already been subject to an internal recruitment process – but this does not mean that hearings are simply a rubber stamp.
- Hearings should take place quickly, with minimal time taken between notification of the appointment, the hearing and reports and recommendations being made to the PCC – but this does not mean the process should be rushed.
- Candidates should be treated with courtesy and respect, not just at hearings themselves, but also in correspondence or public statements relating to recommendations made by the panel (this is particularly important if there is a decision taken to veto) – but this does not mean that panels should not be transparent about their findings.

The legislation – initial considerations

Scope

Scrutiny of senior appointments by the police and crime panel is determined in Schedules 1 and 8 of the Act. These Schedules provide information on what the panel must do, in holding a confirmation hearing.

The rest of this guidance provides details on how these obligations could be interpreted, and how confirmation hearings could be used to add value to local policing. Throughout the guidance we have used the word ‘should’ to put forward how we would suggest that panels should plan their work. There is however no legal obligation on any panel to follow our recommendations.

Schedule 1

Schedule 1 covers the appointment of the PCC’s chief executive, chief finance officer and any deputy police and crime commissioners⁷. It states that the PCC must notify the panel of such a ‘proposed senior appointment’⁸, providing the name of the candidate, the criteria used to assess his or her suitability, why the candidate satisfies those criteria, and the terms and conditions on which the candidate is to be appointed⁹.

Once this notification has occurred, the panel must review the senior appointment¹⁰, and make a report on it to the PCC¹¹, which must include a recommendation as to whether or not the candidate should be appointed¹².

This must all happen within a period of three weeks, beginning on the day that the panel receives the notification from the PCC¹³. Under Schedule 6 to the Act, confirmation hearings carried out under Schedule 1 are ‘special functions’ of the panel, and so may not be discharged by a sub-committee.

A confirmation hearing must be held before the report is submitted to the PCC. This 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’¹⁴.

In response to the panel’s report, the PCC must then notify the panel whether they will accept or reject the recommendation¹⁵. There is no duty for the PCC to give reasons for their decision.

⁷ Paragraph 9(1) of Schedule 1

⁸ Paragraph 9(2) of Schedule 1

⁹ This will include the candidate’s salary

¹⁰ Paragraph 10(2) of Schedule 1

¹¹ Paragraph 10(3) of Schedule 1

¹² Paragraph 10(4) of Schedule 1

¹³ Paragraph 10(5) of Schedule 1

¹⁴ Paragraph 11(2) of Schedule 1

¹⁵ Paragraph 12(1) and (2) of Schedule 1

Schedule 8

Schedule 8 covers the appointment of the chief constable. Most of the provisions are identical to those in Schedule 1. There are two crucial differences:

- The panel has a veto¹⁶ over the appointment of the chief constable. The panel may recommend that the PCC does not make the appointment¹⁷, but in the event of a veto then the candidate must not be appointed¹⁸. What happens once the veto has been exercised will be subject to regulations¹⁹, which are likely to go into this matter in more detail. The procedure suggested at the end of this document for the exercise of the veto has been designed so that it should fit with the regulations once they are published.
- Although the panel is obliged to conduct a confirmation hearing for the chief constable and then report its recommendations to the PCC, if a report is not made following a period of three weeks, then the PCC can go ahead and appoint²⁰.

It should also be noted that the panel cannot delegate its scrutiny of the appointment of the chief constable to a sub-committee, as it is a 'special function' of the panel under Paragraph 27 of Schedule 6.

In this guidance, we will refer to appointments of the chief constable as **Schedule 8 appointments**. All other appointments subject to a confirmation hearing under the Act will be referred to as **Schedule 1 appointments**.

¹⁶ Under the Act, the panel may veto such an appointment with a two-thirds majority

¹⁷ Regulation 4(4) of Schedule 8

¹⁸ Paragraph 8 of Schedule 8

¹⁹ Paragraph 9 and 10 of Schedule 8 (Regulations to be issued)

²⁰ Paragraphs 2(3) and 6(1) of Schedule 8

Existing staff

Some staff may be transferred, via TUPE, from police authorities to the PCC's secretariat. Even if under normal circumstances such transfers would be subject to a hearing, this would not be necessary during the November 2012 transition phase when the PCC's secretariat is first being established. However, the appointment by the PCC of a deputy will require a confirmation hearing to be held.

Professional competence and personal independence

We recommend that confirmation hearings focus on issues of **professional competence and personal independence**.

These are the standards that have been adopted in the House of Commons and have been identified by MPs as providing them with the focus necessary to carry out effective confirmation hearings.

Minimum standards should be seen as applying to particular attributes; ie there should be minimum standards below which it would not be appropriate to appoint under any circumstances. Above this bar, the panel might have concerns but the candidate will be 'appointable' subject to the discretion of the PCC. We comment on minimum standards in more detail in the section on the exercise of the veto.

Professional competence relates to a candidate's ability to carry out the role. This should be apparent from a comparison of the candidate's CV and the role profile, and from the answers to questions which relate to (for example) issues around professional judgment and insight which might be asked as part of the confirmation hearing process.

Personal independence relates to the need for a candidate to act in a manner that is operationally independent of the PCC (although see below on how this will apply to deputy commissioners).

This will be particularly important for Schedule 8 candidates, but for Schedule 1 candidates the panel will still need to assure themselves that the candidate will have the ability to advise the PCC effectively, and to understand the need to respond constructively in situations when they might be held to account by the panel.

Planning and preparation

Receiving notification from the PCC

When the PCC notifies the panel of a proposed senior appointment, the panel will need information relating to the candidate in order to carry out the hearing properly.

Notification from the PCC should therefore be accompanied by some form of background information (to minimise the risk that time will be wasted chasing this information up through other means). This should usually be the same information that the PCC has had access to during the rest of the appointment process. Under the Act the panel **must** be provided with the following information:

- the names of the person whom the PCC is proposing to appoint
- the criteria used to assess the suitability of the candidate for the appointment
- why the candidate satisfies those criteria
- the terms and conditions on which the candidate is to be appointed.

The PCC might provide other information about the candidate, for example background information (such as a CV) or a personal statement.

This information would be used to allow the panel to draw together questions around whether the candidate could evidence both **professional competence and personal**

independence. It is unlikely that the panel would be able to, or would wish to, carry out its own research on the candidate within the three week timescale because:

- resource constraints would make this level of research unfeasible
- this raises the prospect of questions being asked on issues which do not relate to professional competence and personal independence.

The issue of additional information is covered in the section on pre-meetings below.

Given that notification triggers a hearing within three weeks, the first task for the panel on receiving the notification will be to set a date for a meeting. This meeting should not be used for any other business (ie if there is already a panel business meeting scheduled for that period, the appointment meeting should be held separately).

Notifying the candidate

Following the PCC's notification to the panel, and the scheduling of the hearing, the chair of the panel should write to the candidate, advising them of the date of the meeting and notifying them of the principles of professional competence and personal independence on which they propose to evaluate the candidate.

This should refer to the relevant provisions in legislation.

