

Standards and Constitutional Oversight Committee

Monday, 20 November 2017

REPORT TITLE:	Appointment of Independent Persons
REPORT OF:	Assistant Director: Law & Governance (Monitoring Officer)

REPORT SUMMARY

In 2012 four Independent Person appointments were made but two have since resigned. There remains two Independent Persons who sit on the Standards and Constitutional Oversight Committee and Panel as their term of office has been subsequently extended until 15 July 2020.

A further recruitment exercise was approved by the Committee at its meeting on 5 December 2016 (Minute No. 23 refers.) with the aim of appointing more Independent Persons because it is recognised that there are benefits to having independent voices on the Committee and its Panel, as Elected Members can take advantage of their expertise and experience. Therefore, it is considered very important to build up the pool of Independent Persons that can be called upon to assist the Council with Standards matters etc. and so increase resilience.

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

Independent Persons can also be requested to offer advice in respect of complaints made against Elected Members and can be called upon in the event of the proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer in accordance with their statutory role.

This report updates the Committee on the recruitment of Independent Persons. The Selection Panel, consisting of Councillors David Elderton, Phil Gilchrist and Moira McLaughlin met on 14 September 2017 and interviewed four candidates. All four are deemed worthy of selection, subject to satisfactory references.

RECOMMENDATION/S

It is recommended that the Committee approves all four potential Independent Persons for recommendation to the Council for appointment as follows:

- Mr G Kerr
- Mr JR McCosh
- Ms Angele Lloyd Prince
- Mr A Wilson

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Section 27 of the Localism Act 2011 imposes a duty on the Council to “promote and maintain high standards of conduct by Members and co-opted Members” of the Council. The Council is required to adopt a Code dealing with the Conduct that is expected of Members and co-opted Members of the Council when they are acting in that capacity, and must have in place arrangements under which allegations that a Member has failed to comply with the Code of Conduct can be investigated, and arrangements under which decisions on allegations can be made. Those arrangements must include the appointment of at least one “independent person”, whose views must be sought, and taken into account, before any decision on an allegation which has been investigated is taken.
- 1.2 The Council has delegated to the Standards and Constitutional Oversight Committee the function of investigating and determining any allegations of a breach of the Code of Conduct by individual Members. The Committee comprises of nine Members of the Council and the Independent Persons, who are non-voting Members of the Committee, because a Member who has not been elected does not have a vote unless specifically given by legislation.
- 1.3 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.
- 1.4 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 is a need for it to meet. 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 yet.
- 1.5 Independent Persons fulfil a statutory role in relation to Members’ conduct issues. The appointment of a further four Independent Persons, as part of the Council’s Standards Framework, will provide resilience in case of illness or other absence.
- 1.6 In 2012 the Council appointed four Independent Persons but over the years two have resigned. To boost the pool of Independent Persons and so allowing more flexibility, following the Committee’s approval, a further recruitment process got underway earlier in the year. As a result it is

proposed to recommend to the Council that the four candidates that recently had successful interviews by the Selection Panel be appointed for a four year term of office.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 To make less than the four recommended new Independent Person appointments or to make none at all.

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 term 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 continued 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). Unfortunately, in June 2017 Mr B Cummings resigned because of ill health.

(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 Following the Committee's approval, the recruitment process commenced early in 2017. It involved an advertisement, application process and interviews held by a Selection Panel of Members drawn from the Committee and the Monitoring Officer.

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.

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 Paragraphs 1.3 and 1.4 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 Information from neighbouring authorities is that they have had significant difficulties in recruiting to the role of Independent Person.

9.0 EQUALITY IMPLICATIONS

9.1 None specific to this report.

REPORT AUTHOR: *Shirley Hudspeth*
Committee and Civic Services Manager
Telephone: (0151) 691 8559
Email: shirleyhudspeth@wirral.gov.uk

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
Standards and Constitutional Oversight Committee	5 December 2016