



ADUR & WORTHING
COUNCILS

Joint Governance Committee
28 January 2020
Agenda Item 12

Ward(s) Affected: All

Recruitment of Independent Persons and Allowances

Report by the Director for Digital & Resources

Executive Summary

1. Purpose

- 1.1 To consider the Councils' recruitment process in respect of Independent Persons and any remuneration to be offered for the role.

2. Recommendations

- 2.1 The Joint Governance Committee is asked to consider the report and determine the number of Independent Persons they wish the Council to recruit and appoint.
- 2.2 Authorise the Monitoring Officer to commence a recruitment process in respect of any current vacancies and bring a report to a Sub-Committee of the Joint Governance Committee to enable the interview of suitable candidates.
- 2.3 Consider and determine any remuneration to be payable for the role.

3. Context

- 3.1 The Joint Governance Sub-Committee's terms of reference enable it to consider applications from Independent Persons for the purposes of Standards and to make recommendations to each full Council in respect of appointments.
- 3.2 The Councils are statutorily obliged to appoint at least one Independent Person (IP). Such IP's are co-opted non-voting Members of the Joint Governance Committee.
- 3.3 In terms of standards, ethics and probity, the Joint Governance Committee, including the IP's are responsible for:
- Leading on the Councils' duties to design, implement, monitor, approve and review the standards of ethics and probity of the Council and its Councillors and Co-opted Members.
 - Promoting a culture of openness, accountability and probity in order to ensure the highest standards of conduct;
 - Leading on all aspects of corporate governance by promoting the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct;
 - Overseeing and managing a programme of guidance, advice and training on ethics, standards and probity for Councillors and Co-opted Members;
 - Being responsible for the Council's Register of Members' Interests;
 - Exercising the functions of the Councils in relation to the ethical framework, corporate governance and standards of conduct of joint committees and other bodies.
- 3.4 It is a statutory requirement that the views of the IP must be sought and taken into account by the Council before it makes its decision on an allegation that a Member has breached the Code of Conduct, that it has decided to investigate. Legislation also provides that their views may be sought by the Councils or their Monitoring Officer at any other stage in the procedure when a complaint of a breach of the Code of Conduct is considered, or by the Member facing the allegation (Subject Member). The Councils' MO routinely consults with the IP at the assessment stage of every complaint.
- 3.5 The IP is an independent quality assurance role, rather than a decision maker; independence and impartiality are therefore crucial. If a Code of Conduct complaint is dealt with by way of a hearing of a Sub-Committee of the Joint

Governance Committee, the IP appointed to the matter, would be expected to sit on the Sub-Committee as a non-voting Member, providing independent views to the Committee.

- 3.6 The Localism Act 2011 further provides that a person cannot be an IP if they:
- a) Are a Member, Co-opted Member or Officer of the Authority
 - b) Are a Member, Co-opted Member or Officer of a Parish Council within the District of Adur
 - c) Are a relative or close friend of a Member, Co-opted Member or Officer of the Authority or one of its Parishes
 - d) Are, or have been within the last 5 years, a Member, Co-opted Member or Officer of Adur District Council or Worthing Borough Council, or one of their Parishes.

- 3.7 The Localism Act further provides that a person can only be appointed if the vacancy for an IP has been advertised in such a manner as the Councils consider is likely to bring it to the attention of the public. The candidate must submit an application to fill the vacancy and the proposed appointment must be approved by a majority of the Members of each full Council.

4. Issues for consideration

- 4.1 Section 28 of the Localism Act 2011 requires the Councils to appoint at least one IP to advise the Councils, the MO and any Subject Member of the Borough, District or Parish Councils, when subject to an allegation. Officers recommend the appointment of three IP's, all of whom would act as IP's for both Adur District Council and Worthing Borough Council.
- 4.2 The Councils currently have two IP's who were appointed in October 2016 for a term of office of 4 years. The 4 year period of appointment is due to elapse in October 2020, necessitating the further recruitment of IP's.
- 4.3 Officers recommend that it would be good practice for the terms of multiple IP's to ideally overlap, to ensure a level of continuity and institutional memory. It is therefore proposed that the Monitoring Officer advertise one vacancy in the press, on social media and on the Council's website, with a view to any suitable candidates being interviewed by the Sub-Committee in late March or early April in order that any recommendations to full Council for appointment of one IP could be considered in April 2020. Any successful IP appointed would then have a six month window of overlap with the Council's existing IP's

to allow some continuity. A further round of recruitment would need to follow in the autumn of 2020 when the existing two posts become vacant.

- 4.4 Members of the Joint Governance Committee are asked to consider offering remuneration for the role in the form of an honorarium payment. The role is essential to the process and procedure of upholding high standards of conduct and ethics amongst Members and dealing with allegations of a breach of the Code. The work of the IP's is very much appreciated by the Councils' MO in particular, as they can offer an impartial view which can improve the quality of decision making and ensure that decisions are made fairly; they provide a valuable and objective voice in the standards process. The role can be fairly onerous and time-consuming and carries a significant level of responsibility; it is felt that some level of payment would be an equitable reflection on the role itself as well as encouraging a wider range of applicants.
- 4.5 Members will be aware that the Chairman of the Joint Members Appointments Committee receives a payment of £100 for attendance at any meeting, which is estimated to be approximately 3-5 times per year. It is proposed that a similar arrangement be adopted in respect of IP's and that they are paid £100 on each occasion that they are required to attend a meeting of the Joint Governance Committee, its Sub-Committee or the Council, plus reasonable expenses for such attendance. If such an arrangement is adopted, IP's would still be required to consider allegations at the initial stage of a complaint, consider evidence provided and provide informal advice to both the MO and, on occasions, the Subject Member, on an unpaid basis.

5. Engagement and Communication

- 5.1 Consultation has taken place with the Leaders of the Council and the Chairman of the Joint Governance Committee.

6. Financial Implications

- 6.1 The cost of appointing new Independent Persons will be met from within existing budgets.

7. Legal Implications

- 7.1 Section 27 Localism Act 2011 provides that an Authority must promote and maintain high standards of conduct by Members and Co-opted Members of the Authority.
- 7.2 Section 28 Localism Act 2011 requires that the Councils appoint an Independent Person and the steps that must be undertaken in the process.
- 7.3 Section 28(8)(c)(iii) Localism Act 2011 provides that an Independent Person's appointment must be approved by a majority of the Members of the Authority.

Background Papers

- Localism Act 2011
- Report to Joint Governance Sub-Committee, 17th October 2016
- Local Government Ethical Standards: A Review by the Committee on Standards in Public Life, January 2019

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Sustainability & Risk Assessment

1. Economic

Matter considered and no issues identified.

2. Social

2.1 Social Value

Matter considered and no issues identified.

2.2 Equality Issues

Matter considered and no issues identified.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

Where appropriate within the Constitution, such as in relation to quasi-judicial meetings including meetings of the Joint Governance Sub-Committee held to determine allegations of breaches of the Code of Conduct, the requirements of the Human Rights Act have been taken into account in appropriate procedures.

3. Environmental

Matter considered and no issues identified.

4. Governance

The role of the Independent Person is an important one as it ensures independence and impartiality in the process of considering allegations that Members have breached the Code of Conduct and therefore enables the Councils to comply with their obligation of upholding high standards of conduct and ethics.