This letter should advise that the information provided by the candidate (see above) would need to be put on public deposit in the same manner as a standard report going to the panel.

If it has been agreed that the candidate's references will be provided to the panel, the PCC will need to advise the relevant referees that the references they submit will be put on public deposit to assist the panel in the performance of its duties.

Briefing and pre-meeting

Steps should be taken to arrange a pre-meeting for the panel to go through some of the key issues and possible questions. The pre-meeting should not be held immediately before the confirmation hearing itself, to allow sufficient time for any unexpected issues, or gaps in information provided, to be addressed.

The information provided alongside the notification by the PCC should be used by the chair of the panel and the lead officer supporting the panel to draw together a list of potential issues for the panel to discuss at a pre-meeting. This could highlight possible question topics and themes, highlight background information on which members might wish to focus and remind members of the process taken at the meeting itself.

The pre-meeting is the most important element of the preparations for the confirmation process, because it is here that members of the panel will decide on the scope and thrust of their questioning.

This meeting should be held in private, and members of the panel should be assisted by the monitoring officer and a senior HR representative from the host authority to provide specialist and technical advice, along with whichever officer is responsible for providing support to the panel (ie a scrutiny officer).

People serving on panels may already have some experience of councillor-level appointment panels, for example to fill senior management posts. However, confirmation hearings are different in several crucial ways, which require them to be managed even more carefully. The panel will need to bear these factors in mind at the pre-meeting:

- confirmation hearings will be held in public, and Schedule 8 appointments (those of the chief constable) in particular are likely to be high profile
- the appointment is being made to an external body, not the councils represented on the panel
- hearings are an integral, but independent, part of the appointments process.

The focus of questioning will, therefore, need to rest on the professional competence of the candidate and their personal independence. Questioning will need to rely on the documents provided to support the panel's deliberations.

Where members of the panel propose to consider additional information relating to the candidate, not provided by the PCC but available elsewhere, this should be considered by the monitoring officer and the HR representative to ensure that the process will be fair, and that it will help the panel assess competence and independence.

This will be of particular importance for Schedule 8 appointments, where there may be a fair amount of information in the public domain relating to the candidate on which the panel might like to draw, but care will be needed in researching and analysing this information.

Within the two broad themes of competence and independence the panel might wish to focus on particular areas. These should be discerned with reference to the role profile, and the police and crime plan, which will allow the panel to understand the regular duties that the postholder will be expected to undertake, and the key policies that they will have to implement.

Broad questioning themes should be developed, such as evidence that the candidate has:

- an understanding of the various stakeholders that would need to be involved and engaged with (and in what way, with what outcome) in the development and delivery of a major strategy (professional competence)
- a pragmatic understanding of the separation of the PCC from operational responsibility (personal independence).

Personal independence is likely to be a nuanced issue in relation to the PCC's deputy. These are likely to be political appointments, and as such a lower standard of independence might be expected, reflecting the fact that these deputies have been appointed to provide political support, and to directly assist the PCC in driving his or her particular vision and priorities.

However, the panel in these cases, will still need to be assured that the deputy recognises the separation of political and operational responsibilities.

Members of the panel should consider, at the pre-meeting, the kind of evidence they would want to adduce to demonstrate under each theme that the minimum standards for the post had been met.

Under each of these themes individual questions should be drawn out, and assigned to relevant members of the panel. It may be necessary for the panel member asking questions at the meeting to ask supplementary questions, to 'tease out' the response to an answer. The chair of the panel will, under these circumstances, need to monitor closely such supplementary questions, and their responses, to be assured that they are relevant. The chair should receive senior officer support at the meeting.

Inappropriate questions are considered below.

The hearing itself

The hearing will be a relatively focused opportunity to explore key issues relating to professional competence and personal independence.

As we have made clear it should not be treated as a chance for the panel to explore the candidate's views on various areas of the PCC's policies, national policy issues, or their plans once they assume the post, except insofar as those questions might relate directly to professional competence and personal independence.

Confirmation hearings should therefore be relatively short and focused. Members will have agreed questions, and questioning themes, at the pre-meeting and these should be kept to (other than to ask necessary supplementary questions – see above).

In broad terms, the meeting should be framed so as to allow the panel to make an informed decision about the candidate. In the next section the decision-making process is looked at in more detail but, fundamentally, it comprises two linked steps:

- Does the person meet the criteria set out in the role profile for the post?
 - Do they have the professional competence to carry out the role?
 - Do they have the personal independence to carry out the role? (although see comments elsewhere in this guidance on political appointments)
- Should, consequently, the panel recommend that the candidate should not be appointed or use its power of veto?

The chair should open the meeting by welcoming the candidate, and others present, and outlining for the benefit of the candidate the key themes that the panel hopes to explore. The chair should explain the process for approval, refusal or veto of appointments and allow the candidate to ask any procedural questions that he or she might have before the questioning gets under way.

The chair should be aware – notwithstanding the pre-meeting – of the risk that inappropriate questions might be asked. An inappropriate question is one that does not relate to the professional competence or personal independence of the candidate. Some questions that may appear to the questioner to relate to one or both of these issues might still be inappropriate. Some examples might be questions:

- relating to the personal political (or other) views of the candidate – eg whether the candidate agrees or disagrees with the police and crime plan, and so on
- seeking to substantively hold to account the candidate for decisions made in a previous role, unless they are phrased in such a way that directly relates to (for example) learning lessons from past experience

- on what the candidate will do, substantively, once in the post (ie questions relating to operational strategy)
- which are hypothetical and designed to obtain the candidate's views on a position of local controversy.

This is not an exhaustive list. The panel's senior HR adviser will be able to further advise the panel and the chair as to appropriate, and inappropriate, questions in this context.

The panel should also be able to use its own considered judgment on this matter, and does not have to take the officer advice it is given.

At all times the candidate should be treated fairly and politely. The panel should avoid getting into debate and discussion with the candidate on any issue, remembering that it has a task to perform and a limited amount of time to do it.

Members of the panel should refrain from making general statements about any issue, other than the short opening and closing statements referred to above.

At the end of the session the candidate should be given the opportunity to clarify any answers that he or she has given in the course of the hearing, and ask any questions of the panel, for example about the next steps or the decision-making process.

The decision-making process

Immediately following the confirmation hearing, the panel should go into closed session to decide on its recommendations. Whilst the Local Government Act 1972 Schedule 12A would normally apply to the panel's operation at this point, the Home Office suggests that panels are joint committees under the Police Reform and Social Responsibility Act rather than the Local Government Act 1972. The Home Office will shortly issue Regulations to clarify how parts of the 1972 Act will apply to panels. The monitoring officer and a senior HR professional should be present to provide advice to the panel on its deliberations.

Meeting the role profile requirements

The following questions follow on from the issues mentioned in the section above. They are indicative only, suggesting the kind of issues that the panel would most need to be able to evaluate in order to come to a judgment on the suitability of the candidate.

