

**WEST MIDLANDS POLICE  
AND CRIME  
COMMISSIONER**

NON-CONFIDENTIAL

**NOTICE OF DECISION**

032/2014

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**Proposed appointment of Deputy Police and Crime Commissioner**

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**EXECUTIVE SUMMARY**

The background information contained in this report outline the provisions of the Police Reform and Social Responsibility Act 2011 which allow a police and crime commissioner to appoint a deputy police and crime commissioner. It also includes details of the confirmatory hearing process required to be undertaken by a police and crime panel following the decision by a police and crime commissioner to appoint a deputy police and crime commissioner.

The accompanying background information also includes an overview of the Commissioner's proposed candidate for Deputy Police and Crime Commissioner, Councillor Yvonne Mosquito.

**DECISION**

Making use of the power in section 18 (1) I have decided to propose the appointment of Councillor Yvonne Mosquito to the post of Deputy Police and Crime Commissioner for the West Midlands.

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**West Midlands Acting Police and Crime Commissioner**

I confirm that I do not have any disclosable pecuniary interests in this decision and take the decision in compliance with the Code of Conduct for the West Midlands Office for Policing and Crime. Any interests are indicated below.

Signature.....David Jamieson.....

Date..... 22 August 2014.....

## **NON - CONFIDENTIAL FACTS AND ADVICE TO THE POLICE AND CRIME COMMISSIONER**

### **INTRODUCTION AND BACKGROUND**

1. The Police Reform and Social Responsibility Act 2011 (the Act) provides, under section 18(1), that the police and crime commissioner for a police area may appointment a person as the deputy police and crime commissioner for that area.
2. Under section 18(10) of the Police Reform and Social Responsibility Act 2011 (“the Act”) the deputy police and crime commissioner (DPCC) is a member of the PCC’s staff. The Commissioner wishes to appoint a deputy police and crime commissioner and his proposed candidate for the post is Councillor Yvonne Mosquito who until the death of the previous Commissioner, Bob Jones, held the post of Deputy Police and Crime Commissioner until being made Acting Police and Crime Commissioner on 14 July 2014. Her Acting Police and Crime Commissioner appointment, by virtue of the provisions of the Police Reform and Social Responsibility Act 201, ended with the declaration following the election held on 21 August 2014.
3. Councillor Mosquito has declared that she is aware of the provisions of the Police Reform and Social Responsibility Act 2011 as regards eligibility to be appointed. She has declared to the Commissioner that to the best of her knowledge and belief she is eligible for appointment and is not subject to a relevant disqualification. Attached at **Annex A** are the relevant extracts from the Act which have been provided to Cllr Mosquito.
4. A DPCC is required by the Act to be a member of the Commissioner’s staff. The DPCC for the West Midlands will be subject to a contract of employment which will generally reflect the terms and conditions applying to the PCC’s staff.
5. As required by the Police Reform and Social Responsibility Act 2011 the Commissioner will notify the West Midlands Police and Crime Panel of his decision. In accordance with the Act he will provide to them:
  - the name of the person he proposes to appoint, who for the purposes of the legislation is known as 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
6. Cllr Mosquito will then be subject to the confirmatory hearing process required by schedule 1 of the Act. It is understood that the confirmatory hearing will take place on Monday 8 September 2014.
7. The Police and Crime Panel are required to publish a report to the Commissioner on the proposed appointment in which they must include a recommendation as to whether or not the candidate should be appointed. The Commissioner will consider the report once published and decide whether to accept or reject the Panel’s recommendation on Cllr Mosquito’s proposed appointment.

## **FINANCIAL IMPLICATIONS**

The budget for the Commissioner includes provision for the payment of a salary to a Deputy Police and Crime Commissioner. The terms and conditions which attach to the role will be provided to West Midlands Police and Crime Panel as required by the Police Reform and Social Responsibility Act 2014.

## **LEGAL IMPLICATIONS**

The legal provisions which relate to the appointment of a deputy police and crime commissioner are contained in the background section to this report.

## **EQUALITY IMPLICATIONS**

The provisions of the Police Reform and Social Responsibility Act 2014 dis-apply section 7 of the Local Government and Housing Act 1989 to the appointment of a deputy police and crime commissioner.

