

NORTHAMPTONSHIRE POLICE, FIRE AND CRIME PANEL

7 SEPTEMBER 2023

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| Report Title | Scrutiny of decisions by the Police, Fire and Crime Commissioner connected with the appointment of an interim Chief Fire Officer for Northamptonshire |
| Report Author | Catherine Whitehead, Director Legal and Democratic and Monitoring Officer, West Northamptonshire Council monitoringofficer@westnorthants.gov.uk |

| Contributors/Checkers/Approvers | | |
|--|--------------------------|---|
| West MO (for West and joint papers) | Catherine Whitehead | 29/08/2023 |
| West S151 (for West and joint papers) | James Smith, Deputy S151 | 30/08/2023 – excluding Appendix F below |

List of Appendices

Appendix A – Legal advice obtained by the Police, Fire and Crime Commissioner

Appendix B – Legal advice obtained by the West Northamptonshire Council Monitoring Officer

Appendix C – Recruitment procedures for Northamptonshire Fire and Rescue Service

Appendix D – Register of Interests for the Police, Fire and Crime Commissioner

Appendix E – Code of Conduct for the Office of the Police, Fire and Crime Commissioner

Appendix F – Details of financial settlements made by the Police, Fire and Crime Commissioner (Exempt from publication under paragraph 1 of Part of Schedule 12A of the Local Government Act 1972 as containing information relating to an individual) [TO FOLLOW]

1. Purpose of Report

- 1.1. The report is intended to support scrutiny by the Northamptonshire Police, Fire and Crime Panel of decisions taken by the Police, Fire and Crime Commissioner connected with the appointment of an interim Chief Fire Officer for Northamptonshire in July 2023.

2. Executive Summary

- 2.1. On 7 July 2023 the Police, Fire and Crime Commissioner for Northamptonshire (“the PFCC”) informed the Chair of the Police, Fire and Crime Panel and made a public statement that the Chief Fire Officer for Northamptonshire, Mark Jones, was stepping down from the role with immediate effect and that Nicci Marzec, the Head of Paid Staff in the Office of the PFCC, would take over as interim Chief Fire Officer. Following the announcement questions were asked by the press about the decision, two complaints were received and Panel members were concerned about the decisions that had been made. The Police, Fire and Crime Panel identified the need to scrutinise the appointment, in line with its remit to review or scrutinise decisions made, or other action taken, by the PFCC in connection with the discharge of the PFCC’s functions. Panel members agreed that this would be done using the scheduled Panel meeting on 7 September 2023.
- 2.2. This report is intended to set out the legal framework for the Panel’s scrutiny and to present background information. The Panel is recommended to consider the information available to draw conclusions and to make recommendations designed to support improved decision making where appropriate.

3. Recommendations

- 3.1 It is recommended that the Northamptonshire Police, Fire and Crime Panel:
- a) Considers written and verbal information provided to the Panel at the current meeting regarding decisions taken by the Police, Fire and Crime Commissioner connected with the appointment of an interim Chief Fire Officer for Northamptonshire in July 2023.
 - b) Draws conclusions where appropriate and makes recommendations to the Police, Fire and Crime Commissioner, reflecting the Panel’s role and statutory powers.

4. Reasons for Recommendations

- 4.1 The recommendations are intended to support effective scrutiny by the Panel of decisions taken by the PFCC connected with the appointment of an interim Chief Fire Officer for Northamptonshire in July 2023.