Depending on the role, and the role profile, different questions could be asked specific to the candidate's forthcoming responsibilities, for example:

- Whether the panel feels that the candidate has the professional competence to exercise the role, as set out in the role profile
 - Do they have the ability and insight to work across multiple different agencies to achieve the PCC's priorities, and wider priorities for the area?
 - Do they have the ability to respond, credibly and proportionately, to pressures such as the need to make short-term responses to unexpected requirements?
 - Do they have the ability to translate strategic objectives into operational change on the ground?
- Whether the panel feels that the candidate has the personal independence to exercise the role, as set out in the role profile
 - Do they have the ability to advise the PCC, but to resist any attempt at improper influence?
 - Do they have the ability and confidence to take personal responsibility for relevant successes and failures?

Minimum standards

In an earlier section we made reference to 'minimum standards' of professional competence and personal independence. Members should be familiar with the required minimum standards in the role profile and should use these to make an assessment as to whether the candidate fulfils those standards.

Where a candidate does not meet these 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 (and only these circumstances) it may be appropriate to use the veto, if the candidate is a Schedule 8 appointment.

Where a candidate meets these standards, but there is still a cause for concern about his or her suitability, it may be appropriate to outline these concerns in the panel's response to the PCC.

Where a Schedule 1 candidate does not, in the panel's view, meet the minimum requirements for the post, providing advice to the PCC in the form of a letter is the only option open to the panel. For these situations for Schedule 8 candidates, making a recommendation provides an alternative to use of the veto.

Making recommendations on Schedule 1 and Schedule 8 appointments

Under the Act the panel may 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 the same as a veto, and the PCC can, if he or she chooses, ignore such a recommendation.

The only example of a pre-appointment hearing in the Commons leading to a recommendation not to appoint was that of the proposed children's commissioner. In this section, we will draw lessons from that experience and examine how a process for recommending approval, and rejection, might work in practice.

It is important to appreciate that any negative determination by the panel could have an undesirable effect on the candidate's career options. It is suggested therefore that the affected candidate should ideally have at least a few days to consider their position and ask any further questions they may have about the process before information is released to the press and general public.

To achieve this, it is suggested that a five working day period should elapse between the hearing and the release of information about ANY recommendation from the panel whether positive or otherwise.

An understanding about this arrangement would need to be discussed and agreed with the PCC and their staff who might otherwise release information about appointments separately from the panel.

Delaying any announcement about favourable panel recommendations and associated appointment announcements would be necessary to avoid unfavourable recommendations becoming automatically associated with a delay. This would in effect create the same outcome for unfavourable recommendations as if the information had been released straight away.

Although the five day period is suggested in order to ensure fairness to the candidate, it is recognised that there may be some circumstances where their best interest would be served by a quicker release of information. In all cases, a consistent approach to the release of information would need to be discussed and agreed with the PCC and their staff.

Recommending approval

This will be straightforward. The Act requires that recommendations to appoint should be communicated to the PCC in writing. This should happen immediately following the making of the decision (ie the next working day).

The candidate should be copied into the communication. It is suggested however that the PCC should be asked not to make the result of the appointment public until five days has elapsed following the date of the hearing for the reasons explained above.

Similarly the panel should wait five working days before it releases any information about its recommendations. In any event the panel should also ensure that the PCC has received and acknowledged the panel's recommendations before making its recommendations public.

Recommending refusal

This will involve more work. Refusal should only be recommended rarely, under the circumstances identified in the section on the decision-making process.

Where refusal is recommended, on the next working day the PCC should be notified of the refusal in writing. Appended to the refusal should be a summary of the principal reasons for that refusal.

Both should be treated as separate documents so that the letter recommending refusal can later be formally published without risking a breach of the Data Protection Act.

The next four working days will be available to all parties – including the candidate – to consider their next moves before the recommendation is made public. The reason why we suggest that no information be disseminated publicly until after this time is to ensure that the process is fair to the candidate as explained above.

There are three likely scenarios that might follow a refusal recommendation by the panel:

- The PCC continues with the appointment. If this happens the recommendation to refuse would be published after five working days, along with a summary as to why the recommendation was made. The PCC should make a response at the same time as the publication of the recommendation, focusing on why he/she felt that the candidate did in fact meet the minimum standards for the post.
- The candidate decides to withdraw. If this happens the recommendation to refuse would be published after five working days along with the relevant summary, but no further information would be published from either side.
- The PCC decides not to appoint. If this happens, the recommendation to refuse, and the summary, would be published alongside a statement by the PCC setting out a timetable and process to make a new appointment.

At each point the candidate will need to liaise with the PCC. The panel should not attempt to liaise with the candidate either directly, or through the host authority's monitoring officer or leading HR officer.

The panel may wish to recommend refusal, rather than exercising the veto, in the case of a Schedule 8 appointment.

This might be considered when the panel feels that the candidate essentially meets the minimum standards, but has shortcomings that mean it would be inappropriate to appoint. It is envisaged that the veto would only be used in exceptional situations.

The veto (for Schedule 8 appointments only)

Use of the power of veto

In an earlier section we considered the effect that the veto might have on potential candidates for the role of chief constable. Research carried out by the Constitution Unit in 2010 concluded that the introduction of a veto into the existing system of select committee pre-appointment hearings might well act to dissuade candidates from coming forward.

It should be recognised that the PCC's power to appoint – subject to the confirmation hearings process – has been provided by the Government to allow the PCC to appoint the person thought most appropriate. This will be a corporate decision, led by the PCC as an individual, but backed up through their secretariat, whose HR functions and internal appointment procedures will provide a 'due diligence' check on the candidate's suitability. The veto should only be exercised where it is clear to the panel that there has been a significant failure of those 'due diligence' checks, to the extent that the candidate is not appointable. This is, rightly, a very high bar.

Systems and processes will therefore need to be designed to ensure that the veto is used extremely rarely. It should be used only where the panel feels that the candidate fails to make the minimum standards for the post.

Process for the veto

A possible process for the veto is set out below. In designing arrangements for the use of the veto, the content of any relevant Home Office Regulations should also be considered carefully²¹.

Where the veto is exercised on a Schedule 8 appointment, the PCC must not appoint. The veto should be notified to the PCC on the next working day following the hearing. The PCC will be responsible for notifying the candidate.

It is suggested that after five working days the panel will publish its veto and the PCC, alongside this information, will publish information setting out the steps that will be taken to make another appointment. As we have suggested for recommendations of refusal of appointments, the five day period following the hearing can be used by the relevant parties to consider their responses. If however the candidate's interests would be better served by a quicker release of information, this can be discussed and agreed with the PCC.

²¹ At the time of writing this guidance, the content of pending Home Office Regulations covering the use of the veto has not been finally determined. Early drafts of the Regulations indicate that the panel will not be able to veto the PCC's second choice of candidate if the panel has already used its veto on the previous candidate.

The exercise of the veto (or a recommendation for refusal) should act as the impetus to a discussion between the panel and PCC about how HR processes within the PCC's secretariat might be reviewed.