## **Schedule of Background Papers**

## **Public Access to Information**

Information contained in this decision is subject to the Freedom of Information Act 2000 and other legislation. This decision will be made available on the Commissioner's website.

**Extract – paragraph 8 of Schedule 1 to the Police Reform and Social Responsibility Act 2011**

**The deputy police and crime commissioner**

8 (1) This paragraph applies to a person appointed under section 18 by a police and crime commissioner to be the deputy police and crime commissioner.

(2) None of the following may be appointed as the deputy police and crime commissioner—

- (a) a person who has not attained the age of 18 on the day of the appointment;
- (b) a person who is subject to a relevant disqualification;
- (c) a Member of the House of Commons;
- (d) a member of the European Parliament;
- (e) a member of the National Assembly for Wales;
- (f) a member of the Scottish Parliament;
- (g) a member of the Northern Ireland Assembly.

(3) The terms and conditions of a person who is appointed as the deputy police and crime commissioner must provide for the appointment to end not later than the day when the current term of office of the appointing police and crime commissioner ends.

(4) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the deputy police and crime commissioner.

(5) In this paragraph “current term of office”, in relation to the appointment of a deputy police and crime commissioner by a police and crime commissioner, means the commissioner’s term of office which is running at the time the appointment is made.

(6) For the purposes of this paragraph, a person is subject to a relevant disqualification if the person is disqualified from being elected as, or being, a police and crime commissioner under—

(a) section 65(1) (police officers, police-related employment etc), other than paragraph (e)(ii);  
or

(b) section 66(1), (3)(a)(iii) or (iv), (3)(c) or (3)(d) (citizenship, bankruptcy, criminal convictions & corrupt or illegal election practices).

**Relevant disqualification**

**Section 65(1) Police Reform and Social Responsibility Act 2011**

Disqualification from election or holding office as police and crime commissioner: police grounds

(1) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—

(a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);

(b) is a member of—

- (i) the British Transport Police Force;
- (ii) the Civil Nuclear Constabulary;

(c) is a special constable appointed—

- (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
- (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);

(d) is a member of staff of the chief officer of police of any police force maintained for a police area;

(e) is a member of staff of—

- (i) a police and crime commissioner;
- (ii) *the Mayor's Office for Policing and Crime*;

(f) is the Mayor of London;

(g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;

(h) is a member (including a member who is chairman or chief executive), or member of staff, of—

- (i) the British Transport Police Authority;
  - (ii) the Civil Nuclear Police Authority;
  - (iii) the Independent Police Complaints Commission;
  - (iv) the Serious Organised Crime Agency;
  - (v) the National Policing Improvement Agency;
- (i) holds any employment in an entity which is under the control of—
- (i) a local policing body;
  - (ii) any body mentioned in paragraph (h);
  - (iii) the chief officer of police for any police force maintained for a police area or the City of London police area;
  - (iv) the chief officer of police for any police force mentioned in paragraph (b).

### **Section 66 Police Reform and Social Responsibility Act 2011 (relevant parts)**

Disqualification from election or holding office as police and crime commissioner: other grounds

(1) A person is disqualified from being elected as, or being, a police and crime commissioner unless the person satisfies the citizenship condition (see section 68).

(3) A person is disqualified from being elected as, or being, a police and crime commissioner if—

(a) the person is the subject of—

(iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;

(iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;

(c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or

(d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).

### **Citizenship condition (Section 68 Police Reform and Social Responsibility Act 2011)**

68 Citizenship condition

(1) This section applies for the purposes of section 66.

(2) A person satisfies the citizenship condition if the person is—

- (a) a qualifying Commonwealth citizen,
- (b) a citizen of the Republic of Ireland, or
- (c) a citizen of the Union.

(3) For the purposes of this section, a person is a qualifying Commonwealth citizen if the person is a Commonwealth citizen and—

- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
- (b) is a person who requires such leave but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(4) But a person who does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases) is not a qualifying Commonwealth citizen by virtue of subsection (3)(a).

(5) In this section the expression “citizen of the Union” is to be construed in accordance with Article 20(1) of the Treaty on the Functioning of the European Union.