

COMMITTEE: COUNCIL REF NO: C/18/08
DATE: 19 SEPTEMBER 2018
SUBJECT: APPOINTMENT OF INDEPENDENT PERSONS
REPORT OF THE MONITORING OFFICER: SHIRLEY JARLETT

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 and Biographies of proposed appointees*

This report has been prepared by Shirley Jarlett

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This report was prepared after consultation with:

Chief Operating Officer

The following policies form a context to this report:

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

Corporate Plan 2017 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)

- | |
|---|
| <ol style="list-style-type: none">1. Localism Act 20112. Suffolk Local Code of Conduct |
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OTHER HELPFUL PAPERS

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

None

1. Introduction

- 1.1 The purpose of this report is to recommend that 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 June 2012.
- 1.2 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 practice, the Independent Person provides the Monitoring Officer with the opportunity to discuss a complaint with a third party, and provides a complainant with some reassurance that there is input to any decision from outside the Council. This demonstrates the importance of these roles.

2. Background

- 2.1 The existing Independent Persons were appointed by Council in September 2014 for a period of two years, with an option to extend for a further two years. This option was agreed by Council in September 2016.
- 2.2 The Council, Suffolk County Council, Babergh District Council, and Mid Suffolk District Council have collaborated on this recruitment. The other Suffolk councils have made their own arrangements to make appointments.
- 2.3 The recruitment process has been completed, and recommendations for appointment are included within this report. The intention is that a "pool" of independent persons will be appointed, so that each of the four authorities involved can then call on a number of different people to carry out the role, providing resilience, flexibility and a timely response. This arrangement also provides options should there be a conflict of interest e.g. the independent person knows the complainant.
- 2.4 The posts were advertised on the Suffolk Jobs Direct website, through social media, and through some targeted communication with hard to reach groups through Suffolk County Council's Equality Team. There were 18 applications (9 men and 9 women) received. 9 candidates were selected for interview (5 men and 4 women).

- 2.5 All applicants were asked to complete a Job Application Monitoring Form. Twelve were returned and these were immediately separated from the application forms so that it was not possible to attribute a form to an applicant. Analysis of the forms identified that ten were from candidates of British origin, one from a candidate of Caribbean origin, with one preferring not to disclose. Four were Christian, six had no religion, with two preferring not to disclose. Ten were heterosexual, with two preferring not to disclose. No applicants declared a disability.
- 2.6 The candidates were interviewed by Tim Ryder (the County Council's Monitoring Officer), Emily Yule (Monitoring Officer for Babergh and Mid Suffolk District Councils) and Shirley Jarlett (the then Deputy Monitoring Officer for the Council).
- 2.7 Four people are recommended to the Council – Arnold Barrow; Louise Cullen; Karen Moore and Stuart Palmer. Arnold Barrow is an existing Independent Person. A short paragraph about each person is included in Appendix 1.
- 2.8 The independent persons will be paid an annual retainer of £300 and then a £50 fee for each case considered. The Council will only pay one annual retainer.
- 2.9 Although the other Suffolk councils have made their own arrangements to appoint, the intention is that joint briefings and training events will still be held for all independent persons within Suffolk.
- 2.10 The Localism Act requires that the appointment of the independent person(s) must be agreed by Council. The appointment is recommended for a period of two years, with an option to renew for a further two years

3. Relevant Policies

- 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.

4. Options Considered / Under Consideration

- 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.

5. Consultations

- 5.1 Consultation has taken place via the Monitoring Officers of Suffolk County Council, Babergh Council, Mid Suffolk Council and Ipswich Borough Council regarding the appointments

6. Risk Management

Risk Description	Consequence of risk	Risk Controls	Probability of risk occurring taking account of controls (scale A-F) A – very likely F – almost impossible	Impact of risk, if it occurred taking account of actions (scale 1 – catastrophic; 4 – negligible)	Actions to mitigate risk
Failure to appoint an independent member	Failure to comply with statutory duty	Recruitment process	F	3	Council make the appointment (s)
Appointees have insufficient experience or are not available to deal with complaints due to absence or conflicts	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

7. Environmental Impact Assessment

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

8. Equalities and Diversity Implications

- 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.

9. Financial Considerations

- 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 four Councils.

10. Legal Considerations

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

11. Performance Monitoring

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

12. Conclusions

- 12.1 The appointment of a pool of Independent Persons will give the Council access to a pool of expertise as well as adequate cover for any absence, including the ability to ensure that if any particular Independent Person is 'conflicted' out of acting as a formal consultee/adviser, another is available.

13. Recommendations

It is recommended that:

- 13.1 Council agree the appointment of the 4 individuals listed in Appendix 1 as Independent Persons for the Borough Council for a period of 2 years, commencing on the date of this meeting, with an option on the part of the Council to extend any appointment for a further 2 years; and**
- 13.2 Council notes the joint administration arrangements detailed in the report in respect of the pool of Independent Persons.**

APPENDIX 1 BIOGRAPHIES OF RECOMMENDED INDEPENDENT PERSONS

Arnold Barrow

Arnold has been an Independent Person for the County Council for the last six years. He is also an Independent Person for St Edmundsbury Borough Council and Forest Heath District Council. Previously Arnold served as Chief Probation Officer in Suffolk between 1984 and 2001, as County Manager for Victim Support Suffolk from 2001 to 2004, and as an Independent Member of the Parole Board for England and Wales from 2003 to 2016. Arnold, who lives in Stowmarket, continues to be involved in a range of voluntary organisations.

Louise Cullen

Louise is employed as a Communications and Engagement Manager at the University of Essex. Her role includes working with Government departments, delivering research findings and evidence for various committees. Louise is the Vice Chair of Governors at Holbrook Academy, previously being Chair of Governors at Chelmondiston Primary School. She is a Trustee for Ibstock Enover Environmental Trust, distributing landfill tax credits to areas of deprivation in the West Midlands, Bristol and Kent. Louise lives in Chelmondiston.

Karen Moore

Karen is currently a self-employed management consultant specialising in Human Resources and Governance issues. Her career has largely been within the social housing sector. Karen is a business and personal coach, registered with the International Coaching Federation. Karen has experience of dealing with grievances and disciplinary procedures, and recognises the need for high standards of propriety and probity. Karen lives in Kesgrave.

Stuart Palmer

Stuart recently completed 31 years service with the Metropolitan Police where he attained the rank of Chief Superintendent. During his career, one of his roles included running the complaints and misconduct department for an area of London. Stuart is currently the Proper Officer and Parish Clerk of Shimpling Parish Council. He is also a Non-Executive Director of Brentwood Academies Trust. Stuart lives in Long Melford