

DERBYSHIRE POLICE AND CRIME PANEL

13 APRIL 2017

Report of the Director of Legal Services of Derbyshire County Council

**CONFIRMATION HEARING FOR THE APPOINTMENT OF A CHIEF
CONSTABLE**

1. Purpose of Report

To provide background information to the Police and Crime Panel (PCP) on the appointment process leading to the selection of Mr. Peter Goodman QPM as the preferred candidate for the role of Chief Constable.

2. Information and Analysis

The Police Reform and Social Responsibility Act 2011 specifies that the Police and Crime Commissioner (PCC) for a police area is to appoint the Chief Constable of the police force for that area.

Schedule 8 of the 2011 Act requires that a PCC must notify the relevant Police and Crime Panel (PCP) of the proposed appointment of a Chief Constable. It is the duty of the PCP to hold a public Confirmation Hearing and to review, make reports and recommendations in respect of the proposed appointment of a Chief Constable and to publish their reports or recommendations.

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”. Supporting guidance produced by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) 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.

The process of reviewing and reporting on a proposed appointment must be completed within three weeks of a PCP being notified of it by the PCC.

Appendix One provides information on the PCP’s role in the confirmation process. Appendix Two provides information on the preferred candidate’s skills and experiences.

The Panel has three principal options, as follows:

- If the Panel is satisfied that the candidate meets the required standards it can recommend to the Commissioner that the appointment be made. The Commissioner may accept or reject such a recommendation and must notify the Panel of his response.
- If the Panel considers that the candidate meets the required standards but has a query or concern about their suitability it can make a recommendation to this effect to the Commissioner. Ultimately, the Panel has the option of recommending to the Commissioner that the appointment not be made. The Commissioner may accept or reject such a recommendation and must notify the Panel of his response.
- If the Panel considers that the candidate clearly does not meet the minimum standards necessary for the position the Panel can veto the proposed appointment. A decision to veto a proposed appointment must be supported by at least two-thirds of the members of the Panel. In the event that the Panel vetoes a proposed appointment the Commissioner must not appoint that candidate. The Commissioner must then propose another – reserve – candidate for appointment. This proposed appointment will be subject to review by the Panel at a second confirmation hearing, resulting in a report to the Commissioner making a recommendation about the appointment of the reserve candidate. The Commissioner may accept or reject such a recommendation and must notify the Panel of his response.

LGA / CfPS guidance emphasises that the veto should only be used in exceptional circumstances. A PCC's power to appoint a chief constable should be backed up by appropriate human resources functions and appointment procedures designed to provide a 'due diligence' check on the suitability of the candidate that a PCC proposes for appointment. A proposed appointment should only be vetoed if a PCP considers that there has been significant failures of this 'due diligence' check, to the extent that the candidate is not appointable.

3. Other considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, social value, environmental, health and transport considerations.

4. Background papers

Held with the Improvement and Scrutiny Officer, Derbyshire County Council.

5. OFFICER'S RECOMMENDATION

It is recommended that the Panel notes its responsibilities in the confirmation hearing process and considers the proposed appointment of Mr. Peter Goodman QPM to the position of Chief Constable.

**John McElvaney
Director of Legal Services
Derbyshire County Council**

THE PCP'S ROLE IN CONFIRMING SENIOR APPOINTMENTS UNDER SCHEDULE 8 OF THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

Background:

The Police Reform and Social Responsibility Act 2011 Section 38 specifies that the Police and Crime Commissioner (PCC) for a police area is to appoint the chief constable of the police force for that area.

Schedule 8 of the 2011 Act requires that a PCC must notify the relevant Police and Crime Panel (PCP) of the proposed appointment of a chief constable. In such cases the PCC must also notify the Police & Crime Panel of the following information:

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

When a PCP is notified of such a proposed appointment it is required to review the proposed appointment and to make a report on it to the PCC. The report must state the outcome of the review by the Panel. In the case of the proposed appointment of a chief constable these outcomes are:

- A recommendation as to whether or not the candidate should be appointed, or
- A veto of the proposed appointment, if at least two-thirds of the members of the PCP vote in favour of making that decision.

The 2011 Act requires that a PCP 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”. Supporting guidance produced by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) 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.

The process of reviewing and reporting on a proposed appointment must be completed within three weeks of a PCP being notified of it by the PCC.

Confirmation Hearing Procedure:

The confirmation hearing will be conducted as follows:

- The Panel Chair will welcome the candidate to the hearing and invite Panel members and host authority officers present to introduce themselves.
- The Chair will ask the Panel's Legal officer to outline briefly the format of the hearing.
- The Chair will invite the Commissioner to outline the proposed appointment and introduce the candidate.
- The Chair will invite Panel members to ask questions of the candidate.
- 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.
- The candidate will then withdraw from the meeting.
- 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.
- The Panel will consider its report and conclusions. The possible outcomes that may result from a review of the proposed appointment of a chief constable are discussed on the next page.
- The Panel will send its report to the Commissioner by the end of the working day following the date of the confirmation hearing.
- The Panel will publish its report once a waiting period of 5 working days has elapsed following the date of the confirmation hearing. It is understood that the Commissioner will follow the same approach in relation to publishing information about the outcome of the confirmation hearing and any actions resulting from it.

Focus of questions to the candidate:

LGA / CfPS guidance recommends that confirmation hearings should focus on the following:

- Professional competence: i.e. the candidate's ability to carry out the role, for example, their professional judgement and insight; and
- Personal independence: i.e. the need for the candidate to act in a manner that is operationally independent of the PCC.

The guidance further recommends that PCPs 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 PCC.

Possible outcomes of the review:

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.

The Panel essentially has the following options:

- If the Panel is satisfied that the candidate meets the required standards it can recommend to the Commissioner that the appointment be made. The Commissioner may accept or reject such a recommendation, and must notify the Panel of his response.
- If the Panel considers that the candidate meets the required standards but has a query or concern about their suitability it can make a recommendation to this effect to the Commissioner. Ultimately, the Panel has the option of recommending to the Commissioner that the appointment not be made. The Commissioner may accept or reject such a recommendation, and must notify the Panel of his response.
- If the Panel considers that the candidate clearly does not meet the minimum standards necessary for the position the Panel can veto the proposed appointment. A decision to veto a proposed appointment must be supported by at least two-thirds of the members of the Panel. In the event that the Panel vetoes a proposed appointment the Commissioner must not appoint that candidate. The Commissioner must then propose another – reserve – candidate for appointment. This proposed appointment will be subject to review by the Panel at a

second confirmation hearing, resulting in a report to the Commissioner making a recommendation about the appointment of the reserve candidate. The Commissioner may accept or reject such a recommendation, and must notify the Panel of his response.

LGA / CfPS guidance emphasises that the veto should only be used in exceptional circumstances. A PCC's power to appoint a chief constable should be backed up by appropriate human resources functions and appointment procedures designed to provide a 'due diligence' check on the suitability of the candidate that a PCC proposes for appointment. A proposed appointment should only be vetoed if a PCP considers that there has been significant failures of this 'due diligence' check, to the extent that the candidate is not appointable.