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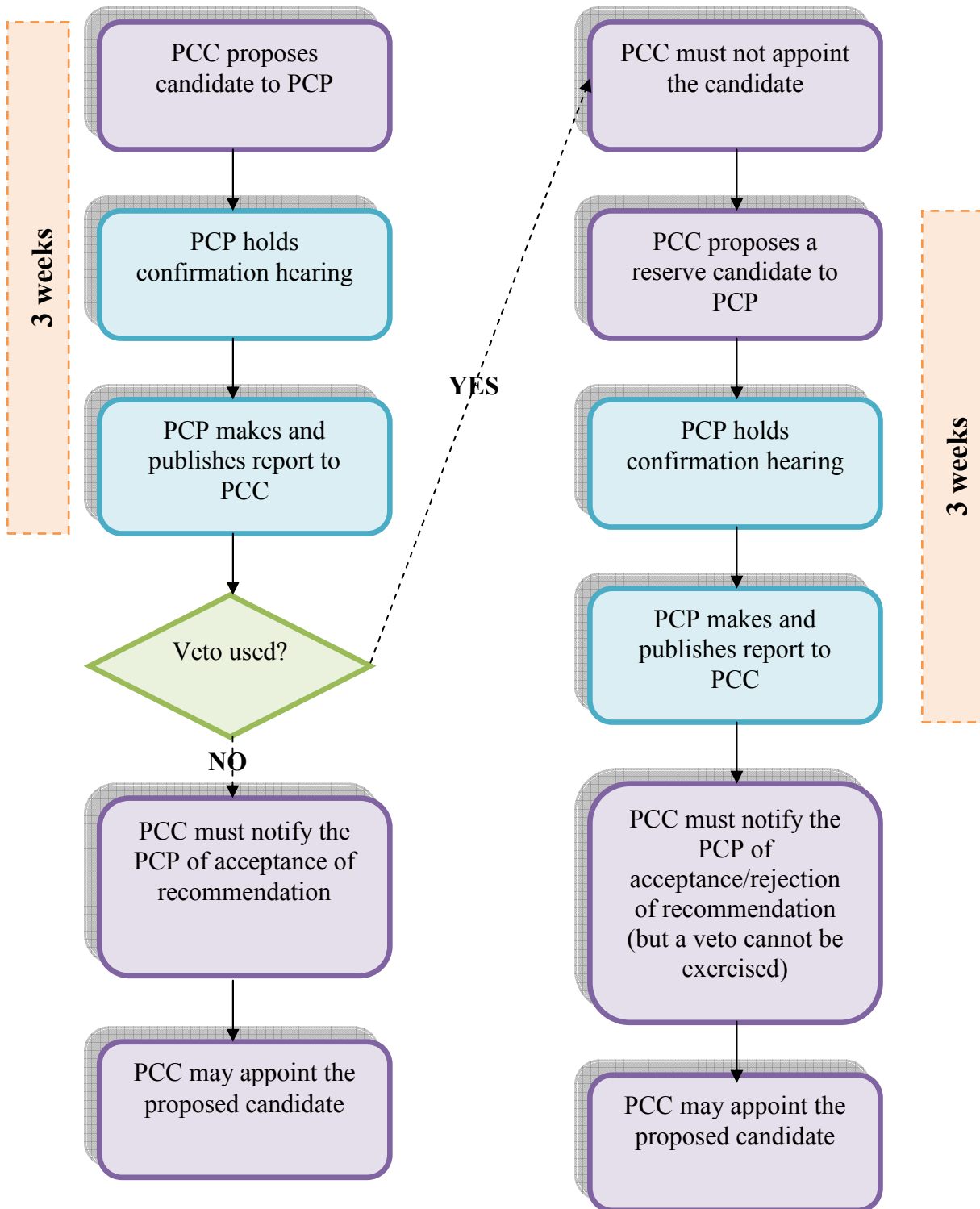
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Process for PCP scrutiny of chief constable appointments



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Office of the Police and Crime Commissioner

Chief Constable

Devon and Cornwall Police

Fixed term for five years | **£151,215** plus car and health cover

The Police and Crime Commissioner for Devon, Cornwall and the Isles of Scilly is seeking to appoint a new Chief Constable.

The Office of the Police and Crime Commissioner covers the largest geographical police area in England, extending 180 miles from the Dorset and Somerset borders in the east to the Isles of Scilly in the west. Our policing area presents very different challenges – large cities of Exeter and Plymouth, the longest coastline in England, a vast rural population and a significant number of summer visitors due to a buoyant tourism industry. Effective policing needs to be delivered against a backdrop of reducing budgets, an increase in the volume and complexity of demands and a changing police landscape.

As the first Police and Crime Commissioner for Devon and Cornwall I am seeking to appoint an individual who has excellent professional policing skills and experience who will offer high profile leadership and support to our many police officers, staff, and volunteers, who has strategic vision matched with the ability and determination to turn aspirations into practical delivery and who can work effectively with partners to bring together new and innovative approaches to reducing crime and improving safety and security for everyone

I am determined to make a success of the PCC role and support our police forces. If you feel you would like to join me on this journey, please see the details below.

Tony Hogg, Police and Crime Commissioner for Devon and Cornwall

The Police and Crime Commissioner for Devon and Cornwall is proud to be committed to equal opportunities and welcomes applications for this post from all sections of the community.

Closing date for applications **Monday 31 December 2012**

Shortlisted candidates notified **By Wednesday 9 January 2013**

Date for final interviews **Tuesday 15 and Wednesday 16 January 2013**

The Police and Crime Commissioner has discretion to offer the Chief Constable a salary 10% above or below the spot rate in determinations for the force area. The preferred candidate will negotiate a salary with the Commissioner within this range before a formal offer is made, subject to a Confirmation Hearing by the Police and Crime Panel. To apply please contact Sue Howl, OPCC CEO chiefexecutivesupport@devonandcornwall.pnn.police.uk for information on how to apply.



Office of the Police and Crime Commissioner

Devon, Cornwall and the Isles of Scilly

Appointment of Chief Constable Key Dates and Selection Process

- 1.1 The process will be handled by a panel convened by the Police and Crime Commissioner. The panel will be mixed in composition, including the PCC and an appointed independent member. The panel will be advised by appropriate professional advisors.
- 1.2 Key dates for the process:

Closing date for applications	-	31 December 2012
Notification of shortlisted candidates	-	9 January 2013
Presentations and interviews	-	15 and 16 January 2013
Police and Crime Panel confirmation hearing	-	8 February 2013 (tbc)
- 1.3 Applicants will be provided with the opportunity to find out more about the post and the context of policing in Devon, Cornwall and the Isles of Scilly. Please contact ???
- 1.4 Shortlisted candidates will be given details of the interview process and names of panel members.
- 1.5 All reasonable expenses to attend interview will be paid for the OPCC. The OPCC will arrange any overnight accommodation if requested.
- 1.6 Feedback on the outcome of the process will be given to shortlisted candidates by the Chief Executive on request.



