

Declarations of Interest

Any Member attending the meeting is reminded of the requirement to declare if he/she has a personal interest in any item of business, as defined in the Code of Conduct. If that interest is a prejudicial interest as defined in the Code the Member should also withdraw from the meeting.

SUPPLEMENTARY AGENDA

	(Pages)
4. Appointment of Independent Person	
To consider report of the Director of Resources.	(1 - 2)
<i>Appendix</i>	(3 - 6)
<i>ADDITIONAL LATE ITEM</i>	
10. Any Other Business	
To consider any other business which the Chairman decides is urgent.	
(a) Certification of Claims and Returns Report 2013-14	
To consider report of Ernst and Young.	(7 - 16)

The next meeting is due to take place on Thursday, 12 March 2015

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SUBJECT:	Appointment of Independent Person
REPORT OF:	Head of Legal and Democratic Services

1. Purpose of Report

To consider arrangements for the appointment of an Independent Person following the resignation of one of the current post holders.

2. Links to Council Policy Objectives

Whilst there are no direct links to the Council's main policy objectives, it is a duty under the Localism Act to have arrangements in place to deal with allegations that members may have breached the code of conduct. The effective use of Independent Persons as part of this process is a matter of good governance and is important in preserving the confidence of local communities.

3. Background

- 3.1 The committee will be aware that under the Localism Act 2011 the Council is required to appoint at least one Independent Person (IP) whose views must be taken into account before a Hearing Sub-Committee makes a decision following the investigation of complaint about a member. The complaints procedure adopted by the Council also provides for the monitoring officer (MO) to consult an IP (as well as the Chairman of this committee) before deciding whether a complaint should be referred for investigation and in respect of dispensation applications
- 3.2 The Council on 24 July 2012 appointed Mrs Jitinderpal Nandhra and Mr Trevor Dobson as IPs for a 5 year term. Unfortunately, due to a change of personal circumstances Mrs Nandhra has tendered her resignation with effect from 31 December 2014. The second IP Mr Dobson continues to be available to advise the Council. However, the need to appoint two IPs in case of absence or conflicts of interest was acknowledged by Council in 2012 and is also considered to be best practise.
- 3.3 An IP must be appointed through a process of public advertisement, submission of an application and approval by a positive vote of a majority of all members of the Council - i.e. by full Council. A person is considered not to be 'independent' if -
- in the previous 5 years they have been:
 - an elected or co-opted member or officer of the District Council or any Parish in the area, or
 - an elected or co-opted member of any committee or sub-committee of the District Council or any Parish in the area, or,
 - they are a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish in the area, or any elected or co-opted members of any committee or sub-committee of such a Council.
- 3.4 Whilst fortunately the Council has not received a large number of complaints since the introduction of the current standards framework the role of the IP has proved valuable in providing a dispassionate, external view on both the member complaints and dispensation applications that have been received. A job description and person specification for this

role was agreed by the Council in 2012 and is attached at Appendix 1. It is considered this remains relevant and appropriate for use in seeking applicants to fill this vacancy.

- 3.5 If the Committee agrees to proceed an advert would be placed in local papers inviting applications and also published on the Council's website, together with information about the standards framework, guidance on the statutory criteria and an application form. It is recommended that applicants are interviewed by a panel comprising the Director of Resources, MO and Chairman of this Committee with a view to the Director of Resources recommending an appointment to Full Council on 21 April 2015. The Council agreed in 2012 that IPs would be appointed for a term of 5 years and paid a small allowance of £200, together with re-imbursment of any travelling expenses incurred whilst exercising their role.

4. Proposal/Discussion

- 4.1 The Committee is invited to consider whether to fill the vacancy that has arisen for an IP to advise on member complaints and applications for dispensations. The MO considers that the Council's decision in 2012 to appoint two IPs remains appropriate and also commends the job description and person specification attached at Appendix 1 for approval.

5. Resources, Risk and Other Implications

Financial - As set out in the report

Legal - As set out in the report

Risks issues - The Council would be in breach of its statutory duty if it had no IPs available to advise on members complaints

Equalities - The Council's policies on equalities will be followed in the recruitment process for a new IP

6. Recommendations

1. That the Committee agree to advertise for an Independent Person to fill the current vacancy
2. That the job description and person specification set out at Appendix 1 are approved for recruitment purposes
3. That the Director of Resources in consultation with Chairman of Audit Committee and the Monitoring Officer be authorised to make a recommendation for appointment to Full Council following receipt of applications and interviews.

