

COMMITTEE: COUNCIL

REF NO: C/12/10

DATE: 31 OCTOBER 2012

SUBJECT: APPOINTMENT OF INDEPENDENT PERSONS

PORTFOLIO HOLDER: COUNCILLOR ELLESMERE

DIRECTOR: LAURENCE COLLINS

***Short description of report content and the decision requested:***

This report concerns the appointment of Independent Persons under the Localism Act 2011.

***List of Appendices included in this report:***

- a) *Appendix 1 – List of appointees*

*This report has been prepared by Claire Barritt Tel: 01473 432320*

*Email: [claire.barritt@ipswich.gov.uk](mailto:claire.barritt@ipswich.gov.uk)*

***This report was prepared after consultation with:***

*Internal consultees*

*Chief Executive*

*Leader of the Council*

*External consultees*

*Suffolk Monitoring Officers*

*Leaders of the Suffolk Local Authorities*

***The following policies form a context to this report:***

*(all relevant policies must also be referred to in the body of the report)*

*Building a Better Ipswich*

### LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

*(papers relied on to write the report but which are not published and do not contain exempt information)*

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|----|-------------------------------|
| 1. | Localism Act 2011             |
| 2. | Suffolk Local Code of Conduct |

### OTHER HELPFUL PAPERS

*(papers which the report author considers might be helpful – this might include published material)*

None
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## **1. Introduction**

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- 1.1 The purpose of this report is to recommend that the Council appoints a pool of 'Independent Persons' pursuant to section 28(7) of the Localism Act 2011 to discharge the statutory role in connection with any complaints under the Suffolk Code of Conduct that was adopted by Council on 20<sup>th</sup> June 2012.
- 1.2 The role of Independent Person is a new one under the Act. The functions of the Independent Person(s) are:
- a) they must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any resolution of the complaint, or on any finding of a breach and on any decision on action as a result of that finding);
  - b) they may be consulted by the authority in respect of a standards complaint at any other stage; and
  - c) they may be consulted by a member or co-opted member of the Council against whom a complaint has been made.
- 1.3 In summary, the statutory role of an Independent Person is to act as a formal consultee/adviser in respect of any complaints received under the Suffolk Code of Conduct. The Monitoring Officer is required to seek a view from one of the 'Independent Persons' in line with the process previously ratified by Council at the meeting on 20 June 2012.

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## **2. Background**

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- 2.1 The Localism Act 2011 requires councils to appoint at least one Independent Person whose views should be obtained and taken into account before a decision is taken on a standards complaint. At its meeting on 20<sup>th</sup> June 2012, the Council approved arrangements for a countywide pool of 'Independent Persons' with each Council being able to instruct any one from the 'pool'.
- 2.2 The vacancies for the Independent Members Pool were advertised by Suffolk County Council in the East Anglian Daily Times and following a selection and interview process conducted by three of the 8 Suffolk Monitoring Officers, the eight individuals whose profiles appear at Appendix 1 have been recommended for appointment across the County. The intention is that the "pool" of Independent Persons will be appointed by each authority in Suffolk, so that any authority can call on a number of different people to carry out the role, providing resilience, flexibility and a timely response.
- 2.3 25 applications (20 men and five women) were received and 14 candidates (12 men and two women) were interviewed by Tim Ryder (the County Council's Monitoring Officer), Kathryn Saward (Monitoring Officer for Babergh and Mid Suffolk District Councils) and Hilary Slater (Monitoring Officer for Suffolk Coastal

District Council).

- 2.4 Eight people have been recommended to Council by the selection panel – Roger Bailey; Arnold Barrow; Andrew George; Carey Godfrey; Andrew Peck; Kevin Williams, Graham Moss and Phillip Key. A short paragraph about each person is included in Appendix 1. The appointment of the Independent Person(s) must be agreed by Council.
- 2.5 The recommendation in respect of these candidates is that each appointment will be for a period of one year, with an option to renew for a further two years.

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### **3. Relevant Policies**

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- 3.1 It is a statutory requirement that the Council must appoint at least one Independent Person, such appointment to be approved by a majority of Councillors at a Council meeting.

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### **4. Options Considered / Under Consideration**

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- 4.1 The options are to appoint only one Independent Person or to appoint a pool, and to appoint each person for one or more years (up to a maximum of 4 years). If none of the recommended appointments are deemed suitable by a majority of Councillors, the Council could conduct a separate fresh recruitment exercise

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### **5. Consultations**

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- 5.1 Consultation has taken place via all 8 Suffolk Monitoring Officers regarding the appointments and with the respective Leaders. The County Council and the other 6 Councils have appointed the recommended candidates (where so eligible) detailed in the appendix, although the lack of diversity within the pool has been commented upon.

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### **6. Risk Management**

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<b>Risk Description</b>	<b>Consequence of risk</b>	<b>Risk Controls</b>	<b>Probability of risk occurring taking account of controls (scale A-F) A – very likely F – almost impossible</b>	<b>Impact of risk, if it occurred taking account of actions (scale 1 – catastrophic; 4 – negligible)</b>	<b>Actions to mitigate risk</b>
Failure to appoint an independent member	Failure to comply with statutory duty	Make an appointment	F	3	Council make the appointment
Appointees have Insufficient experience or are not available to deal with complaints due to	Complaints are handled badly or are delayed	Appoint a pool including some experienced ex standards committee independent members	F	3	Ensure that all member of the pool are given training on the code of conduct and complaints handling

absence or conflicts					
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## **7. Environmental Impact Assessment**

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- 7.1 There are no direct environmental impacts arising out of the recommendations in this report.