5. Report Background

- 5.1 Scrutiny of this matter is being conducted by the Panel as part of its role to review or scrutinise decisions made, or other action taken, by the PFCC in connection with the discharge of the PFCC’s functions and to make reports or recommendations to the PFCC. Any recommendations identified by the Panel as a result of its scrutiny should have regard to the respective roles, functions and powers of the Panel and of the PFCC.
- 5.2 The PFCC contacted the Chair of the Panel on 7 July 2023 to advise him that the Chief Fire Officer had resigned with immediate effect and that the PFCC had decided to appoint the Chief Executive and Monitoring Officer of the OPFCC as the Chief Fire Officer. Shortly afterwards the PFCC

released a press statement to the same effect. The Chair of the Panel was advised that the PFCC had sought legal advice to the effect that it was not necessary to hold a confirmation hearing. The legal advice to the PFCC is attached at Appendix A. The Chair of the Panel spoke to the Panel's Monitoring Officer who sought legal opinion on behalf of the Panel to ascertain whether the advice to the PFCC was correct. The legal advice of the Panel is attached at Appendix B. The legal advice obtained by the Panel differed from that provided to the PFCC and was therefore shared with the PFCC. The new appointee to the role of Chief Fire Officer resigned the post and the PFCC then made the decision to appoint someone else as the Chief Fire Officer, which proposed appointment was referred to the Panel. Due to the level of press interest the PFCC responded to a number of press enquiries and also took part in a television interview. During the interview the PFCC explained that he was a close friend of Nicci Marzec outside of their relationship as colleagues. This raised the question that the PFCC had had a conflict of interest when he made decisions in relation to the appointment and in relation to other decisions that he had made over the period of their close friendship.

5.3 Concerns were raised about the decisions made by the PFCC in particular:

- The reasons why the PFCC had accepted the resignation of the person appointed last year without notice.
- The decision of the PFCC to select the Chief Executive and Monitoring Officer for the role.
- The decision of the PFCC not to refer the decision to the Police, Fire and Crime Panel for confirmation.
- The reasons why the PFCC had accepted the resignation of Nicci Marzec from the role as Chief Fire Officer and later from the role of Chief Executive and Monitoring Officer without notice.
- The decisions taken by the PFCC in relation to financial settlements.
- Whether the PFCC had any conflicts of interests or breached the OPFCC code of conduct when he made the decisions.

5.4 The Panel's roles in relation to the decisions is set out in the Police Reform and Social Responsibility Act 2011 paragraph 28(6) as amended:

A police [fire] and crime panel must –

- (a) review or scrutinise decisions made, or other action taken, by the relevant police [fire] and crime commissioner in connection with the discharge of the commissioner's functions; and
- (b) make reports or recommendations to the relevant police [fire] and crime commissioner with respect to the discharge of the commissioner's functions, insofar as the panel is not otherwise required to do so.

5.5 The Panel will therefore need to scrutinise the decisions and actions as set out above (so far as they relate to the exercise of the functions of the PFCC) and also to consider whether to make a report or to make recommendations in relation to any conclusions reached by the Panel. For example, the Panel could consider whether the PFCC should undertake further training, introduce further procedures or policies, raise awareness about existing policies or procedures and to make recommendations in relation to the application of resources.

5.6 The responsibility of the Panel in relation to the way it carries out the scrutiny function is set out in the Police Reform and Social Responsibility Act 2011 paragraph 28(2) as amended:

The functions of the police [fire] and crime panel for a police area must be exercised with a view to supporting the effective exercise of the functions of the police [fire] and crime commissioner for that police area.

5.7 The role of the Panel is therefore not about the conduct or probity of the PFCC but to support the effective exercise of functions in the future by the PFCC. This distinction will inform the Panel's conduct of the meeting and any decisions or recommendations made by the Panel when carrying out the scrutiny function.

6. Issues and Choices

6.1 The options available to the Panel are set out in the report. In essence the Panel can draw conclusions about the way in which the PFCC has made decisions in connection with the discharge of the PFCC's functions and the Panel can also make reports and recommendations with respect to the discharge of the PFCC's functions. These will be directed at supporting the PFCC to be effective in the exercise of the PFCC's functions in the future. As such there are a broad range of options open to the Panel. The PFCC is under no legal obligation to accept or act on the recommendations of the Panel.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are no resource or financial implications relating to this report. The Panel is able to carry out scrutiny of this matter within the resources available to support its operation.

