

NORTHAMPTONSHIRE POLICE, FIRE AND CRIME PANEL

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Report Title	Confirmation hearing in relation to the proposed appointment by the Police, Fire and Crime Commissioner for Northamptonshire of a Deputy Commissioner.
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List of Appendices

None

1. Purpose of Report

- 1.1. The report is intended to advise the Northamptonshire Police, Fire and Crime Panel of the procedure to be followed for a confirmation hearing in relation to the proposed appointment by the Police, Fire and Crime Commissioner for Northamptonshire of a Deputy Commissioner.

2. Executive Summary

- 2.1 The report summarises the Northamptonshire Police, Fire and Crime Panel's statutory responsibilities relating to reviewing and making a report on the proposed appointment by the Police, Fire and Crime Commissioner for Northamptonshire of a Deputy Commissioner. A report by the Police, Fire and Crime Commissioner providing information on the proposed appointment is included separately on the agenda for the hearing.

3. Recommendations

- 3.1 It is recommended that the Northamptonshire Police, Fire and Crime Panel reviews and makes a report on the proposed appointment by the Police, Fire and Crime Commissioner for Northamptonshire of a Deputy Commissioner.
- 3.2 Reasons for Recommendation(s) – The recommendation is intended to enable the Panel to carry out its statutory responsibilities to review and make a report on the proposed appointment of a Deputy Commissioner.

4. Report Background

- 4.1 The Police Reform and Social Responsibility Act 2011 paragraph 18 specifies that a Police and Crime Commissioner (PCC) may:
- appoint a person as the deputy police and crime commissioner for that police area, and
 - arrange for the deputy police and crime commissioner to exercise any function of the PCC.
- 4.2 The 2011 Act specifies that a PCC may not appoint as a deputy police and crime commissioner a person in any of the following positions:

2011 Act paragraph 18(6)

- Police constable
- Police and crime commissioner
- Mayor of London
- Deputy Mayor for Policing and Crime appointed by the Mayor of London
- Member of the Common Council of the City of London
- Any other person or body which maintains a police force
- Member of the staff of any person in the specified positions

2011 Act schedule 1 paragraph 8(2)

- A person who has not attained the age of 18 on the day of the appointment
- A person who is disqualified from serving as a PCC as they are employed in specified police or police staff positions, or on specified grounds relating to citizenship, bankruptcy, criminal convictions and the consequences of corrupt or illegal election practices
- Member of the House of Commons
- Member of the European Parliament
- Member of the National Assembly for Wales
- Member of the Scottish Parliament
- Member of the Northern Ireland Assembly

- 4.3 The terms and conditions for a deputy police and crime commissioner must ensure that their term of office does not exceed that of the PCC who appointed them, although a deputy may be re-appointed to the role. A deputy is formally a member of the PCC's staff. Schedule 1 paragraph 8(4) of the 2011 Act specifies that the requirement in the Local Government and Housing Act

1989 paragraph 7 concerning the appointment of staff on merit does not apply to the appointment of a deputy police and crime commissioner.

- 4.4 A PCC may not arrange for the deputy police and crime commissioner to exercise the following functions of the PCC:
- Issuing a Police and Crime Plan
 - Appointing the Chief Constable, suspending the Chief Constable, or calling upon the Chief Constable to retire or resign
 - Calculating a Council Tax requirement
- 4.5 The Policing and Crime Act 2017 makes provision for a PCC for an area to be the fire and rescue authority for that area. This position has applied in Northamptonshire since 1 January 2019. The Police, Fire and Crime Commissioner for Northamptonshire (Fire and Rescue Authority) Order 2018 paragraph 4 enables the delegation of fire and rescue authority functions to a deputy police, fire and crime commissioner. However, under the 2018 Order paragraph 5 the following functions may not be delegated:
- Calculating a Council Tax requirement
 - Approving the Fire and Rescue Plan and the Fire and Rescue Statement
 - Approving the Integrated Risk Management Plan
 - Appointing, suspending or dismissing the Chief Fire Officer
 - Holding the Chief Fire Officer to account for the exercise of their functions
 - Approving a pay policy statement relating to the remuneration of chief officers
 - Approving arrangements for mutual assistance between fire and rescue authorities and for co-operation with other organisations involved in responding to civil emergencies
 - Approving arrangements for the discharge of functions by other organisations
 - Approving plans for fire and rescue functions intended to prevent or mitigate an emergency and to enable fire and rescue functions to be carried out in the event of any emergency.
- 4.6 Schedule 1 paragraph 9 of the 2011 Act requires that a PCC must notify the relevant Police and Crime Panel of the proposed appointment of a deputy police and crime commissioner. In such cases the PCC must also notify the Police and Crime panel of the following information:
- a) The name of the person whom the PCC is proposing to appoint (“the candidate”);
 - b) The criteria used to assess the suitability of the candidate for the appointment;
 - c) Why the candidate satisfies those criteria; and
 - d) The terms and conditions on which the candidate is to be appointed.
- 4.7 Schedule 1 paragraphs 10-12 require that when a Police and Crime Panel is notified of a proposed appointment it must review the proposed appointment and make a report on it to the PCC. The report must include a recommendation to the PCC as to whether or not the candidate should be appointed.
- 4.8 A Police and Crime Panel must review the proposed appointment at a confirmation hearing. A confirmation hearing is defined as: “A meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment.” The supporting guidance *Police and Crime Panels Guidance on Confirmation*

Hearings produced by the Local Government Association (LGA) and the Centre for Governance and Scrutiny (CfGS) advises that a confirmation hearing should not be dealt with as an item of business at a standard panel meeting but conducted as a separate meeting.

- 4.9 A Police and Crime Panel must complete the process of reviewing and reporting on a proposed appointment within three weeks of being notified of it by the PCC.

