

DEVON AND CORNWALL POLICE AND CRIME PANEL

Subject: Review and Confirmation Hearing for the Police and Crime Commissioners proposed appointment of Chief Executive and Monitoring Officer

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Executive summary

Paragraph 6 of Schedule 1 of the Police Reform and Social Responsibility Act 2011 (the Act) requires that the Police and Crime Commissioner (PCC) must appoint “a person to be the head of the Commissioner’s staff (hereinafter referred to as the Chief Executive and Monitoring Officer)”.

Paragraph 10 of Schedule 1 of the Act requires this proposed appointment must be reviewed by the Police and Crime Panel (the PCP) through a confirmation hearing, held in public, within three weeks of notification of the Commissioner’s proposed candidate.

On 3 February 2014 the Host Authority forwarded PCP members details of the PCC’s recruitment and application process, documentation and timeline for the appointment of the Chief Executive and Monitoring Officer.

The PCC, Mr Tony Hogg, formally notified the Chair of the PCP in writing of his proposed appointment, Mr Andrew White, for the post of Chief Executive and Monitoring Officer on 12 March 2014. On the 14 March 2014, the Chair of the PCP wrote to Mr Andrew White inviting him to attend this confirmation hearing. Mr White replied to the Chair on 17 March 2014 confirming his attendance.

The PCC has provided a report (Appendix 1) which includes the information he is required in legislation to provide including details about the candidate, the criteria used to assess the candidate, how the candidate satisfied that criteria, and the terms and conditions of the candidate’s employment.

The PCP has no power of veto over the proposed appointment, but must make a report and any recommendation/s to the PCC in relation to the proposed appointment. The PCC may accept or reject the PCP’s recommendation/s, but in either case, must notify the PCP of his decision.

If the Panel fails to conduct a confirmation hearing and report to the PCC within the three-week period then the appointment of the candidate can be made.

Local Government Association (LGA) guidance¹ recommends that confirmation hearings should complement, rather than duplicate, the PCC’s internal systems for the appointment of staff.

¹ http://www.local.gov.uk/c/document_library/get_file?uuid=21a63d01-c2d2-4390-8de4-794ff58890fe&groupId=10180

Background Papers:

Recommendations & Reasons for recommended action:

It is recommended that the Devon and Cornwall PCP:

- notes and follows the process outlined in this report for conducting a confirmation hearing for the PCC's proposed appointment of a Chief Executive and Monitoring Officer.
- notes the report provided by the PCC (Appendix 1).
- reviews and satisfies itself as to the suitability of the PCC's proposed appointment of Mr Andrew White as Chief Executive and Monitoring Officer, and
- responds to the PCC making a recommendation as to whether or not Mr Andrew White should be appointed, together with any associated report.
- seeks to agree with the PCC how and when the decision will be communicated.

Agreeing these recommendations will ensure the Panel meets fully the requirements of the Police Reform and Social Responsibility Act 2011.

Alternative options considered, and reasons for recommended action

Failure to agree to the recommendations would mean that the PCP would not meet the requirements of the Police Reform and Social Responsibility Act 2011 and the regulations in relation to the recruitment and selection of the Chief Executive and Monitoring Officer.

I. Background and Purpose of this Report

- 1.1 This report has been compiled taking account of LGA guidance: 'Police and Crime Panels – Guidance on Confirmation Hearings' and the legislation to inform PCP members of the process for conducting a confirmation hearing for the post of Chief Executive and Monitoring Officer.
- 1.2 The legislation sets out the process which must be followed for conducting confirmation hearings for Senior Appointments as follows:
 - the PCC notifies the PCP of the proposed 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 and holds a public confirmation hearing to question the candidate;
 - the PCP writes a report to the PCC on the proposed appointment, which must include a recommendation as to whether or not the individual should be appointed; and
 - the PCP's report is published.
- 1.3 The confirmation hearing should be a short and focused process that complements, rather than duplicates, the PCC's recruitment procedure in order for the PCP to:
 - satisfy itself of the suitability of the proposed candidate and that they meet the criteria as set out in the role profile and are able to demonstrate personal independence and professional competence; and
 - determine whether or not to recommend the candidate's appointment.

2. The Confirmation Hearing

Prior to the hearing

- 2.1 The Chair of the PCP received notification from the PCC on 12 March 2014 that Mr Andrew White is the proposed appointment for Chief Executive and Monitoring Officer.
- 2.2 Following receipt of notification, the Chair of the PCP wrote to the proposed candidate on 14 March 2014 to confirm the date of the hearing and notify them of the 'principles of professional competence and personal independence' as the basis upon which the PCP proposes to evaluate the candidate. The letter also advised that the information provided by the candidate in relation to their application for the post would be placed in the public domain. Mr White replied to the Chair on 17 March 2014 confirming his attendance.
- 2.3 The PCC has provided a report to this PCP meeting containing the required statutory information (Appendix 1).

