

Report for: Standards Committee 15th October 2015

Item number:

Title: Recruitment of Independent Members for Standards Committee and Staffing and Remuneration Committee

Report authorised by : Bernie Ryan – Assistant Director of Corporate Governance

Bernie Ryan

Lead Officer: Alison Vydulinska – Principal Lawyer

Ward(s) affected: N/A

Report for Key/

Non Key Decision: Non Key Decision

1. Describe the issue under consideration
 - 1.1 This report seeks approval to commence the recruitment of Independent Persons to support the Standards Committee in relation to allegations that members or co-opted members have failed to comply with the Member's Code of Conduct, and to be considered for appointment to the Staffing and Remuneration Committee when considering the dismissal of either the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
2. Cabinet Member Introduction
N/A
3. Recommendations
That the Standards Committee:
 - a) Approve the commencement of the recruitment exercise for two Independent Persons
 - b) Propose the annual allowance for Independent Persons of £1,250 for the primary member and £250 for the secondary member (subject to Council approval)
 - c) Propose that the Independent Persons appointed shall also be available to be considered for appointment to the relevant committee appointed by the Council (currently Staffing and Remuneration Committee) which is responsible for advising the Council on matters relating to the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer (subject to Council approval)
4. Reasons for decision
 - 4.1 The Council has a legal duty to put in place arrangements for having an Independent Person in relation to allegations of breaches of the Code of Conduct. It must also have in place arrangements for at least two Independent Persons to participate in recommendations in relation to the dismissal of statutory officers. The law requires IPs appointed in relation to the Standards regime to be invited to participate in this process.

5. Alternative options considered

5.1 Under section 28(7) of the Localism Act 2011 the Council must appoint at least one Independent Person (IP) whose views are to be sought and taken into account by the Council before it makes its decisions on allegations about breaches of the Code of Conduct by Members or co-opted Members of the Council.

5.2 Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the Council must also have in place arrangements for inviting IPs to be involved in making recommendations to Council before any decision to dismiss a statutory officer is made. Authorities must invite any IPs supporting the Standards Committee for this purpose although it is also possible to use IPs from other authorities for this purpose where the authority considers it appropriate.

6. Background information

6.1 The Independent Person is someone whose views are sought and taken into account by the Council before it makes a decision following an investigation into a breach of the Code of Conduct by a member. Their views can also be sought by the Council in circumstances other than these, and by a member or co-opted member who is the subject of a complaint of breach of the Code.

6.2 An IP must be appointed following an advertisement and application process and confirmation by full Council. These appointments must be made at the latest, by the May 2016 Annual Council Meeting.

6.3 The Council appointed two Independent Persons in July 2012 (a primary and a secondary/deputy IP) and although only the primary IP has been engaged in respect of these duties, it is still considered prudent to have a secondary IP as a reserve, not least because of the additional duties for which the IPs may now be used.

6.4 The law provides that a person may not be an IP if he or she is a member, a co-opted member or an officer of the Council, or a relative of close friend thereof. It also provides that a person may not be appointed if they were a member or co-opted member during the past 5 years.

6.5 The incumbent primary IP has provided excellent independent support to the Standards Committee and the Monitoring Officer, however the law does not allow the Council to reappoint her when her term expires on 30th June 2016, due to the 5 year rule set out in 6.4 above. (Note that specific transitional provisions in 2012 effectively displied the 5 year rule so that previously co-opted members of the Standards Committee could be appointed as IPs but these transitional provisions no longer apply). The secondary/deputy IP was not a co-opted member of the Standards Committee before 2012 and so is able to reapply in the current exercise.

6.6 It is proposed that following Standards Committee approval, the recruitment process is commenced. It will involve an advertisement,

application process, and interviews held by a panel of members drawn from the Standards Committee and the Monitoring Officer, which will recommend appointments to full Council.

6.7 In May 2015 the Local Authorities (Standing Orders) (England) (Amendment) Regulations were passed. These provide that where a decision to dismiss any statutory officer is to be taken by full Council, before that decision is taken the Council must invite at least 2 IPs to be members of a panel to consider the matter, and take any recommendations from that panel into account before taking their final decision. The Staffing and Remuneration Committee has been given the role of being the panel for these purposes in the Constitution, IPs appointed to support the standards regime must be invited to sit on this panel. If there are none, or they are unable to participate, any independent persons appointed by another authority may be invited to participate. It is considered most appropriate to utilise the Council's own IPs appointed to support the standards regime for this purpose, and it is therefore proposed that this role is added to their job description.

6.8 The current primary IP is remunerated at a rate of £1,000 per year and the secondary IP at a rate of £250 per annum. Councils can also remunerate IPs that are invited to participate in recommendations relating to the dismissal of the statutory officers, however the remuneration must not exceed that paid to the IPs under the standards regime. Whilst the views of the IP are fairly regularly sought and her attendance required at hearings relating to breaches of the Code, is it not clear whether or not the attendance of IPs will be required in relation to the dismissal of a statutory officer, and it is therefore proposed that payment to the primary IP is increased to £1250 to accommodate any potential role in the panel considering dismissal of statutory officers, but that the payment for the secondary IP who has not as yet had to attend a hearing in relation to the breach of the Code of Conduct by a member remain the same at £250.

7. Contribution to strategic outcomes

7.1 Ensuring good governance within the Council and by councillors supports all strategic priorities.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 These proposals represent a small increase of £250 to the current budget, to cover the additional role of the primary IP in making recommendations to Council in respect of the dismissal of a statutory officer. As the secondary IP generally has a more limited role in relation to the Standards Committee it is not proposed to increase the payment in respect of them.

8.2 No equalities implications arise directly from this report, however the application and interview process will be carried out in line with the council's recruitment policies and will comply with the council's equalities duties.

8.3 The comments of the Assistant Director of Corporate Governance are included in the body of this report.

9. Use of Appendices

10. Local Government (Access to Information) Act 1985

Localism Act 2011 Part 1 Chapter 7

Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015