Portfolio Holder	N/A
Officer Contact:	Joanna Swift: 01895 837229 Email: joanna.swift@southbucks.gov.uk
Background Papers:	None except those referred to in the report

APPENDIX 1**SOUTH BUCKS DISTRICT COUNCIL****ROLE DESCRIPTION: Independent Person****Job Purpose**

The Council is required to promote and maintain high standards of conduct by its elected and co-opted members and in discharging this duty it must, in particular, adopt a code dealing with the conduct that is expected of those members.

The Council must also have arrangements in place to investigate and make decisions on allegations that members may have failed to comply with the Council's code of conduct. These arrangements also apply to allegations that members of town and parish councils in the District may have failed to comply with the code of conduct adopted by their council.

These arrangements must also include the appointment of at least one independent person whose views are to be sought, and taken into account, before a decision is made on an allegation following a decision to investigate. The views of the independent person may also be sought on other matters and at other stages of the complaints process, by members of the council whose conduct is the subject of an allegation and by members of town or parish council's whose conduct is the subject of an allegation.

Role

Independent persons should:-

- develop and apply knowledge of the code of conduct
- develop a clear understanding of the way in which local authorities work
- read reports, briefings and background information in advance of meetings/hearings
- be inquisitive, open-minded and non-judgemental
- be prepared to discuss issues and give views; and
- be committed to a defined term of office

Contacts

Appendix

Monitoring/Deputy Monitoring officer, elected and co-opted members of the District Councils, elected and co-opted members of town and parish councils, other independent persons

Key Tasks

- To provide a view on allegations that an elected or co-opted member may have failed to comply with their council's code of conduct following an investigation by the monitoring officer
- To provide a view on the appropriate sanction to be imposed on an elected or co-opted member who may have failed to comply with their council's code of conduct following an investigation by the monitoring officer.
- To receive reports from the monitoring officer relating to probity and ethical standards within the council and parish/town councils in the District, and give views on the implementation of any recommendations.
- To participate in any meetings of the council considering probity and ethical standards within the council and parish/town council in the District
- To participate in any hearings of the Council re conduct as required.
- To be available to provide a view to a member the subject of a complaint.

Equal Opportunities

The Independent Person is expected to demonstrate and promote a commitment to the Council's equal opportunities policies.

INDEPENDENT PERSON - PERSON SPECIFICATION

	Essential	Desirable
Qualifications: <ul style="list-style-type: none"> • No specific qualifications or background is required 		
Knowledge and Skills: <ul style="list-style-type: none"> • A good communicator with questioning skills • Assertive • Inquisitive, open-minded and non-judgemental • Understanding of the local authority standards regime • Understanding of the principles behind the members' code of conduct • Awareness of the background to the introduction of the ethical framework for local government • IT skills – word processing software and e-mail 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ ✓ ✓ 	<ul style="list-style-type: none"> ✓
Experience: <ul style="list-style-type: none"> • Experience in considering evidence and dealing with ethical issues 	<ul style="list-style-type: none"> ✓ 	

<ul style="list-style-type: none"> • Experience of providing confidential advice • An interest in public service and local government in particular 	<ul style="list-style-type: none"> ✓ ✓ 	
<p>Competencies:</p> <ul style="list-style-type: none"> • A person in whose impartiality and integrity member and the public can have confidence • Understand and comply with confidentiality requirements 	<ul style="list-style-type: none"> ✓ ✓ 	
<p>Other requirements:</p> <ul style="list-style-type: none"> • Able to attend meetings/hearings ad hoc if required, and devote preparation time for each meeting • Must be of good standing • Must not currently have and must not enter into any contractual relations with the council under which he/she will gain personally • Will have disclosed to the council any matter in his/her background which, if it became public, might cause the council to reconsider the appointment • Will not be an active member of any political party or have a public profile in relation to political activities • Will not have been an officer, elected member or co-opted member of South Bucks District Council or any town or parish council in the District, within 5 years of the date of his/her appointment as independent person • Will not have been a relative or close friend of an officer, elected member or co-opted member of South Bucks District Council or any town or parish council in the District, within 5 years of the date of his/her appointment as independent person • Committed to a 5 year term of appointment • Have a telephone/computer at their disposal to assist with carrying out the above functions. 		

