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| 25 May 2016 | | ITEM: 8 |
| Annual Council | | |
| The Localism Act 2011 – Appointment of Independent Persons | | |
| Wards and communities affected: All | Key Decision: Non-Key | |
| Report of: Councillor J. Kent, Leader of the Council | | |
| Accountable Head of Service: David Lawson, Monitoring Officer and Deputy Head of Legal | | |
| Accountable Director: Lyn Carpenter, Chief Executive | | |
| This report is public | | |

Executive Summary

This report follows the decision of the Council on 11 June 2014, which agreed pursuant to section 28 of the Localism Act 2011 to continue the appointment of Sarah Cooper-James, Fiona Fairweather and Fola Onaeko as its Independent Persons until the Annual Meeting of Council in 2016..

The Independent Persons, as required by the new governance regime under the Localism Act 2011, have now held the role for just under four years in one case and for three years in the case of the other two.

Having reviewed the situation, the Monitoring Officer is of the opinion to recommend that the engagement of the Independent Persons should be set to continue until the Annual Meeting of the Council in 2019. This will afford time to further enhance their skills and competencies.

1. Recommendation(s)

1.1 That, for the purposes of section 28 of the Localism Act 2011, the Council agree to continue the appointment of Sarah Cooper-James, Fiona Fairweather and Fola Onaeko as its Independent Persons until the Annual Meeting of the Council in 2019.

2. Introduction and Background

2.1 The Localism Act 2011 (the “Act”) changed the arrangements for dealing with governance issues regarding the conduct of Members. It abolished the national Standards Board and required that local authorities establish their

own Code of Conduct and establish a process for dealing with allegations that members of the authority may have breached the Code of Conduct.

- 2.2 To add external input, section 28(7) of the Act required the Council to appoint at least one “independent person”, who must be consulted and their views taken into account on all complaints investigated and before a decision on any such complaint is made. The Council may consult with the independent person on other matters relating to an allegation and the Member complained about can also seek the independent person’s views.
- 2.3 The provisions of the Localism Act took effect from 1 July 2012 and at its meeting on 25 July 2012, the Council agreed a new Code of Conduct and Complaints Procedure to replace transitional arrangements.
- 2.4 To ensure “independence”, the Independent Person is not to have links to the Council, councillors or officers. Unfortunately, this went as far as meaning that the previous independent Members of the statutory Standards Committee, who had served for a number of years, were disqualified from applying for the role as they are co-opted members of the Council.
- 2.5 The Council was therefore required to undertake an external recruitment exercise to appoint the independent person. Following this process, the Council agreed to the recruitment of Kevin Madden and Sarah Cooper-James at its meeting on 26 September 2012 (Minute No.57 refers). However, after a short spell of illness, Mr Madden sadly passed away, leaving the Council with just one Independent Person.
- 2.6 From research with authorities in Essex, Hertfordshire and Suffolk, it became clear that the best practice was to have three independent persons to avoid conflicts of interest and absences obstructing the complaints process.
- 2.7 On 24 July 2013, the Council considered the recommendation of the Head of Legal and Democratic Services and Monitoring Officer, and agreed to appoint Fiona Fairweather and Fola Onaeko as two further Independent Persons (Minute No.40 refers).
- 2.8 The role of the independent person has since been widened under the Local Authority’s (Standing Orders) England (Amendment) Regulations 2015, which came into force on 11 May 2015. These new regulations change the localised disciplinary process in relation to the Council’s Head of Paid Service, the Chief Finance Officer and the Monitoring Officer statutory positions. In the case of any proposed disciplinary action against such a statutory officer, the Council is required to appoint the independent persons who have been appointed for the purposes of the Members Code of Conduct regime to the Chief Officer Appointments Committee, which makes recommendations to Full Council regarding any decision to dismiss a statutory officer.

3. Issues, Options and Analysis of Options

Review

- 3.1 Under the localism regime, the Monitoring Officer is pleased to report that the number of complaints against Members is relatively low and compares favourably with other Councils within the region. This does mean that the role of the Independent Person has not been exercised in practice. To address this, training has been provided and the opportunity to meet with other independent persons has been provided.
- 3.2 The view is that, whilst the period of tenure was set to end at the Annual Meeting of the Council in 2016, the Independent Persons have yet to reach their full potential. As the process of recruitment is complex, time consuming and expensive, it is considered the best use of resources is to invest in training and development of the existing Independent Persons. Furthermore, the option of sharing Independent Persons with neighbouring boroughs is being explored and in due course may be recommended should it prove to be advantageous to do so.

Proposed Extended Engagement of Independent Persons

- 3.3 For the reasons outlined above it is proposed that the Council agrees the engagement of the Independent persons be set to continue to after the Annual General Council meeting in 2019.

4. Reasons for Recommendation

- 4.1 To ensure statutory compliance and effective administration of any business that may engage the Members Code of Conduct.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 It is a statutory requirement that Council is consulted and approves the appointments.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The appointment is a statutory requirement.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
**Senior Finance Officer – Management
Accounts**

The allowance paid to each of the Independent Persons is met from the Members Allowance Budget.

7.2 Legal

Implications verified by: **David Lawson**
Monitoring Officer and Deputy Head of Legal

The statutory requirements are set out in the report and have been met. Under Section 28(8)(c)(iii) of the Localism Act 2011, this decision must be agreed by a majority of the whole number of councillors.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
**Community Development and Equalities
Manager**

The previous appointments followed an open recruitment process ensuring that the recommended candidates were selected on merit.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Reports to the Council to seek agreement to the appointment of Independent Persons on 26 September 2012, 24 July 2013 and 11 June 2014. These reports are available online at <http://democracy.thurrock.gov.uk/thurrock/Home.aspx>
- The original recruitment documents relating to each of the Independent Persons contain personal information and as such are exempt under paragraph 1 of Schedule 12 A of the Local Government Act 1972 as amended and it is not in the public interest to disclose those documents.

9. Appendices to the report

- None

Report Author:

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Monitoring Officer and Deputy Head of Legal Services

Legal & Democratic Services