

AGENDA

ITEM

8 **URGENT ITEM - ETHICAL STANDARDS - APPOINTMENT OF INDEPENDENT PERSONS** (Pages 185 - 192)

Note: By reason of the special circumstances described below, the chairman considers that this item should be dealt with at this meeting as a matter of urgency pursuant to Section 100B 4 (b) of the Local Government Act 1972.

Special Circumstances: To enable the Monitoring Officer as a matter of urgency to make the appropriate arrangements to establish a joint appointments panel and agree appropriate representation on the panel with participating councils before the Council approves the appointments on 6 October 2015.

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ITEM OF URGENT BUSINESS

Corporate Governance and Standards Committee Report

Report of Executive Head of Governance

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Date: 23 July 2015

**Ethical standards –
appointment of Independent Persons**

Recommendation:

The Committee is asked to authorise the Monitoring Officer,

- (1) to establish a joint appointments panel with participating Surrey councils so that the panel may short-list and interview candidates and make recommendations to the respective councils for the appointment of Independent Persons; and
- (2) to agree appropriate representation on the panel with participating councils.

Reason for Recommendation:

To enable the Council to comply with its obligations under Section 28 of the Localism Act 2011 in respect of the appointment of Independent Persons.

1. Purpose of Report

- 1.1 Following the Council's decision on 19 May 2015 to extend the period of office of its current Independent Persons, namely Tony Allenby, Vivienne Cameron and Roger Pett, until its meeting on 6 October 2015, the Committee is requested to agree arrangements for the selection and interviewing of suitable candidates and to make recommendations to full Council in that regard.

2. Background

- 2.1 The Localism Act 2011 ("the Act") introduced a new ethical standards regime for local government in July 2012. The Act, amongst other things, requires the Council to seek the views of an Independent Person before it takes a decision on an allegation of misconduct by a councillor which it has decided to investigate. At Guildford, the Monitoring Officer also decides, after consultation with the Independent Person, whether a complaint merits a formal investigation. The Independent Person's views may also be sought by the Council at any other

- stage in a misconduct complaint, or by a councillor against whom an allegation has been made.
- 2.2 Following a joint appointments process with a number of other Surrey district councils, this Council, in July 2012, appointed Roger Pett as its first Independent Person and subsequently in October 2012, appointed Vivienne Cameron and Tony Allenby as Independent Persons. All three Independent Persons were appointed initially until May 2015. Our three Independent Persons also currently perform the same role for Mole Valley District Council and Spelthorne Borough Council, two of them perform the role for Waverley Borough Council and one for Reigate & Banstead Borough Council.
- 2.3 This Committee's terms of reference include:
- “Agreeing arrangements for the selection and interviewing of candidates for appointment as Independent Persons (including such joint arrangements with other councils as may be deemed by the Monitoring Officer to be appropriate) and to make recommendations to full Council on these appointments”.
- 2.4 The Act requires us to advertise any vacancy for an Independent Person in such a manner as we consider is likely to bring it to the public's attention and those interested must submit an application. A majority of members at full Council must agree their appointment.
- 2.5 All three Independent Persons have indicated informally that they would be happy to continue in this role. The councils referred to in paragraph 2.2 above, have indicated that they would be happy to undertake a joint selection process for the purpose of appointing Independent Persons.
- 2.6 As reported to the Council on 19 May 2015, the role of the Independent Person has been expanded to include involvement in disciplinary action against the Head of Paid Service, Chief Finance Officer or Monitoring Officer. This will involve the appointment of a panel for the purpose of advising the Council on matters relating to the dismissal of these officers. The Council must invite Independent Persons to be considered for appointment to the panel with a view to appointing at least two such persons to the panel. It is clear therefore that, in order to provide the necessary capacity and resilience for the participating councils, an appropriate number of Independent Persons will need to be appointed.
- 2.7 A role description and a person specification for an Independent Person is attached as Appendix 1 to this report.

3. Proposed timetable for appointment of Independent Persons

- 3.1 The timetable below sets out the key milestones for the appointment of Independent Persons.

Corporate Governance & Standards Committee to agree arrangements for selection and interviewing of candidates jointly with participating councils	23 July 2015
Place advertisement on participating councils' websites	30 July 2015
Deadline for submission of applications	11 September 2015
Shortlisting of candidates for interview	Week commencing 14 September 2015
Interviews of shortlisted candidates	To be confirmed
Council to approve appointments	6 October 2015

4. Financial Implications

- 4.1 It is anticipated that the process for the appointment of Independent Persons can be undertaken within existing budgets.

5. Legal Implications

- 5.1 In order to satisfy the very prescriptive requirements of the Act, we are required to advertise any vacancy for an Independent Person in such a manner as we consider is likely to bring it to the public's attention and those interested must submit an application.
- 5.2 In addition, the appointment of an Independent Person must be *approved by a majority of the members of the authority*. This means that any appointment must be approved by at least 25 councillors, not merely a simple majority of councillors present and voting.

