

**Standards and Constitutional Oversight Committee
Monday, 5 December 2016**

REPORT TITLE:	Recruitment Exercise for Additional Independent Person(s)
REPORT OF:	Head of Legal and Member Services

REPORT SUMMARY

This report provides the Standards and Constitutional Oversight Committee with an update in respect of the requirement to appoint Independent Persons to the Council's Standards and Constitutional Oversight Committee and details of the additional role of making recommendations to the Council in respect of the dismissal of a statutory Officer. It also recommends that a further recruitment process is undertaken with the aim of appointing more Independent Persons because there are benefits to having independent voices on the Standards and Constitutional Oversight Committee and it can take advantage of their expertise and experience. Therefore, it is important to build up the pool of people that can be called upon to assist the Council with Standards matters etc. and so increase resilience.

This approach ensures good governance within the Council and by Councillors and supports all strategic priorities. Good governance underpins the Council's values and the Wirral Plan.

RECOMMENDATION/S

That the Standards and Constitutional Oversight Committee be recommended:

- (1) to agree the commencement of a further recruitment exercise with a view to appointing at least two more Independent Persons, to be conducted in a similar manner to the previous one held in June/July 2012; and**
- (2) to agree that, in accordance with the Members' Allowances Scheme, Independent Persons will continue to receive a payment of £25 for each meeting they attend, along with a mileage allowance of 45p per mile for the mileage incurred when attending meetings or alternatively be reimbursed at the prevailing public transport rates.**

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1** The Council has a legal duty to put in place arrangements for having an Independent Person to consult and offer advice in relation to allegations of breach of the Members' Code of Conduct. The Independent Person must be consulted and views taken into account before the authority takes a decision on any allegation it has decided to investigate. The independent person may be consulted by the authority in circumstances where the authority is not taking a decision whether to investigate the allegation. The independent person may also be consulted by a Member of the Council against whom an allegation has been made
- 1.2** It is important to ensure that the impartiality of the independent person is not compromised by undertaking more than one of these roles where it would be inappropriate to do so.
- 1.3** The Council 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 Independent Persons appointed in relation to the Standards regime to be invited to participate in this process.

2.0 OTHER OPTIONS CONSIDERED

- 2.1** Under section 28(7) of the Localism Act 2011 the Council must appoint at least one Independent Person 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.
- 2.2** Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the Council must also have in place arrangements for inviting Independent Persons to be involved in making recommendations to the Council before any decision to dismiss a statutory officer is made. Authorities must invite any Independent Persons supporting the Standards Committee for this purpose although it is also possible to use Independent Persons from other authorities for this purpose where the authority considers it appropriate.

3.0 BACKGROUND INFORMATION

- 3.1** Standards Committees had Independent Members until July 2012. The Localism Act 2011 made significant changes to the Standards regime in local authorities, including the abolition of Independent Members from this date. A new role of Independent Person was established.

3.2 It is a requirement of the Localism Act 2011 that the Council must appoint at least one independent person to advise its Standards Committee, particularly on investigations into allegations that a Member has breached the Code of Conduct, and to advise any individual Member of the Council who is the subject of a complaint under the Code of Conduct. The appointment process must satisfy the requirement in the Act that the vacancy for an Independent Person must be advertised in such manner as the authority considers is likely to bring it to the attention of the public. There is an advert, application and interview process followed by confirmation of appointment(s) by the Council.

3.3 Following an extremely successful recruitment process in 2012, the Council, at its meeting on 16 July 2012 agreed the appointments of the following Independent Persons to the Standards Committee for a four year team of office (until 16 July 2016):

- Professor RS Jones
- Mr C Jones
- Mr D Burgess-Joyce
- Mr B Cummings

(Minute No. 43 refers.)

3.4 Early in 2015 Mr D Burgess-Joyce, who had provided excellent support to the Standards and Constitutional Oversight Committee, resigned as an Independent Person in order to stand for election to the Council in the Greasby, Frankby and Irby Ward. He was subsequently elected in May 2015 and became a Member of the Council.

3.5 The three remaining Independent Persons continue to provide excellent independent support to the Standards and Constitutional Oversight Committee and the Monitoring Officer. They have gained substantial knowledge and experience in the role. Consequently, they were invited and agreed to continue as Independent Members of the Committee when their term of office came to an end. They were subsequently, re-appointed by the Council at its meeting on 14 July 2016, for a further four year term of office (until 15 July 2020).

(Minute No. 33 refers.)

3.6 The law provides that a person may not be an Independent Person if he or she is a Member, a co-opted member or an officer of the Council, or a relative or 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 five years.

3.7 It is proposed that, following Standards and Constitutional Oversight 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 Committee and the Monitoring Officer, which will recommend any appointments to the Council.

3.8 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 the Council, prior to making such a decision, the Council must invite at least two Independent Persons to be members of a Panel to consider the matter, and take any recommendations from that Panel into account before making the final decision.

3.9 The Chief Officer's Employment Disciplinary Sub-Committee has this remit in accordance with the Council's Constitution and Independent Persons appointed to support the Standards regime must be invited to sit on this Sub-Committee. 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 Independent Persons appointed to support the Standards regime for this purpose, and it is therefore proposed that this role be added to their job description. There has not been a requirement for this Sub-Committee to meet.

4.0 FINANCIAL IMPLICATIONS

4.1 Independent Persons receive a payment of £25 for each meeting they attend and the payment for the use of their private motor vehicle to and from the meeting is made at the rate of 45p per mile.

4.2 The recruitment process will be arranged and managed within existing resources in Committee and Civic Services.

5.0 LEGAL IMPLICATIONS

5.1 The position of Independent Persons is a statutory requirement through the Localism Act 2011, and the scope of the role has been extended as detailed in Paragraph 3.8 above.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 None specific to this report.

7.0 RELEVANT RISKS

7.1 The recruitment process will ensure that there are Independent Persons in place to undertake the duties set out in the Localism Act 2011, which reduces the risk of both reputational damage to the authority and the risk of any decision by a Standards and Constitutional Oversight Committee being open to challenge due to lack of a required Independent Person.

7.2 The Council previously had four Independent Persons it could call on but since 2015 it has only had three. These Persons may not always be available due to other conflicting commitments. Therefore, making additional Independent Person appointments is considered to be prudent and builds in more flexibility. This action will build more flexibility into the Standards process.

8.0 ENGAGEMENT/CONSULTATION

8.1 None.

9.0 EQUALITY IMPLICATIONS

9.1 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 equality duties.

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APPENDICES

None

REFERENCE MATERIAL

The Localism Act 2011 Part 1 Chapter 7.
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Council	16 July 2012
Council	14 July 2016
Standards and Constitutional Oversight Working Group	19 September 2016