Office of the Police and Crime Commissioner

CHIEF CONSTABLE FOR DEVON, CORNWALL AND THE ISLES OF SCILLY

ROLE AND JOB DESCRIPTION

POST TITLE

Chief Constable

ACCOUNTABLE TO

Police and Crime Commissioner

LOCATION

Police HQ, Exeter

SPECIAL CONDITIONS

The nature of the post will require the post holder to work outside normal office hours and at weekends on a regular basis

RESPONSIBLE FOR

- a) Supporting the PCC in the delivery of the strategy and objectives set out in the Police and Crime Plan.
- b) Delivering efficient and effective policing in Devon, Cornwall and the Isles of Scilly.
- c) Fulfilling all professional and legal obligations of the office of Chief Constable.
- d) Working with the PCC and other public, voluntary and private sector agencies to deliver, sustain and promote trust and confidence in policing in Devon, Cornwall and the Isles of Scilly.

CORE RESPONSIBILITIES

(As described in the National Competency Framework – Competency Requirements of Chief Officer Ranks)

Core Responsibility Area			Activity
1	Managing the Organisation	1.1	Create a shared vision, mission and set of values to give purpose to the Force
		1.2	Provide strong leadership for the Force
		1.3	Create and maintain productive working relations with the Police and Crime Commissioner
		1.4	Lead organisational change
		1.5	Promote and develop quality standards within the Force
		1.6	Monitor and review organisational performance
		1.7	Formulate organisational objectives and standards of performance
		1.8	Ensure provision of capacity and capability to deliver the Strategic Policy Requirements
		1.9	Promote equality, diversity and human rights in working practices and service delivery
2	Partnership Working	2.1	Develop, implement and review community safety strategies in support of the PCC commissioning strategy
		2.2	Promote and manage partnership policing
		2.3	Improve services through collaboration
3	Managing and Developing People	3.1	Develop individuals' and teams' to enhance performance
		3.2	Coach and mentor senior staff
		3.3	Set, monitor and maintain standards of professional conduct and integrity
		3.4	Promote standards of professional conduct across the Force
		3.5	Carry out performance reviews and monitor outcomes
4	Police Operations	4.1	Ensure the effective handling of major and critical incidents
		4.2	Set strategy for policing operations
		4.3	Develop Force operational strategies and contingency plans for major incidents and disorder
5	Investigation	5.1	Determine and review authorisations
		5.2	Develop, implement and review volume crime related strategies
		5.3	Promote and develop the quality of major crime investigation
6	Marketing and Communication	6.1	Promote and manage Force relations with the media
		6.2	Manage the media during major enquiries and incidents
7	Custody and Prosecution	7.1	Develop, implement and review criminal justice strategies and practices
		7.2	Lead the development of criminal justice strategies
8	Finance and Resources	8.1	Ensure the effective management of finance and resources
		8.2	Secure finance and resources to meet organisational plans

KNOWLEDGE, SKILLS AND EXPERIENCE

- a) Experience of operating at a strategic level to manage and develop the organisation.
- b) Experience of leadership across a range of operational and organisational policy functions.
- c) Relevant operational experience with evidence of the effective management of critical and major incidents.
- d) Evidence of drive and the ability to deliver high levels of performance.
- e) Evidence of a commitment to community and customer focus at a senior leadership level.
- f) Effective change management experience.
- g) Evidence of continuing professional and personal development.

PERSON SPECIFICATION

The Police and Crime Commissioner requires the postholder to be able to display the skills expected of a Chief Constable in accordance with the Policing Professional Framework – Personal Behavioural Qualities.

Policing Professional Framework (PPF)

Chief Constable

Personal Qualities

Decision making

Assimilates complex information quickly, weighing up alternatives and making sound, timely decisions. Gathers and considers all relevant and available information, seeking out and listening to advice from specialists. Asks incisive questions to test facts and assumptions, and gain a full understanding of the situation. Identifies the key issues clearly and the inter-relationship between different options at a local and national level, assessing the costs, risks and benefits of each. Prepared to make the ultimate decision, even in conditions of ambiguity and uncertainty. Makes clear, proportionate and justifiable decisions, reviewing these as necessary.

Leadership

Leading strategic change

Thinks in the long term, establishing a compelling vision based on the values of the Police Service, and a clear direction for the Force. Instigates and delivers structural and cultural change, thinking beyond the constraints of current ways of working, and is prepared to make radical change when required. Identifies better ways to deliver value for money services that meet both local and national needs, encouraging creativity and innovation within the force and partner organisations.

Leading the work force

Inspires people to meet challenging organisational goals, creating and maintaining the momentum for change. Gives direction and states expectations clearly. Talks positively about policing and what it can achieve, building pride and self-esteem. Creates enthusiasm and commitment throughout the Force by rewarding good performance, and giving genuine

recognition and praise. Promotes learning and development within the Force, giving honest and constructive feedback to colleagues and investing time in coaching and mentoring staff.

Managing performance

Translates the vision into action by establishing a clear strategy and ensuring appropriate structures are in place to deliver it. Sets ambitious but achievable timescales and deliverables, and monitors progress to ensure strategic objectives are met. Identifies and removes blockages to performance, managing the work force and resources to deliver maximum value for money. Defines what good practice looks like, highlighting good practice. Confronts underperformance and ensures it is addressed. Delegates responsibilities appropriately and empowers people to make decisions, holding them to account for delivery.

Professionalism

Acts with integrity, in line with the values and ethical standards of the Police Service. Delivers on promises, demonstrating personal commitment, energy and drive to get things done. Defines and reinforces standards, demonstrating these personally and fostering a culture of personal responsibility throughout the Force. Asks for and acts on feedback on own approach, continuing to learn and adapt to new circumstances. Takes responsibility for making tough or unpopular decisions, demonstrating courage and resilience in difficult situations. Remains calm and professional under pressure and in conditions of uncertainty. Openly acknowledges shortcomings in service and commits to putting them right.

Public service

Promotes a real belief in public service, focusing on what matters to the public and will best serve their interests. Ensures that all staff understand the expectations, changing needs and concerns of different communities and strive to address them. Builds public confidence by actively engaging with different communities, agencies and strategic stakeholders, developing effective partnerships at a local and national level. Understands partners' perspectives and priorities, working cooperatively with them to develop future public services within budget constraints, and deliver the best possible overall service to the public.

Working with others

Builds effective working relationships through clear communication and a collaborative approach. Maintains visibility and ensures communication processes work effectively throughout the Force and with external bodies. Consults widely and involves people in decision-making, speaking in a way they understand and can engage with. Treats people with respect and dignity regardless of their background or circumstances, promoting equality and the elimination of discrimination. Treats people as individuals, showing tact, empathy and compassion. Negotiates effectively with local and national bodies, representing the interests of the Police Service. Sells ideas convincingly, setting out benefits of a particular approach, and striving to reach mutually beneficial solutions. Expresses own views positively and constructively. Fully commits to team decisions.

PRINCIPLES OF PROFESSIONAL COMPETENCE AND PERSONAL INDEPENDENCE

Professional Competence:

The following are some examples of general principles of professional competence that the Panel could adopt for the purposes of assessing, at Confirmatory Hearing, the professional competence and personal independence of the candidate for Chief Constable for Devon and Cornwall.

