

PROCEDURE TO BE FOLLOWED AT CONFIRMATION HEARINGS OF THE POLICE AND CRIME PANEL

The Panel's role in confirming senior appointments

Senior appointments are those of Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner made by the Police and Crime Commissioner (PCC). It is the duty of the Police and Crime Panel to hold a public confirmation hearing and to review, make reports and recommendations in respect of proposed senior appointments and to publish their reports or recommendations.

The Panel is also required to hold a public confirmation meeting to review and make reports on the proposed appointment of the Chief Constable including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel, and to publish its reports.

The rules relating to confirmation hearings

The rules concerning confirmation hearings are set out in Schedules 1 and 8 of the Police Reform and Social Responsibility Act.

Schedule 1 concerns the appointment of the PCC's chief executive, chief finance officer and any deputy police and crime commissioners.

- i) Confirmation hearings are meetings of the Panel held in public;
- ii) The PCC must notify the Panel of proposed senior appointments;
- iii) The Panel shall review the proposed senior appointment and make a report to the PCC, including recommendations relating to the candidate's appointment;
- iv) This process must take place within a period of three weeks of the receipt of notification from the PCC;
- v) The candidate may be requested to appear for the purpose of answering questions relating to the appointment; and
- vi) The PCC must respond to the report and recommendations of the Panel to confirm whether they accept or reject the recommendation. There is no duty upon the PCC to give reasons for their decision.

Schedule 8 covers the appointment of the chief constable. The procedure and rules shall be as above save for two important differences.

- i) The Panel has a power of veto over the appointment of the chief constable. A two thirds majority of current membership is needed. The Panel can recommend that the PCC does not make the appointment but if the Panel exercises the veto the candidate cannot be appointed; and
- ii) 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.

The procedure for confirmation hearings is set out below:

1) Notification of proposed senior appointment

The PCC will notify the Panel of a proposed senior appointment in writing to the chairman of the Panel and to the clerk. The notification of a proposed senior appointment from the PCC should be accompanied by background information such as a CV or a personal statement to assist the Panel in its assessment of professional competence and personal independence of the candidate. At the very least the PCC is required to provide the following information:

- name and contact details of the candidate;
- criteria used to assess the suitability of the candidate for the appointment;
- how the candidate satisfies those criteria; and
- the terms and conditions on which the candidate is to be appointed.

Personal independence is defined in the guidance relating to confirmation hearings as a candidate's ability to act in a manner that is operationally independent of the PCC. This applies to the three officer appointments. In relation to the role of Deputy Commissioner the Panel may question the ability of the candidate to recognise and understand the separation of political and operational responsibilities in relation to the post.

2) Arrangement of confirmation hearing and notifying the candidate

Following the receipt of notification from the PCC a confirmation hearing will be arranged, which will take place within three weeks of the date of receipt of notification.

The chairman of the Panel or the clerk will write to the candidate to confirm the date of the hearing and notify them of the principles of professional competence and personal independence on which they propose to evaluate the candidate. The letter will set out the legislative provisions underpinning the hearing and inform the candidate that any information they provide will be placed in the public domain.

If the candidate's references are to be distributed to the Panel it is the responsibility of the PCC to inform relevant referees of the placing of references in the public domain.

3) Briefing and pre-meeting

The Panel will try to have a pre-meeting prior to a confirmation hearing to allow for a consideration of the background information provided by the PCC. The pre-meeting is intended to provide members of the Panel with an opportunity to consider the scope and thrust of their questioning at the hearing. It is expected that questioning will concern the professional competence of the candidate and their personal independence and will rely on the background information provided.

The pre-meeting will be held in private and, where possible, will be attended by the clerk or a legal adviser and a senior HR adviser from the host authority to assist the Panel in the provision of specialist and technical advice.

Additional information relating to the candidate, not provided by the PCC but available elsewhere, should be considered by the clerk and the HR adviser to ensure that the process is fair, and that it will help the Panel assess competence and independence.

4) The Hearing

With preparation and planning at the pre-meeting, confirmation hearings will be short and focused. The hearing will be a two stage process:

- The Panel will question the candidate to determine if he/she meets the criteria set out in the role profile and whether they possess the professional competence and personal independence to carry out the role; and
- The Panel will determine whether to endorse the candidate's appointment; to recommend that the candidate should not be appointed; or, in respect of Schedule 8 appointments, to use its power of veto. This second stage of the hearing will be held in closed session (see below).

At the start of the hearing the chairman will outline the order of business and will explain the process and powers of the Panel. The candidate will be permitted to ask any procedural questions before the questioning starts.

The Panel will question the candidate and will ensure that the candidate is treated fairly and politely at all times.

At the end of the session the candidate has the opportunity to clarify any answers that he or she has 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.

5) The decision-making process

Immediately following the completion of questioning and points of clarification, the Panel will go into closed session to take its decision and prepare any recommendations to the PCC.

If the Panel is content with the proposed senior appointment it can agree to report to the PCC its endorsement of the appointment.

In the event that the Panel determines that a Schedule 1 candidate does not, meet the requirements for the post the Panel may provide advice and recommendations to the PCC in its report.

If the candidate is a Schedule 8 appointment and the Panel determines that the candidate does not meet the standards required in the role profile it can use the veto. A veto must be a by a two thirds majority of the current membership. It is envisaged that the veto will only be used in exceptional situations.

Where a candidate meets the standards, but the Panel has concerns about their suitability, such concerns can form part of the Panel's report and recommendations to the PCC. For Schedule 8 candidates this provides an alternative to the use of the veto.

In the event that the Panel determine that a Schedule 1 candidate does not meet the minimum requirements for the post, providing advice and recommendations to the PCC in its report is the only option open to the Panel.

Making recommendations on Schedule 1 and Schedule 8 appointments

The Panel will decide whether to recommend to the PCC that the appointment be made, or that it not be made. A recommendation that an appointment is not made is not the same as a veto; the PCC can exercise the right to make the appointment despite a recommendation that the candidate be not appointed.

The Chairman of the Panel will write to the PCC on the next working day following the confirmation hearing to outline the decision and recommendations of the Panel. The candidate will also be sent a copy of the letter.

The Panel will wait five working days before it publishes any information about its recommendations unless it is agreed with the PCC that this information can be released at an earlier stage. The Panel will ensure that the PCC has received and acknowledged receipt of the Panel's recommendations before making its recommendations public.

Applying the veto

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

The Panel will publish its veto five working days after the decision and the PCC, alongside this information, will publish information setting out the steps that will be taken to make another appointment. 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.