

Standards Committee 9 January 2017

INDEPENDENT PERSON RECRUITMENT AND APPOINTMENT

Officer contact: Julie Openshaw District Solicitor and Monitoring Officer 01494 421252 julie.openshaw@wycombe.gov.uk

Wards affected: All

PROPOSED DECISION

To note the process for recruiting and appointing an Independent Person and to approve the sifting process set out in the report prior to Standards Committee making a recommendation to full Council.

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 Houalla continues his role but Mr Pearce's death on 6 December has created a vacancy. The aspects of the role are outlined in this report.
3. IPs need no specific qualifications but the attributes and experience they are expected to possess are set out within the 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 in practice means full Council must make the final decision. There is a requirement to advertise the role to invite applications.
4. Many Councils pay a modest allowance to their IPs and some also allow travel expenses. WDC provides an annual allowance of £211.10 which is uplifted to reflect annual inflation, with no separate travel allowance.

Executive Summary

5. This report explains the legal requirements and best practice around recruitment and appointment of Independent Persons and seeks support for the recruitment and appointment process, and confirmation of the term of office of the existing IP.

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. Since then they have provided valuable support to the Standards Committee and the Council in general in support of its duty to promote and maintain high standards of conduct and specifically in providing consultative support on Stage 2 member conduct complaints. The recent death of Mr Pearce means that there is now 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. Members may recall that at its meeting on 11 July 2017, when receiving a report on an Independent Person training session which Mr Houalla had recently attended, the ensuing debate included some discussion around what was the "norm" in terms of numbers, and it was noted that a Council can choose to appoint more than two Independent Persons, but so far, two had been considered sufficient to provide the necessary resilience.
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. In 2013, the sifting of applications prior to recommendation of the two candidates to full Council was performed by the Monitoring Officer and recommended candidates reported directly to Council. There is no particular legislative prescription around how the sifting is to be performed. On this occasion, it is suggested that this role be performed by the Monitoring Officer in consultation with the Chairman of Standards Committee. This is consistent with recent practice adopted by some other authorities. The sifting process will depend on

the number of applications and qualification of applicants. If after checking application forms there is at least one applicant who is not disqualified by law from being appointed (disqualification criteria are set out in the Application Pack, at Appendix 1) then individual discussions will be held with each eligible candidate and a report will be presented to Standards Committee at its March meeting to consider a recommendation to be finally approved by full Council.

11. In 2013, no defined term was placed upon the appointments. 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 to re-appoint the same people due to difficulties in finding further candidates. There is no obligation to have a fixed term. 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, the forthcoming report in March will therefore also recommend that full Council re-approve his appointment until at least May 2023.

Options

12. As noted above, the legal minimum number of IPs is one. However, two is the norm, and provides additional resilience. Filling the role with a suitable candidate is recommended.

Next Steps

13. A report will be presented to March Standards Committee containing a progress update, and a recommendation.

Background Papers

None.