6. Human Resource Implications

- 6.1 It is anticipated that the process for the appointment of Independent Persons can be undertaken within existing staff resources.

7. Conclusion

- 7.1 In order to comply with the Council's obligations under Section 28 of the Localism Act 2011 in respect of the appointment of Independent Persons, officers recommend that the Committee authorises the Monitoring Officer,
- to establish a joint appointments panel with participating Surrey councils so that the panel may short-list and interview candidates and make recommendations to the respective councils for the appointment of Independent Persons; and
 - to agree appropriate representation on the panel with participating councils.

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- 7.2 It will be up to each participating council to formally approve their Independent Persons following the selection process described above.

8. Background Papers

- Council: 8 May 2012 – Item 9: The Localism Act 2011: Ethical Standards Update
- Minute No. CO15
- Council: 5 July 2012 – Item 12: The Localism Act 2011 – The New Ethical Standards Framework
- Minute No. CO32
- Council: 11 October 2012 – Item 12: Ethical standards – appointment of Independent Persons
- Minute No. CO47

9. Appendices

Appendix 1: Role Description and Person Specification

Note: By reason of the special circumstances described below, the chairman considers that this item should be dealt with at this meeting as a matter of urgency pursuant to Section 100B 4 (b) of the Local Government Act 1972.

Special Circumstances: To enable the Monitoring Officer as a matter of urgency to make the appropriate arrangements to establish a joint appointments panel and agree appropriate representation on the panel with participating councils before the Council approves the appointments on 6 October 2015.

APPOINTMENT OF INDEPENDENT PERSONS

Role Description

1. The Independent Persons will assist in maintaining and promoting high ethical standards in the Borough Council and the parish councils within the Borough. The role of “independent person” was created by the Localism Act 2011. The Act requires all local authorities to adopt a code of conduct for their elected members and to appoint at least one independent person to assist the Council in dealing with complaints that the code of conduct may have been breached.
2. If the Council has decided to investigate an allegation that the code of conduct has been breached then the views of an Independent Person must be sought, and taken into account, before the Council makes its decision on any such allegation. The Council may also seek the views of an Independent Person in relation to allegations where no decision to investigate has been made. In addition any Councillor, who is the subject of a complaint, may seek the views of an Independent Person.
3. It is anticipated that the views of an Independent Person will usually be sought by the Monitoring Officer by e-mail but, on occasions, contact may be by telephone or in face to face meetings.
4. An Independent Person may be invited to attend any meeting of the Hearings Sub-Committee which is considering an allegation of a breach of the code of conduct.
5. The Independent Persons will be encouraged:
 - to develop their knowledge of the code of conduct,
 - to analyse and to exercise fair and impartial judgment on conduct issues,
 - to set high standards of ethical behaviour, and develop a sound understanding of the ethical framework
6. The Independent Persons will be expected to provide a view on the conduct of Borough and parish councillors from an external perspective, reflecting the expectations and views of the local community on ethical standards.
7. The Independent Persons will be encouraged to acquire some understanding of the work of the Borough and parish councils and how they operate, and must be prepared to undertake training and also to participate in training events organised by the Council to promote awareness of the Code of Conduct.
8. The Council will also invite Independent Persons to be considered for appointment to a panel which will be involved in advising the Council on matters relating to the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
9. Support will be provided by the Council’s Monitoring Officer, who will arrange any necessary training and provide such information and assistance as is necessary to enable the Independent Persons to perform the role effectively.

10. An Independent Person is not an employee of the Council and the post is not remunerated although travel expenses may be claimed for attending meetings. The term of office will be for a fixed term expiring in May 2019 and will be subject to the Independent Person maintaining high standards of personal conduct. The Borough Council may terminate an appointment at any time.

Person Specification

Please note that by law a person may not be appointed as an Independent Person if that person:

- (a) is a member or co-opted member or officer of the Council or a parish council in the Council's area, or
- (b) is a relative, or close friend of such a person, or
- (c) has been a member or co-opted member or officer of the Council or a parish council in the Council's area in the previous 5 years.

Essential Qualities

1. To demonstrate a keen interest in promoting high ethical standards in local government, and to have a general understanding of the principles behind the councillors' Code of Conduct.
2. To have good communication and interpersonal skills, and to be able to operate with tact and diplomacy.
3. To be able to demonstrate an understanding of the standards of accountability and objectivity demanded of public authorities, and the continuous scrutiny under which they are placed.
4. To be able to use logical reasoning and bring qualities of open-mindedness and impartiality.
5. To be able to deal with substantial documentation and to analyse, interpret and absorb information and evidence effectively and quickly.
6. To understand and comply with confidentiality requirements
7. To be a person of good standing in whose impartiality and integrity elected members and the general public can have confidence.
8. To be able to attend meetings and be available for telephone or email consultation, sometimes at short notice.
9. Not to be a member of any political party or have a public profile in relation to political activities.

Desirable Qualities

1. To have had involvement in or knowledge of public authorities, voluntary organisations, commercial institutions, professional or employee organisations or other similar activities.

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