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## **8. Equalities and Diversity Implications**

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- 8.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 8.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 8.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposals in respect of changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 8.4 The vacancies were publicly advertised in the local press across Suffolk. The recommendations regarding appointment are being made on merit based in line with the normal recruitment and selection criteria for local authority appointments, were assessed by the mix gender panel of 3 experienced Monitoring Officers. It should be noted that the outcome of the process has resulted in a lack of female or ethnic minority representation within the potential pool as the recommended appointees are all males from the same ethnicity group. It is therefore recommended that when future vacancies arise that additional publicity is issued in a manner that increases the number of applications from persons with protected characteristics, and that this Council considers a further recruitment exercise to increase diversity within the pool.

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## **9. Financial Considerations**

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- 9.1 Suffolk County Council will act as administration authority in respect of payments and expenses. In line with the delegation given to the Monitoring Officer, each Council will pay the County Council for the cost of one Independent Person in the pool at a cost of £300 per annum per authority.
- 9.2 Each Council will additionally pay the individual independent person £50 per complaint referral, but only in respect of those complaints which have been the subject of a formal investigation.

- 9.3 Any expenses claims should be minimal, as the Independent Persons will be contacted via telephone, letter and email, and they are not required to attend any meetings.
- 9.4 The newspaper advertising costs for the recruitment campaign carried out to date has been shared equally among the 8 Councils.

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## **10. Legal Considerations**

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- 10.1 The Council has a legal duty to appoint at least one Independent Person under the Localism Act 2011.

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## **11. Performance Monitoring**

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- 11.1 That the Independent Persons are offered training on the Code of Conduct and complaints handling within 2 months of appointment.

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## **12. Conclusions**

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- 12.1 The appointment of a pool of Independent Persons (as opposed to just one) will give the Council access to a pool of expertise as well as adequate cover for any absence cover, including the ability to ensure that if any particular Independent Person is 'conflicted' out of acting as a formal consultee/adviser, another is available. The recommendations are in line with the other Suffolk Authority appointments, but a further recruitment exercise will be necessary if the Council wishes to have a greater diversity within the pool of Independent Persons.

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## **13. Recommendations**

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**It is recommended that:**

- 13.1 Council agree the appointment of the 8 individuals listed in Appendix 1 as Independent Persons for the Borough Council for a period of 1 year, commencing on the date of this meeting, with an option on the part of the Council to extend any appointment for up to 2 years;**
- 13.2 Council notes the joint administration arrangements detailed in the report in respect of the pool of Independent Persons;**
- 13.3 the Council's Monitoring Officer arranges for a further targeted recruitment campaign to be undertaken (with a view to adding to and/or replacing all or some of the pool of Independent Persons), which takes into account the need to attract a greater number of applicants to the pool from more diverse backgrounds - the selection panel for this exercise is to be determined by the Monitoring Officer in consultation with the Chief Executive and the Leader;**
- 13.4 the Monitoring Officer reports back to Council on the outcome of the further recruitment campaign in due course.**

## **APPENDIX 1**

### **BIOGRAPHIES OF RECOMMENDED INDEPENDENT PERSONS**

#### **Roger Bailey**

The Council is recommended to appoint Mr Roger Bailey as an Independent Person for this authority. Mr Bailey retired as the Chief Executive of East Herts District Council in 2002 and since that time has worked at several local authorities on an interim basis, most recently at Colchester Borough Council. Mr Bailey lives in Woodbridge.

#### **Arnold Barrow**

The Council is recommended to appoint Mr Arnold Barrow as an Independent Person for this authority. Mr Barrow served as Chief Probation Officer in Suffolk between 1984 and 2001, and has been an Independent Community Member of the Mid Suffolk Standards Committee since 2008. Mr Barrow moved to Suffolk in 1978 and lives in Stowmarket.

#### **Andrew George**

The Council is recommended to appoint Mr Andrew George as an Independent Person for this authority. Mr George is a member of the Audit and Healthcare Subcommittees of the Ipswich Hospital Trust, and has been an Independent Community Member of the Babergh Standards Committee. Mr George lives in Wivenhoe.

#### **Carey Godfrey**

The Council is recommended to appoint Mr Carey Godfrey as an Independent Person for this authority. Mr Godfrey was previously Suffolk County Council's Drug and Alcohol Team Co-ordinator, and is a former Independent Member of Suffolk Police Authority. He is an Independent Member on the County Performance (Adoption) Panel. Mr Godfrey lives in Ipswich (Babergh District Council).

#### **Phillip Key**

The Council is recommended to appoint Mr Phillip Key as an Independent Person for this authority. Mr Key has been a Magistrate since 1997 and was a member of the Suffolk Probation Board until 2010. Mr Key has been an Independent Community Member of Suffolk County Council's Standards Committee since September 2010. Mr Key resides in Lowestoft.

#### **Graham Moss**

The Council is recommended to appoint Mr Graham Moss as an Independent Person for this authority. Mr Moss retired from Suffolk Constabulary in January 2012 after 32 years' service, and has been an Independent Community Member of Suffolk County Council's Standards Committee since September 2010. Mr Moss was born in Suffolk and resides in Woolpit.

#### **Andrew Peck**

The Council is recommended to appoint Dr Andrew Peck as an Independent Person for this authority. Dr Peck is a semi-retired solicitor (non-practising) with 25 years partner level experience. He has also been involved in a wide range of Committees at Milton Keynes Council, including as a Co-opted Independent Member of their Audit Committee and various other roles with amongst others the Open University and the Homes and Communities Agency. Born in Ipswich, Dr Peck has recently returned to the county and now lives in Felixstowe.

**Kevin Williams**

The Council is recommended to appoint Mr Kevin Williams as an Independent Person for this authority. Mr Williams is the former Headteacher of Westbourne High School in Ipswich and has been a Co-opted Independent Member of Suffolk Coastal District Council's Standards Committee since 2002. Mr Williams lives in Felixstowe.