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Certification of claims and returns annual report 2013-14

South Bucks District Council

5 January 2015

Ernst & Young LLP





Building a better
working world

Ernst & Young LLP
Apex Plaza
Reading RG1 1YE

Tel: + 44 118 928 1599
Fax: +44 118 928 1101
ey.com

The Members of the Audit Committee
South Bucks District Council
Capswood
Oxford Road
Denham
Bucks
UB9 4LH

5 January 2015

Direct line: 07769 932 604
Email: MGrindley@uk.ey.com

Dear Members

Certification of claims and returns annual report 2013-14 South Bucks District Council

We are pleased to report on our certification work. This report summarises the results of our work on South Bucks District Council's 2013-14 claims and returns.

Scope of work

Local authorities claim large sums of public money in grants and subsidies from central government and other grant-paying bodies and must complete returns providing financial information to government departments. In some cases these grant-paying bodies and government departments require appropriately qualified auditors to certify the claims and returns submitted to them.

Under section 28 of the Audit Commission Act 1998, the Audit Commission may, at the request of authorities, make arrangements for certifying claims and returns because scheme terms and conditions include a certification requirement. When such arrangements are made, certification instructions issued by the Audit Commission to appointed auditors of the audited body set out the work they must undertake before issuing certificates and the submission deadlines.

Certification work is not an audit. It involves executing prescribed tests designed to give reasonable assurance that claims and returns are fairly stated and in accordance with specified terms and conditions.

In 2013-14, the Audit Commission did not ask auditors to certify individual claims and returns below £125,000. The threshold below which auditors undertook only limited tests remained at £500,000. Above this threshold, certification work took account of the audited body's overall control environment for preparing the claim or return. The exception was the housing and council tax benefits subsidy claim where the grant paying department set the level of testing.

Where auditors agree it is necessary, audited bodies can amend a claim or return. An auditor's certificate may also refer to a qualification letter where there is disagreement or uncertainty, or the audited body does not comply with scheme terms and conditions.

Statement of responsibilities

In March 2013 the Audit Commission issued a revised version of the 'Statement of responsibilities of grant-paying bodies, authorities, the Audit Commission and appointed auditors in relation to claims and returns' (statement of responsibilities). It is available from the Chief Executive of each audited body and the Audit Commission website.

The statement of responsibilities serves as the formal terms of engagement between the Audit Commission's appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

This annual certification report is prepared in the context of the statement of responsibilities. It is addressed to those charged with governance and is prepared for the sole use of the audited body. As appointed auditor we take no responsibility to any third party.

Summary

Section 1 of this report outlines the results of our 2013-14 certification work and highlights the significant issues.

We checked and certified one claim, for housing benefit subsidy (value £15,452,220). We met the submission deadline. We issued a qualification letters for the claim: details of the qualification matters are included in section 1. Our certification work found errors which the Council corrected. The amendments reduced the subsidy by £2,512.

Fees for certification work are summarised in section 2. The indicative fees for 2013-14 are based on final 2011-12 certification fees, reflecting the amount of work required by the auditor to certify the claims and returns in that year. Fees for schemes no longer requiring certification have been removed, and the fees for certification of housing benefit subsidy claims have been reduced by 12 per cent. This is to reflect the removal of council tax benefit from the scheme.

We welcome the opportunity to discuss the contents of this report with you at the 15 January Audit Committee.

Yours faithfully

Maria Grindley
Director
Ernst & Young LLP
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1. Summary of 2013-14 certification work

We certified one claim in 2013-14. Our main findings are shown below.

Housing benefits subsidy claim

Scope of work	Results
Value of claim presented for certification	£15,454,732
Limited or full review	Full
Amended	Amended – subsidy reduced by £2,512
Qualification letter	Yes
Fee – 2013-14	£22,957 (proposed: see section 2)
Fee – 2012-13	£31,659

Findings in 2012-13:	Findings in 2013-14
- incorrect child tax credit income	Non-dependant errors: 9 cases of overpayment where the DWP could claw back £12,800 based on our extrapolation
- incorrect eligible rent	
- misapplication of Rent Officer determination	Incorrect partner private pensions: as only a small number of cases, 100% check done and the claim has been amended
- incorrect award of backdated benefit	Incorrect application of one-off working tax credit. No effect on subsidy
- incorrect application of private/occupational pensions	Incorrect service charges. Maximum potential impact from extrapolation is DWP “clawback” of £355
- misclassification of eligible and technical overpayments	
- misclassification of local authority error overpayments	War disablement and war widows’ pensions: as only a small number of cases, 100% check done and the claim has been amended

Councils run the Government’s housing benefits scheme for tenants. Councils responsible for the scheme claim subsidies from the Department for Work and Pensions (DWP) towards the cost of benefits paid.

The certification guidance requires auditors to complete more extensive ‘40+’ or extended testing if initial testing identifies errors in the calculation of benefit or compilation of the claim. We found errors and carried out extended testing in several areas.