At the hearing

- 2.4 The first part of the meeting will be conducted in public and structured as follows:
- The candidate will be welcomed to the meeting
 - The candidate will have an opportunity to present to the PCP his understanding of the role.
 - PCP members will have the opportunity to ask questions of the candidate
 - The candidate will be given an opportunity to clarify any answers given during the hearing and ask questions of the panel about the next stage of the process.
- 2.5 Decision-making at the hearing will be held in a closed session (paragraphs 2.10-2.12).

Questioning

- 2.6 The Panel members will ask questions of the candidate which will enable members to evaluate their suitability for the role. In addition to determining how the proposed candidate satisfactorily meets the criteria in the role profile, LGA Guidance also recommends that the PCP focuses its questioning in respect of 'professional competence and personal independence'. Questions have been formulated and agreed in private, in consultation with the Chair and Panel Members, prior to the confirmation hearing.
- 2.7 When questioning the candidate, the PCP will ensure that the candidate is treated fairly and politely at all times.
- 2.8 The Chair is aware of the potential for inappropriate questions that do not relate to the 'professional competence and 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. LGA guidance provides some examples of inappropriate questions:
- relating to the personal political (or other) views of the candidate – e.g. whether the candidate agrees or disagrees with the Police and Crime Plan
 - 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 (i.e. questions relating to operational strategy)
- that are hypothetical and designed to obtain the candidate's views on a position of local controversy.

Conclusion of the Hearing

- 2.9 At the end of the session the candidate has the opportunity to clarify any answers that they have given in the course of the hearing, and ask any procedural questions of the Panel, for example about the next steps or the decision-making process.

Decision making process

- 2.10 Immediately following the completion of questioning and points of clarification, the Panel will go into a closed session in order to decide on and prepare any recommendations to the PCC. LGA guidance recommends, and the Host Authority has made arrangements for, their Monitoring Officer and a Senior HR Advisor to be present to provide advice to the PCP.
- 2.11 The PCP will discuss the following:
- suitability of the proposed candidate and that they meet the criteria as set out in the role profile
 - whether the candidate demonstrates the professional competence to exercise the role as set out in the role profile
 - whether the candidate demonstrates the personal independence to exercise the role as set out in the role profile.
- 2.12 Having considered and reached a decision, the PCP will call the PCC in to the closed session to advise on their recommendation and seek to agree how and when the announcement will be made, dependent on the outcome (see paragraphs 2.13-2.17). The Panel will then reconvene publicly.

Recommendation and Announcement of Decision

- 2.13 LGA Guidance advises, that the process for the release of information in respect of ANY recommendation either favourable, or where the PCP recommends to the PCC not to appoint, should be consistent in order to avoid assumptions being made and in fairness to the candidate.
- 2.14 If the outcome is favourable, the PCC can inform the candidate and an announcement may be made in accordance with what is agreed per paragraph 2.12. The PCP's decision will be confirmed in writing by not later than the next working day.
- 2.15 If the Panel determines:
- (a) the candidate does not meet the required standards for the role, or
 - (b) the candidate meets the minimum standards but the PCP still has concerns about their suitability

the PCP will notify the PCC of their recommendation not to appoint or of their concerns about the candidate's suitability, at which point the PCC can inform the candidate and an

announcement may be made in accordance with what has been agreed per paragraph 2.12. The PCP will confirm their recommendation and/or any concerns in writing by not later than the next working day appending a summary of the principal reasons for their recommendation/ concerns. However, the PCC can, if he chooses, still appoint the candidate.

- 2.16 Where either 2.15 (a) or (b) applies, both the recommendation and appended documents will be treated as separate documents so that the letter can later be formally published without breaching the Data Protection Act. In each instance, the PCP should seek to agree with the PCC how and when an announcement should be made that will allow all parties, including the candidate, to consider their next steps before the recommendation is made public. In these instances, the candidate will need to liaise direct with the PCC. The PCP should not attempt, in either of these cases, to liaise in any way with the candidate directly or through the Host Authority.
- 2.17 Where a candidate does not meet the minimum standards, this might suggest a significant failure in the appointment process undertaken by the PCC. If the PCP believes that there has been a significant failure in the appointments process, the PCP may choose to communicate this to the PCC in their response, and provide advice and/or make recommendation/s to the PCC.