Skills for Justice (in partnership with ACPO and NPJA) have developed The **Policing Professional Framework**¹, an online competency management system, designed to help Police Officers and Staff to measure and record competence. The table below shows the required professional skills set for Chief Constable:

<p>Serving the public</p> <p>Promotes a real belief in public service, focusing on what matters to the public and will best serve their interests. Ensures that all staff understand the expectations, changing needs and concerns of different communities, and strive to address them. Builds public confidence by actively engaging with different communities, agencies and strategic stakeholders, developing effective partnerships at a local and national level. Understands partners' perspectives and priorities, working co-operatively with them to develop future public services within budget constraints, and deliver the best possible overall service to the public.</p>
<p>Leading strategic change</p> <p>Thinks in the long term, establishing a compelling vision based on the values of the Police Service, and a clear direction for the force. Instigates and delivers structural and cultural change, thinking beyond the constraints of current ways of working, and is prepared to make radical change when required. Identifies better ways to deliver value for money services that meet both local and national needs, encouraging creativity and innovation within the force and partner organisations.</p>
<p>Leading the workforce</p> <p>Inspires people to meet challenging organisational goals, creating and maintaining the momentum for change. Gives direction and states expectations clearly. Talks positively about policing and what it can achieve, building pride and self-esteem. Creates enthusiasm and commitment throughout the force by rewarding good performance, and giving genuine recognition and praise. Promotes learning and development within the force, giving honest and constructive feedback to colleagues and investing time in coaching and mentoring staff.</p>
<p>Managing Performance</p> <p>Translates the vision into action by establishing a clear strategy and ensuring appropriate structures are in place to deliver it. Sets ambitious but achievable timescales and deliverables, and monitors progress to ensure strategic objectives are met. Identifies and removes blockages to performance, managing the workforce and resources to deliver maximum value for money. Defines what good performance looks like, highlighting good practice. Confronts underperformance and ensures it is addressed. Delegates responsibilities appropriately and empowers people to make decisions, holding them to account for delivery.</p>
<p>Professionalism</p>

¹ <https://www.skillsforjustice-ppf.com/>

Acts with integrity, in line with the values and ethical standards of the Police Service. Delivers on promises, demonstrating personal commitment, energy and drive to get things done. Defines and reinforces standards, demonstrating these personally and fostering a culture of personal responsibility throughout the force. Asks for and acts on feedback on own approach, continuing to learn and adapt to new circumstances. Takes responsibility for making tough or unpopular decisions, demonstrating courage and resilience in difficult situations. Remains calm and professional under pressure and in conditions of uncertainty. Openly acknowledges shortcomings in service and commits to putting them right.

Decision making

Assimilates complex information quickly, weighing up alternatives and making sound, timely decisions. Gathers and considers all relevant and available information, seeking out and listening to advice from specialists. Asks incisive questions to test facts and assumptions, and gain a full understanding of the situation. Identifies the key issues clearly, and the inter-relationship between different factors. Considers the wider impact and implications of different options at a local and national level, assessing the costs, risks and benefits of each. Prepared to make the ultimate decision, even in conditions of ambiguity and uncertainty. Makes clear, proportionate and justifiable decisions, reviewing these as necessary.

Working with others

Builds effective working relationships through clear communication and a collaborative approach. Maintains visibility and ensures communication processes work effectively throughout the force and with external bodies. Consults widely and involves people in decision-making, speaking in a way they understand and can engage with. Treats people with respect and dignity regardless of their background or circumstances, promoting equality and the elimination of discrimination. Treats people as individuals, showing tact, empathy and compassion. Negotiates effectively with local and national bodies, representing the interests of the Police Service. Sells ideas convincingly, setting out the benefits of a particular approach, and striving to reach mutually beneficial solutions. Expresses own views positively and constructively. Fully commits to team decisions.

The Government and the Liaison Committee agreed that the post of Her Majesty's Chief Inspector of Constabulary should be subject to pre-appointment hearing by this Committee². They used the following criteria when assessing candidates:

- **Resilient and inspiring leader** who has strong experience of leading organisations through major transformational change.
- **Strong understanding of policing** and the broad reforms to the policing landscape and accountability framework, including relationships between forces, police and crime commissioners, police and crime panels, and the public, as well as how they might be applied to a broad strategic vision for the Inspectorate that is both forward thinking and outward facing.
- **Excellent customer engagement**, demonstrating evidence of building and maintaining successful relationships and partnerships with policing and the wider public, private and third sector communities.
- **Positive evidence of challenging service delivery** to drive continuous improvement.

² House of Commons Home Affairs Committee Appointment of Her Majesty's Chief Inspector of Constabulary Third Report of Session 2012–13. <http://www.parliament.uk/documents/commons-committees/home-affairs/HC183FINALversion-PRINTSERVICES-USEME.pdf>

- **First class communicator**, capable and confident in influencing a wide variety of audiences on different and complex issues. Decisive but also open and collaborative in considering different views and opinions.
- **Strong planning and organisational skills** to ensure that competing priorities are balanced and key commitments are met.

Personal Independence:

Police and crime commissioners (PCCs) are responsible for the full range of policing work, not simply local priorities, and they will not undermine the operational independence of policing professionals. The legislation continues to protect the operational independence of the police by making it clear that the Chief Constable retains direction and control of the force's officers and staff. The operations of the police will not be politicised; who is arrested and how investigations work will not become political decisions.

The Home Office's draft [Policing protocol](#)³ sets out how the new policing governance arrangements will work. It clarifies the role and responsibilities of PCCs, Chief Constables, and Police and Crime Panels. It outlines what these bodies are expected to do and how they are expected to work together to fight crime and improve policing. The protocol will therefore fundamentally underpin the key working relationships within the new policing landscape. The protocol builds on the government's commitment that local Chief Constables will retain the direction and control of their forces' officers and staff, making clear that the operational independence of the police will be safeguarded.

It also sets out that a PCC must set the strategic direction and objectives of the force and decide the budget of the force while the chief constable will remain operationally independent.

The protocol states that the Chief Constable is responsible for maintaining the Queen's Peace, and has direction and control over the force's officers and staff. The Chief Constable holds office under the Crown, but is appointed by the PCC. The Chief Constable is accountable to the law and the PCC for the delivery of policing in the police area but remains free to exercise the powers and duties of a constable without fear or favour.

