

Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Finance

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Localism Act 2011: Appointment of Independent Persons 2019-2023

Executive Summary:

The Committee will be aware that the Localism Act 2011 introduced a new ethical standards regime for local government in 2012 which, amongst other things, required 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.

The Council is also required to use its Independent Persons in respect of dismissal or disciplinary procedures against the Head of Paid Service, Monitoring Officer or Chief Finance Officer in accordance with the provisions of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

In accordance with the requirements of Section 28(7) of the Act, the Council appointed Vivienne Cameron, Roger Pett, and Bernard Quoroll as Independent Persons, for a term of office expiring in May 2019.

The three independent persons were appointed by the Council on the recommendation of a joint appointments panel comprising the respective monitoring officers, at that time, of Guildford, Waverley and Mole Valley Councils. The joint approach with participating Surrey councils to short-list and interview candidates and make recommendations to the respective councils for the appointment of Independent Persons was approved by this Committee on 23 July 2015.

Our Independent Persons, and others appointed elsewhere, also act in that capacity for a number of other councils in Surrey.

With their term of office ending in May 2019, the Committee is asked to approve a procedure for the appointment/re-appointment of the Council's Independent Persons similar to that

which was adopted in 2015.

Following consultation with the ten other Borough and District Councils in Surrey and Surrey County Council, the following councils have expressed a wish to participate with us in the joint appointments panel for the appointment of Independent Persons:

- Epsom & Ewell
- Mole Valley
- Reigate & Banstead
- Spelthorne
- Surrey Heath
- Waverley

Authorities are permitted to pay their Independent Persons an allowance or expenses. This Council opted in 2012 to pay only travel expenses.

Recommendation to Corporate Governance and Standards Committee:

The Committee is asked to agree:

- (1) That the Democratic Services Manager be authorised to establish a joint appointments panel with participating Surrey councils' monitoring officers so that the panel may:
 - (a) advertise for, short-list, and interview candidates and
 - (b) make recommendations to the respective councilsfor the appointment of Independent Persons under Section 28(7) of the Localism Act 2011, for a four-year term of office expiring in May 2023.
- (2) That the Independent Persons appointed by this Council be entitled to receive the same level of travelling expenses as are provided for councillors under the Scheme of Allowances for Councillors.

Reason for Recommendation:

To comply with the Council's obligations under the Localism Act 2011 in respect of ethical standards and The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 in respect of dismissal and disciplinary arrangements for statutory officers.

1. Purpose of Report

- 1.1 The purpose of this report accords with the Committee's terms of reference, which include, amongst other things:
 - (a) to agree 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.
 - (b) To agree allowances and expenses for the Independent Persons

2. Background

- 2.1 The Localism Act 2011 introduced a new ethical standards regime for local government in 2012 which, 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 Since 2012, this Council has opted to recruit its Independent Persons jointly with other Surrey authorities. Latterly in 2015, Guildford undertook a joint appointments process with Mole Valley and Waverley.
- 2.3 This resulted in the appointment by the Council of Vivienne Cameron, Roger Pett, and Bernard Quoroll as Independent Persons, for a term of office expiring in May 2019. Following this process, our Independent Persons were also appointed in that capacity by the following councils:
- **Vivienne Cameron:** Mole Valley, Reigate & Banstead, Spelthorne, Surrey Heath, and Waverley
 - **Roger Pett:** Reigate & Banstead, Spelthorne, and Surrey Heath
 - **Bernard Quoroll:** Mole Valley, Waverley, Surrey Heath, and Surrey County Council¹
- 2.4 Two of the three of our Independent Persons have indicated informally that they would be happy to continue in this role.

3. Proposals

- 3.1 The Committee is asked to approve a procedure for the appointment/re-appointment of the Council's Independent Persons similar to that which was adopted in 2015.
- 3.2 Following consultation with the ten other Borough and District Councils in Surrey and Surrey County Council, the following councils have expressed a wish to participate with Guildford in the Joint Appointments Panel for the appointment of Independent Persons for the period May 2019 to May 2023:
- Epsom & Ewell
 - Mole Valley
 - Reigate & Banstead
 - Spelthorne
 - Surrey Heath
 - Waverley

¹ Mr Quoroll was appointed by Surrey County Council until December 2020

- 3.3 The joint arrangements will involve the placing of an advertisement simultaneously by the seven participating councils, with the respective Monitoring Officers agreeing a shortlist of candidates for interview, and agreeing which of them shall comprise the Joint Appointments Panel to interview shortlisted candidates. The panel's recommendations will then be referred to each of the participating councils so that they may consider the formal appointments, taking effect as stated above from May 2019 until May 2023.
- 3.4 Councils are permitted to remunerate appointed Independent Persons such allowance/honorarium/expenses as they consider appropriate. Guildford does not pay an allowance but does pay travelling expenses at the same level provided for councillors under the Scheme of Allowances for Councillors. It is recommended that this arrangement should continue.
- 3.5 Subject to the co-operation of the participating councils, it is envisaged that the process set out in paragraph 3.3 above should be completed well in advance of next May. An indicative timetable is set out below:

| Action | By when |
|--|---------------------|
| Committee to agree process | 29 November 2018 |
| Advertise for applications | early January 2019 |
| Joint Appointments Panel to shortlist, interview and recommend to the participating councils suitable candidates for appointment | February/March 2019 |
| Committee to receive details of Joint Appointments Panel's recommendations | 28 March 2019 |
| Council to consider appointments | 9 April 2019 |
| Appointments come into effect | May 2019 |

4. Financial Implications

- 4.1 There are no direct financial implications arising from this report as the process for the appointment of Independent Persons will 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 There are no direct human resource implications arising from this report as the process for the appointment of Independent Persons and the drafting of the protocol have been undertaken within existing staff resources.

7. Background Papers

None

8. Appendices

None