Extended and other testing identified errors which the Council amended. They had a small net impact on the claim. We have reported underpayments, uncertainties and the extrapolated value of other errors in a qualification letter. The DWP then decides whether to ask the Council to carry our further work to quantify the error or to claw back the benefit subsidy paid. These are the main issues we reported to them:

Testing of the initial sample identified:

- Errors in non-HRA cases led to 100% testing for which the claim has been amended

- one case where the Council incorrectly classified expenditure as backdated, with no impact on subsidy
- one case where an error occurred in prior year eligible overpayments due to insufficient evidence to enable underlying entitlement to be applied, resulting in an understatement
- one case where the Council misclassified an extended payment, the failure to recognise the qualifying conditions led to an understatement
- one case where the Council had underpaid benefit due to incorrectly including non-dependent in the subsidy calculation
- one case where the Council incorrectly calculated partner private pension resulting in overpaid benefit
- one case where the Council had underpaid benefit as a result of incorrectly applying working tax credit
- one case where the Council had underpaid benefit due to using incorrect service charges, this resulted in underpaid benefit

Our extended testing, and the potential impact, is summarised in the table above.

We were satisfied that some errors could only result in underpayments; officers have agreed our findings in these cases but we do not need to report them in detail to DWP.

We did not carry out additional testing on benefits follow-up work resulting from previous qualification letters as these issues did not arise again in 2013-14.

The net impact of all amendments on the claim was to reduce subsidy by £2,512.

2. 2013-14 certification fees

From 2012-13 the Audit Commission replaced the previous schedule of maximum hourly rates with a composite indicative fee for certification work for each body. The indicative fees for 2013-14 are based on actual certification fees for 2011-12, reflecting the amount of work required by the auditor to certify the relevant claims and returns in that year. There was also a 40 per cent reduction in fees reflecting the outcome of the Audit Commission procurement for external audit services.

The 2013-14 fee for certification of housing benefit subsidy claims has been reduced from the indicative fee by a further 12% to reflect the removal of council tax benefit from the scheme.

Claim or return	2012-13	2013-14	2013-14
	Actual fee £	Indicative fee £	Proposed fee £
Housing benefits subsidy claim	31,659	29,832	22,957
National non-domestic rates return	2,656	N/A	N/A
Total	34,315	29,832	22,957

Notes:

1. The 2013-14 fee for certification of housing benefit subsidy claims has been reduced from the indicative fee by a further 12% (from £33,900 to £29,832) to reflect the removal of council tax benefit from the scheme. We reported this in our annual audit letter. We propose to reduce the fee further, to £22,957, to reflect the fact that we needed to do significantly less work than in 2011-12, the base year for setting the scale fee. Our proposed fee is currently with the Audit Commission for their approval.
2. the NNDR return was not subject to audit from 2013-14 onwards: however, as in previous years we gained assurance from this work for our opinion, we had to carry out extra work on the opinion audit to cover this. There was an additional fee of £900.

3. Looking forward

For 2014-15, the Audit Commission has calculated indicative certification fees based on the latest available information on actual certification fees for 2012-13, adjusted for any schemes that no longer require certification.

The Council's indicative certification fee for 2014-15 is £27,860. The actual certification fee may be higher or lower if we need to undertake more or less work than in 2012-13 on individual claims or returns.

We must seek the agreement of the Audit Commission to any proposed variations to indicative certification fees. The Audit Commission expects variations from the indicative fee to occur only where issues arise that are significantly different from those identified and reflected in the 2012-13 fee.

DCLG and HM Treasury are working with grant-paying bodies to develop assurance arrangements for certifying claims and returns following the closure of the Commission (due April 2015).

The Audit Commission currently expects that auditors will continue to certify local authority claims for housing benefit subsidy from the Department for Work and Pensions (DWP) under the arrangements developed by the Commission. The DWP has asked the Commission to prepare the auditor guidance for 2014/15. Arrangements for 2015/16 onwards are to be confirmed, but DWP envisages that auditor certification will be needed until 2016/17, when Universal Credit is expected to replace housing benefit.

The Audit Commission has changed its instructions to allow appointed auditors to act as reporting accountants where the Commission has not made, or does not intend to make, certification arrangements. This removes the previous restriction saying that the appointed auditor cannot act if the Commission has declined to make arrangements. This is to help with the transition to new certification arrangements, such as those introduced for the Teachers' Pensions return for 2013-14.

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Ernst & Young LLP, 1 More London Place, London, SE1 2AF.

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