The Chief Constable is responsible to the public and accountable to the PCC for:

- leading the force in a way that is consistent with the attestation made by all constables on appointment and ensuring that it acts with impartiality;
- appointing the force's Senior Officers and Staff after consultation with the PCC;
- supporting the PCC in the delivery of the strategy and objectives set out in the Plan;
- assisting the PCC in planning the force's budget

³ <http://www.homeoffice.gov.uk/publications/police/pcc/policing-protocol/draft-police-protocol?view=Binary>

- having regard to the Strategic Policing Requirement when exercising their policing activity in respect of their force's national and international policing responsibilities;
- notifying and briefing the PCC of any matter or investigation which the PCC may need to provide public assurance in company with the Chief Constable (PCCs will be designated as Crown Servants under the Official Secrets Act, making them subject to the same duties in relation to sensitive material as Government Ministers);
- being the operational voice of policing in the force area and regularly explaining to the public the operational actions of officers and staff under their command;
- entering into collaboration agreements between other Chief Constables and forces that benefit their force area and deliver better value for money and enhanced policing capabilities with the consent of their PCC;
- remaining politically independent of the Office of Police and Crime Commissioner;
- managing all complaints against the force, its officers and staff, including those of ACPO rank, and ensuring that the PCC is kept abreast of developments of those complaints in a regular and timely fashion;
- exercising the power of direction and control in such a way as is reasonable to enable their PCC to have access to all necessary information and staff within the force;
- having day to day responsibility for financial management of the force within the framework of the agreed budget allocation and levels of authorisation issued by the PCC.

The Devon and Cornwall Police and Crime Panel are recommended to:

- Adopt the above as general principles of professional competence from which to formulate questions and assess the Chief Constable candidate at their Confirmatory Hearing.
- Adopt the above as general principles of personal independence from which to formulate questions and assess the Chief Constable candidate at their Confirmatory Hearing

DEVON AND CORNWALL POLICE AND CRIME PANEL

Subject: Handling Non-Criminal Complaints

Date: 17 January 2013

Author: Sarah Hopkins, Community Safety Partnership Manager

Organisation: Plymouth City Council

Contact: Tel (01752) 305542 e-mail sarah.hopkins@plymouth.gov.uk

Executive summary

The Police Reform and Social Responsibility Act 2011¹ requires that Police and Crime Panels handle non-criminal complaints about the Police and Crime Commissioner. The role of Panels in this regard is set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012².

This report is to update the Devon and Cornwall Police and Crime Panel on progress towards determining a process and options for handling such complaints.

Discussions have recently taken place between the Chair of the Panel and the Chief Executive for the Office of the Police and Crime Commissioner (OPCC) where it was proposed that, whilst options are being considered, in the interim, the Panel delegates the handling of non-criminal complaints to the OPCC.

This report notes that officers of the Host Authority will work in liaison with the relevant officers from the OPCC to draft proposals for the OPCC handling complaints and make subsequent recommendations to the Panel, as soon as practical, for consideration at a future scheduled meeting of the Panel.

Determining a process for this has been complex, as whilst there is a considerable amount of guidance and advice on this³, this also raises further issues and points requiring further clarification. Colleagues from the OPCC have started drafting some proposals, but the Host Authority is of the view that further work is required to refine these proposals before presenting them to the Panel and is, therefore, offering to support the OPCC with this work.

Implications: Police and Crime Plan, Annual Report, Peninsula Partnership Strategic Assessment, Panel Functions, Panel Arrangements and Rules of Procedure

It is not clear at this stage as to the number of non-criminal complaints likely to be received about the Police and Crime Commissioner, but whatever the proposals are for handling this, there will be staffing implications for either the Host Authority or OPCC for administering a robust and

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

² <http://www.legislation.gov.uk/uksi/2012/62/introduction/made>

³ <http://www.homeoffice.gov.uk/publications/police/pcc/pcp-complaints-handling-process?view=Binary>

transparent process and informing the Panel. Panel Arrangements and Rules of Procedure will need to be amended to reflect the proposals, when agreed.

Implications: resources including finance, human and IT

The proposals being explored, and the process when agreed, will require staff, on behalf of the Panel, to manage and administer a robust and transparent process for handling non-criminal complaints about the Police and Crime Commissioner.

Recommendations & Reasons for recommended action:

It is recommended that the Devon and Cornwall Police and Crime Panel:

- Agrees to delegate, in the interim, the handling of non-criminal complaints to the OPCC, until proposals for formalising this have been presented to a future meeting of the Panel.
- Notes that officers of the Host Authority will continue to work with the OPCC to draft a process for presentation to a Panel meeting in the near future.

Agreeing these recommendations will ensure the Panel meets fully the requirements of the Police Reform and Social Responsibility Act 2011 and the Regulations whilst considering practical implications.

Alternative options considered, and reasons for recommended action

Failure to agree to the recommendations would mean that the Devon and Cornwall Police and Crime Panel is not meeting the requirements of the Police Reform and Social Responsibility Act 2011 and the Regulations, in relation to the handling of non-criminal complaints about the Police and Crime Commissioner.

Background Papers

None.

Subject: Precept Regulation and Timeline
Date: 17 January 2013
Author: Sarah Hopkins, Community Safety Partnership Manager
Organisation: Plymouth City Council
Contact: Tel (01752) 305542 e-mail sarah.hopkins@plymouth.gov.uk

Executive summary

The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012¹ come into force on 22 November 2012 and make provision for the scrutiny, by the Police and Crime Panel, of a proposal from the Police and Crime Commissioner (PCC) as to the issuing of a precept and the appointment of a Chief Constable.

Members will recall that a decision was made at the Police and Crime Panel Meeting held on 22 October 2012 to write to the Home Office expressing the Panel's concern about the timeline and copying all Police and Crime Panels nationally for their support.

This report summarises the feedback from those Panels that replied.

Attached at 'Appendix 1' is the letter the Cllr Roger Croad, Chair of Devon and Cornwall Police and Crime Panel wrote to the Home Office, dated 25 October 2012, and copied to all Police and Crime Panels nationally. Attached at 'Appendix 2' is the response from Rt Hon Damian Green MP, Minister of State for Policing and Criminal Justice at the Home Office.

Implications: Police and Crime Plan, Annual Report, Peninsula Partnership Strategic Assessment, Panel Functions, Panel Arrangements and Rules of Procedure

The precept-setting timetable has implications with specific regards to the timescale for issuing reports (see para 18.1 in Panel Arrangements and Rules of Procedure) and the process for scrutinising the Police and Crime Commissioner's proposed precept.

Implications: resources including finance, human and IT

The PCC is required to notify the Panel of his/her proposed level of Precept by 1 February 2013 and the Panel needs to review/respond by 8 February 2013. This has implications for the Host Authority which (unless the proposal is received early) will have less than five working days to prepare a report about the Police and Crime Commissioner's proposed level of Precept and submit this to the Panel. The Panel Arrangements and Rules of Procedure state that agendas must be published and distributed at least five clear working days in advance of the meeting.

If the Panel does not veto the Precept, the timetable following this decision is unlikely to be problematic. However, if the Panel decides to exercise its power of veto, and the PCC takes the maximum time to respond to the Panel's view, the PCC's revised Precept will not be known until

¹ <http://www.legislation.gov.uk/uksi/2012/2271/contents/made>

1 March 2013. This is likely to have implications for most, if not all councils' budget setting timelines.

Recommendations & Reasons for recommended action:

It is recommended that the Devon and Cornwall Police and Crime Panel:

- Notes the letter that the Chair of the Devon and Cornwall Police and Crime Panel wrote to the Home Office copying in all other Police and Crime Panels.
- Notes the Home Office reply and feedback from other Panels.