7.2 Legal

7.2.1 The Police Reform and Social Responsibility Act 2011, the Policing and Crime Act 2017 and supporting legislation give various specific responsibilities to the Northamptonshire Police, Fire and Crime Panel. These are principally as follows:

- Scrutinising and reporting on the PFCC's proposed Police and Fire and Rescue precepts
- Scrutinising and reporting on the PFCC's Police and Crime Plan and Fire and Rescue Plan
- Scrutinising and reporting on the PFCC's Annual Report on the delivery of Police and Crime Plan objectives and on the annual Fire and Rescue Statement reporting compliance with the Fire and Rescue National Framework

- Scrutinising and reporting on proposed appointments by the PFCC to certain positions (Deputy PFCC; Chief Executive; Chief Finance Officer; Chief Constable of Northamptonshire Police; and Chief Fire Officer of Northamptonshire Fire and Rescue Service)
- Dealing with complaints from members of the public about the conduct of the PFCC.

7.2.2 In addition, under the legislation referred to in paragraph 7.2.1 above, the Panel has the following general responsibilities and powers:

Police Reform and Social Responsibility Act 2011 paragraph 28(6) as amended

A police [fire] and crime panel must –

- (a) review or scrutinise decisions made, or other action taken, by the relevant police [fire] and crime commissioner in connection with the discharge of the commissioner’s functions; and
- (b) make reports or recommendations to the relevant police [fire] and crime commissioner with respect to the discharge of the commissioner’s functions, insofar as the panel is not otherwise required to do so.

Police Reform and Social Responsibility Act 2011 paragraph 28(2) as amended

The functions of the police [fire] and crime panel for a police area must be exercised with a view to supporting the effective exercise of the functions of the police [fire] and crime commissioner for that police area.

Police Reform and Social Responsibility Act 2011 paragraph 13(1) as amended

A [police, fire and crime commissioner] must provide the relevant police [fire] and crime panel with any information which the panel may reasonably require in order to carry out its functions.

Police Reform and Social Responsibility Act 2011 paragraph 29(1) as amended

A police [fire] and crime panel may require the relevant police [fire] and crime commissioner, and members of that commissioner’s staff, to attend before the panel (at reasonable notice) to answer any question which appears to the panel to be necessary in order for it to carry out its functions.

7.2.3 The Policing and Crime Act 2017 makes provision for a Police and Crime Commissioner for an area to be the fire and rescue authority for that area. This position has applied in Northamptonshire since 1 January 2019. The responsibilities of a PFCC created under the 2017 Act include the function of appointing, suspending or dismissing the chief fire officer.

7.2.4 The Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017 part 2 chapter 1 specifies that a PFCC must notify the relevant Panel of the proposed appointment of a chief fire officer, providing specified information relating to the proposed appointment.

7.2.5 When notified of a proposed appointment the Panel must review and make a report on it to the PFCC. The review must involve a confirmation hearing: a public meeting of the Panel at which the candidate is requested to appear for the purpose of answering questions relating to the appointment. The report by the Panel must include a recommendation as to whether or not the candidate should be appointed or must state that the Panel has vetoed the proposed appointment if it reaches this decision. The Panel must complete the process of reviewing and reporting on a proposed appointment within three weeks of being notified of it by the PFCC.

7.3 Risk

7.3.1 Scrutiny of this matter by the Panel should be conducted in an effective and appropriate way. The Panel would not do this if, for example, it was seen to reach conclusions that did not appear to be sufficiently supported by evidence or to make recommendations that were outside its legal powers. This would put the Panel at risk of challenge that could damage its reputation or undermine the outcomes it was seeking to achieve.

8. Background Papers

Police Reform and Social Responsibility Act 2011

Policing and Crime Act 2017

Fire and Rescue Authority (Police and Crime Commissioner) (Application of Local Policing Provisions, Inspection, Powers to Trade and Consequential Amendments) Order 2017

Northamptonshire Police, Fire and Crime Panel Rules of Procedure