5. Issues and Choices

- 5.1 This confirmation hearing of the Northamptonshire Police, Fire and Crime Panel (“the Panel”) has been convened to enable the Panel to review and make a report on the proposed appointment by the Police, Fire and Crime Commissioner for Northamptonshire (“the Commissioner”) of a Deputy Commissioner following notification of the proposed appointment by the Commissioner.
- 5.2 A report by the Commissioner providing information on the proposed appointment is included separately on the agenda for the hearing.

Confirmation Hearing Procedure

- 5.3 It is proposed that the Panel conducts the confirmation hearing according to the following process, which reflects statutory requirements and good practice and has been used successfully in the past:
- a) The Panel Chair will welcome the candidate to the hearing and invite Panel members and host authority officers present to introduce themselves.
 - b) The Chair will ask the Panel’s secretariat officer to outline briefly the format of the hearing. The Chair will invite Panel members to ask any related questions.
 - c) The Chair will invite the Commissioner to outline the proposed appointment and introduce the candidate. The Chair will invite members to ask any related questions to the Commissioner.
 - d) The Chair will invite Panel members to ask questions of the candidate. The Panel secretariat will work with Panel members to draw up these questions ahead of the hearing. The questions should reflect the principles set out in paragraphs 5.4 – 5.8 of this report.
 - e) When all Panel members’ questions have been asked and addressed the Chair will invite the candidate to clarify any answers that they have given during the hearing and to ask any questions of the Panel, for example about the next steps in the process.
 - f) The candidate will then withdraw from the meeting.
 - g) The Panel will be asked to agree a resolution to exclude the press and public from the meeting before it considers its report to the Commissioner.
 - h) The Panel will consider its report and conclusions. The possible outcomes that may result from a review of the proposed appointment of a deputy police and crime commissioner are discussed in paragraphs 5.9 – 5.12 of this report.

- i) The Panel will send its report to the Commissioner by the end of the working day following the date of the confirmation hearing.
- j) The Panel will publish its report an appropriate time after the confirmation hearing, normally in liaison with the Commissioner to reflect that the Commissioner will also publish her own final decision on the proposed appointment following the hearing.

Focus of questions to the candidate

- 5.4 *Police and Crime Panels Guidance on Confirmation Hearings* recommends that confirmation hearings should focus on the following areas:
- a) Professional competence: i.e. the candidate's ability to carry out the role, for example, their professional judgement and insight; and
 - b) Personal independence: i.e. the need for the candidate to act in a manner that is operationally independent of the PCC.

5.5 The guidance further recommends that Police and Crime panels should think in terms of minimum standards applying to particular attributes: i.e. there should be minimum standards below which it would not be appropriate to appoint a candidate under any circumstances. Above this level, the Panel might have concerns but the candidate would still be 'appointable' at the discretion of the PFCC.

5.6 This focus is intended to reflect that confirmation hearings should complement rather than duplicate a PCC's systems for making the appointment in question: hearings are not intended to represent a re-staging of a previous selection process.

5.7 LGA / CfGS guidance indicates that when applying this approach to the proposed appointment of a deputy commissioner panels should have regard to the particular nature of the role. *Police and Crime Panels Guidance on Confirmation Hearings* states:

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.

5.8 Another guidance document, *Policing and Fire Governance Guidance for police and crime panels*, states:

The role of a deputy commissioner differs from the other appointments in that it is likely to be a political appointment and therefore less able to be tested in terms of professional judgement and expertise. It may also be an unpaid position, so further outside the scope of employment procedures. However, the panel still need to assure themselves of the understanding by the candidate of her/his role, the position of the commissioner and the operational independence of the chief constable (and chief fire officer). Key lines of enquiry of the panel for a deputy

commissioner might focus around her/his understanding of the commissioner's vision and priorities and the role that the deputy would play in support of the commissioner's strategy and delivery of the plan. The panel might also ask questions in relation to public engagement or other significant requirements to fulfil the role profile in the more political context of the deputy commissioner post.

Possible outcomes of the review

- 5.9 The Panel should use the confirmation hearing to form a view about the professional competence and personal independence of the candidate and whether or not they meet the minimum standards for the role. Based on this it should agree the conclusion about the proposed appointment that it wishes to report to the Commissioner.
- 5.10 The Panel essentially has the following options:
- a) If the Panel is satisfied that the candidate meets the criteria set out in the role profile for the post it can recommend to the Commissioner that the appointment be made.
 - b) If the Panel considers that the candidate meets the criteria set out in the role profile for the post but has a query or concern about their suitability it can make a recommendation to this effect to the Commissioner.
 - c) If the Panel concludes that the candidate does not meet the minimum requirements set out in the role profile for the post it can make a recommendation to the Commissioner that the appointment not be made.
- 5.11 In all of the cases set out in paragraph 5.10 above the Commissioner may accept or reject the Panel's recommendation and must notify the Panel of her response. The Panel does not have the power to veto the proposed appointment of a deputy police and crime commissioner.
- 5.12 *Police and Crime Panels Guidance on Confirmation Hearings* anticipates that a recommendation not to appoint should be used rarely, given that it should only need to be used in a scenario where the Panel concludes that the candidate proposed by the Commissioner does not meet the minimum requirements for the position in question.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 There are no resources or financial implications arising from the proposal.

6.2 Legal

- 6.2.1 There are no legal implications arising from the proposal.

6.3 Risk

6.3.1 There are no significant risks arising from the recommendation in this report.

7. Background Papers

Police Reform and Social Responsibility Act 2011

Police, Fire and Crime Commissioner for Northamptonshire (Fire and Rescue Authority) Order 2018

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

Policing and Fire Governance Guidance for police and crime panels Local Government Association and Centre for Governance and Scrutiny (July 2019)