Agreeing these recommendations would ensure the Panel meets fully the requirements of the Regulation whilst considering practical implications.

Alternative options considered, and reasons for recommended action

Doing nothing was not an option – the Panel has to be sure that it complies with the various relevant pieces of legislation.

Background Papers

None

1. Background

- 1.1 The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012 come into force on 22 November 2012 and make provision for the scrutiny, by the Police and Crime Panel, of a proposal from the Police and Crime Commissioner (PCC) as to the issuing of a precept and the appointment of a Chief Constable.
- 1.2 Members will recall that a decision was made at the Police and Crime Panel Meeting held on 22 October 2012 to write to the Home Office expressing the Panel's concern about the timeline and copying all Police and Crime Panels nationally for their support.
- 1.3 Attached at 'Appendix 1' is the letter the Cllr Roger Croad, Chair of Devon and Cornwall Police and Crime Panel wrote to the Home Office, dated 25 October 2012, and copied to all Police and Crime Panels nationally. Attached at 'Appendix 2' is the response from Rt Hon Damian Green MP, Minister of State for Policing and Criminal Justice.
- 1.4 Staffordshire's Police and Crime Panel Chair, Cllr Frank Chapman, passed on his full support for the contents of the letter.
- 1.5 Surrey Police and Crime Panel, following receipt of a copy of this Panel's letter, also wrote to the Home Office in support stating that Members had discussed the precept-setting timetable and were equally concerned that the timetable had the potential to jeopardise the ability of Police & Crime Panels to properly scrutinise proposals and took no account of local authority budget-setting processes and made it impossible to ensure that important information was available for the public in accordance with the Local Government (Access to Information) Act 1985. They agreed to 'echo the Devon & Cornwall Police & Crime Panel's request that, for future years, precept-setting Regulations be reconsidered.
- 1.6 West Midlands Police and Crime Panel met and considered our letter. They supported our concerns and any dialogue which could occur with the Home Office. They were not hopeful that this would lead to change, but agreed the timescale was too short for a proper response and too late for precept setting process and bill preparation.
- 1.7 Greater Manchester Police and Crime Panel indicated they had already sent a similar letter. They advised that the Home Office's response to them was simply "...we're confident arrangements will work effectively..." Their decision locally was that they make this work through informal scrutiny locally and hold a very early informal meeting with their Police and Crime Commissioner when elected.
- 1.8 Cleveland Police and Crime Panel wrote to the Home Secretary on 7 January 2013 in support of our concerns and urging her to reconsider the timetable for future years.

APPENDIX 1



Rt Hon Theresa May MP
Home Secretary
Home Office
2 Marsham Street
London
SW1P 4DF

Councillor Roger Croad
Portfolio Holder for Environment
& Communities
Room G60
County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Your ref:
My ref: NC/RC

Date: 25 October 2012
Please ask for: Sarah Hopkins

Phone: 01752 305542

e-mail: Sarah.hopkins@plymouth.gov.uk

Dear Ms May

Precept-setting Regulations

The meeting of Devon & Cornwall Police & Crime Panel held on 22 October discussed the timetable contained in the new Regulations for precept-setting and I was asked to write to you about concerns expressed.

The timetable leaves a minimum of just one week between notification by the Police & Crime Commissioner of the proposed precept, and the deadline for the Panel to respond. The same period applies to the arrangements for a revised precept following any veto. The Panel's concerns are:-

- This very short timescale appears to be arranged to allow maximum time for the Commissioner, at the expense of the Panel's time to respond, and does nothing to promote effective democratic oversight and scrutiny of the issue;
- The deadlines in Regulations (in February and March) take no account of the budget-setting processes of Local Authorities which need to know the precept earlier than this to allow effective planning;
- The timescales effectively make it impossible for the Panel to apply the provisions of the Local Government Act with regard to publishing a report by the required period in advance of the meeting(s).

Given these issues, our Panel asks you, for future years, to reconsider the timetable in Regulations (when the Commissioner will have more time to prepare for precept-setting).

Thank you in anticipation of giving this positive consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Croad', with a long horizontal line extending to the right from the end of the signature.

Roger Croad

Chair, Devon & Cornwall Police & Crime Panel

Chairman of Safer Devon Partnership &
Portfolio Holder for Environment & Communities for Devon County Council

cc: All Police & Crime Panels

APPENDIX 2



RECEIVED 14 DEC 2012

Home Office

Rt Hon Damian Green MP
MINISTER OF STATE FOR POLICING AND CRIMINAL JUSTICE
2 Marsham Street, London SW1P 4DF
www.homeoffice.gov.uk

Councillor Roger Croad
Portfolio Holder for Environment & Communities
Room G60
County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Your Reference: NC/RC

28 NOV 2012

Dear Councillor Croad,

Thank you for your letter of 25 October to the Home Secretary on behalf of Devon and Cornwall Police and Crime Panel (PCP). I am replying as the Minister for Policing and Criminal Justice.

I note your concerns regarding the time available for the PCP to respond to the Police and Crime Commissioner's (PCC) proposed precept.

The deadlines set out in the Regulations take account of the fact that the PCCs have taken office late in November and will require time to carry out their statutory functions and responsibilities, including setting the precept. The deadlines allow time for the PCC, Mr Tony Hogg, to work with partners where necessary and to base the precept proposal on actual tax base data. At the same time they also ensure that the PCP has the opportunity to scrutinise the proposal formally ahead of the statutory 1 March deadline for major precepting authorities to set their precept.

Tax base figures will change as a result of the introduction of council tax benefit localisation in 2013/14, making it even more important for PCCs to have access to the final (or almost final) tax base figures before proposing a precept level. These will be available by 31 January. PCCs will also have access to final estimates of their share of any council tax surplus/deficit from 2012/13 by this time, which may have an impact on their precept decision.

PCCs will also be aware of the proposed 'excessive increase' and provisional central government funding figures at this time, as these will be published as soon as possible after the Autumn Statement on 5 December.

In setting their budget, many PCCs will want to make decisions as early as possible to allow for sensible engagement with local partners before entering into formal processes. It is important to remember that 1 February is the latest date a PCC may announce their proposed precept and not the date at which wider engagement commences. I am therefore confident that, whilst challenging, the preparation that is underway will enable both PCCs and PCPs to fulfil their statutory functions within the statutory timescales.

I understand that the Local Government Act 1972 generally requires agendas and papers to be made available for inspection five clear working days before a meeting. The 1972 Act (Section 100B(3)) makes it clear that it does not require "copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the council." Therefore, while I understand your desire to operate in a clear and transparent manner, I am confident that the Regulations will not require a PCP to act in a way that is contrary to the Local Government Act.

I have noted your request to review this element of the Regulations for the longer term and I will give consideration to how this process has worked, and if any revisions to the timetable would be required for future years.

Yours sincerely,



Rt Hon Damian Green MP