

Standards Committee 20 March 2018

INDEPENDENT PERSON APPOINTMENTS

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Wards affected: All

PROPOSED DECISION

To note the current position with regard to recruitment and approve further steps to recruit to the role as set out in the report.

Reason for Decision

The recent death of one of the Independent Persons creates a vacancy which needs to be filled.

Corporate Implications

1. The Localism Act 2011 created a revised method of addressing standards and ethics issues in local authorities. Wycombe District Council has been operating under this regime since it was introduced in July 2012. Section 27 places a duty on the Council to promote and maintain high standards of conduct by members and co-opted members of the Council. Section 28(7) places a duty on the Council to appoint at least one “Independent Person” in connection with its standards duties. In accordance with widespread practice, WDC has decided to have two Independent Persons.
2. Following a transitional period during which two of the former “Independent Members” filled the roles of “Independent Person” (“IP”) for the first year of the new regime (as the law permitted), Mr Gilbert Houalla and Mr Michael Pearce were appointed as the Council’s two new IPs on 13th May 2013. Mr Pearce’s death has created a vacancy.
3. IPs need no specific qualifications but the attributes and experience they are expected to possess h report, together with the grounds which would disqualify an applicant from being appointed. Appointments must be approved by a majority of members of the Council, which means full Council must make the final decision. A Recruitment Pack for the role has been approved and advertised, and applications invited.
4. Many Councils pay a modest allowance to their IPs; WDC provides an annual allowance of £211.10 which is uplifted to reflect annual inflation, with no separate travel allowance.

Executive Summary

5. Following a report to 9 January Standards Committee, this provides Standards Committee with an update with regard to the appointment of a second Independent Person.

Sustainable Community Strategy/Council Priorities - Implications

6. Having all Independent Person roles filled supports the Council's priorities in its Corporate Plan by helping to ensure that its business is conducted in accordance with the law and proper standards, and principles of good governance.

Background and Issues

7. WDC has decided to have two Independent Persons, and Mr Gilbert Houalla and Mr Michael Pearce were appointed as the Council's two new IPs on 13th May 2013. The death of Mr Pearce has created a vacancy in one of the roles.
8. The legislation requires a minimum of one Independent Person to be appointed, but many Councils choose to appoint at least two, in order to provide some resilience, prevent the whole of the necessary support falling to a single person, and allow for the various facets of the role, as outlined below, to be covered.
9. The role of the IPs was initially twofold, i.e. to provide a view to the Council (in practice to the Monitoring Officer) which must be taken into account before a decision is made on whether or not to formally investigate a complaint that a member has breached the Code of Conduct or in more general circumstances in relation to an allegation, and for members who are the subject of a complaint to be able to contact an IP in relation to an allegation. Since the role was initially enacted, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force on 11 May 2015, providing that if a Council was considering dismissal of one or more of its statutory officers (Head of Paid Service, Chief Financial Officer, or Monitoring Officer) it would have to set up a panel and at least two IPs would need to be members of such panel. So far there will have been few if any cases across the country where this third aspect of the role will have been required.
10. As approved by Committee on 9 January 2018, the vacancy has been advertised through the recruitment pack being placed on the Council's website (a newspaper advertisement is not a legal obligation so was not placed in accordance with discussion at Committee) and although two potential candidates enquired about the role, unfortunately no applications were received by the closing date. Subsequently the Monitoring Officer has been in contact with colleagues across Buckinghamshire and the current IPs for other Buckinghamshire councils (including the pool shared by Bucks Fire Authority) are being made aware of the vacancy in case they may also be interested in applying to undertake it on behalf of WDC. BCC is also currently undertaking a recruitment exercise for a single vacancy and apparently has three potential candidates. Those candidates will also be made aware of the WDC vacancy. It is also recommended that the recruitment pack be readvertised, and that a further report be presented to Committee at its June meeting.
11. In 2013, no defined term was placed by WDC upon the appointments so they are indefinite; there is no obligation to have a fixed term. Some Councils chose to

appoint for fixed terms of 5 years to try to minimise any risk that over time it could be perceived that IPs' impartiality might be compromised by an ongoing working relationship with their appointing Council, but some of these have found little option on expiry of the initial 5 years than to re-appoint the same people due to difficulties in finding further candidates. The 5th anniversary of Mr Houalla's appointment will occur in May 2018. As he has indicated his willingness to extend his term for a further 5 years, when a recommendation is made to Council on appointment to the current vacancy, the report will also recommend that full Council re-approve Mr Houalla's appointment until at least 13 May 2023.

Options

12. Since from a practical perspective the Council needs to have at least two Independent Persons in the longer term, and the Council has previously decided to have two, there is no realistic alternative option but to continue to seek a appoint a second IP.

Next Steps

13. A further report will be presented to Standards Committee in June.

Background Papers

None.