

STANDARDS COMMITTEE

28 January 2013

FUTURE ROLE OF INDEPENDENT PERSONS AND PARISH REPRESENTATIVES

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

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RECENT REFERENCES:

ST91 Localism Act 2011 – 30 January 2012

ST94 Localism Act 2011 – Appointment of Independent Persons – 6 September 2012

EXECUTIVE SUMMARY:

On 6 September 2012, the Council resolved as follows regarding filling the four new Independent Person positions:-

1. *THAT THE FOLLOWING APPLICANTS BE APPOINTED TO SERVE AS INDEPENDENT PERSONS FOR THE 2012/13, 2013/14 AND 2014/15 MUNICIPAL YEARS:*

*MR P BAILEY*

*MS R BLUNDELL*

2. *THAT THE FOLLOWING APPLICANTS (WHO WERE FORMERLY INDEPENDENT MEMBERS) BE APPOINTED TO SERVE AS INDEPENDENT PERSONS UNTIL 30 JUNE 2013, TO PROVIDE CONTINUITY OF EXPERIENCE AND TO ASSIST IN TRAINING THE NEW INDEPENDENT PERSONS APPOINTED IN 1. ABOVE.*

*MR J BARNETT*

*MS J COLLINS*

Regarding Parish Representatives, on 30 January 2012, the Standards Committee noted that the existing representatives had been appointed to serve by Council until 30 April 2013 and agreed that :-

*..... although they will not have voting rights in any new arrangements, the role of Parish Representatives was valued and they should continue to be appointed, albeit on a co-opted, non-voting basis.*

The current Parish Representatives are Ms Jes Bond (Shedfield PC), Mr Mike Evans (Whiteley PC) and Mr James Watson (Southwick and Widley PC).

This report sets out more details about the future roles of both the Independent Person and the Parish Representative and seeks approval accordingly.

#### RECOMMENDATIONS:

1. That with regard to the Independent Persons, the administrative arrangements surrounding their role be as set out in this report and, once the term of office of Mr Barnett and Ms Collins expires (on 30 June 2013), no replacements for those two positions be sought for the time being but the position be reviewed later in 2013 in the light of experience.
2. That with regard to the Parish Representatives, all Parish Councils and the Winchester District Association of Parish Councils be invited to submit nominations for the three positions for the 2013/14 and 2014/15 Municipal Years and the appointments for the positions be considered by the Councillor members of the Standards Committee.

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### FUTURE ROLE OF INDEPENDENT PERSONS AND PARISH REPRESENTATIVES

#### REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

##### DETAIL:

#### 1 Independent Persons

- 1.1 Set out in Appendix A are the general details and role description for the Independent Person (IPs) positions. This was given to the applicants for the roles when the positions were advertised.
- 1.2 Whilst the role description provides the overall activity framework, it has been left to each local authority to determine exactly how the IPs will interact with the Monitoring Officer, the Council and the public. It should be recalled that IPs are not only available for consultation by the Monitoring Officer, but also the complainant and Councillors against whom a complaint has been made. The names of the four IPs have been placed on the Council's website, but not their personal contact details – those wishing to seek advice will request this via the Head of Democratic Services in the first instance.
- 1.3 Apart from the consultation role with the public and councillors who are the subject of complaints, the Localism Act 2011 only requires that the Independent Person be consulted before decisions are made on the determination of complaints that have been subject to an investigation. The complaints system introduced and overseen by the former Standards Board for England was over-elaborate and too bureaucratic in parts, but there were elements of the various processes which were sound and will be kept. In particular, the Council has agreed with the Monitoring Officer that both the Assessment and Review Sub Committees will be retained to provide an initial consideration and appeal mechanism. The Determinations Sub Committee will also continue to decide upon those cases which are the subject of a full or partial investigation.
- 1.4 The Localism Act has now empowered the Council to delegate to the Monitoring Officer to decide upon the validity of every complaint made under the Code of Conduct when first received and, in effect, decide whether or not it will progress to the next stage. The Council delegation allows the Monitoring Officer to determine complaints where it appears that there is no apparent breach of the Code. However, it requires him to use the IPs as advisors and a general 'sounding board' in those cases where it might be possible that a potential breach has occurred. He may also consult where the complaint appears frivolous, malicious or vexatious.
- 1.5 In addition to this, it is proposed that the IPs will be invited to attend sub-committees (as appropriate) and, of course, all meetings of the Standards Committee. They will not be either voting or non-voting co-optees, but will have observer status and can contribute to any matter under discussion, at the

invitation of the Chairman. This goes beyond the minimum requirement for them to only give advice on the determination of cases following an investigation, but will involve them to a greater extent which will be of benefit in maintaining the Council's ethical framework.

- 1.6 Turning to a related matter, the intention of appointing four IPs was to provide an 'experience overlap', with the two former Independent Members offering guidance to the two new appointees when required. Having regard to the average number of Code complaints over the past few years and the role of the IPs, it is considered that having four is a level that may not need to be maintained past the retirement date of the two more experienced IPs (30/6/13). If agreed, it is of course a decision that should be revisited later in 2013 to assess if and when demands increase.

## 2 Parish Representatives

- 2.1 As stated in the minute extract above, Parish Representatives have proved very useful to the work of the Standards Committee and, although they are now non-voting co-optees, their presence at meetings of both the main committee and those sub committees considering cases involving Parish Councillors will continue.
- 2.2 As will be noted, their term of office will expire at the end of the current Municipal Year and it is proposed that all Parish Councils, plus the Winchester District Association of Parish Councils, be invited to submit nominations for a new, two year, term of office.
- 2.3 This process will begin in February 2013 with the applications to be considered by the Councillor Members of the Standards Committee.

## 3 Conclusion

- 3.1 Further procedural points may well emerge and require resolution as the new Code and associated system beds itself in, but Members are requested to support the arrangements in this report as reasonable practical steps at this stage.

### OTHER CONSIDERATIONS:

#### SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

An Efficient and Effective Council.

#### RESOURCE IMPLICATIONS:

None, provided the agreed administrative arrangements set out in this report are not significantly added to or intensified.

#### RISK MANAGEMENT ISSUES

None

#### BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix A – Role of Independent Person

## **INDEPENDENT PERSON – BACKGROUND INFORMATION**

Under the provisions of the Localism Act 2011, the way that the City Council will deal with conduct complaints about its elected members and town and parish councillors in its area is changing.

The statutory regulatory framework has changed and the Council will be responsible for deciding how to deal with standards issues at a local level, including adopting its own local code and determining arrangements for dealing with complaints.

The Act provides that the Council must appoint at least one Independent Person to assist in discharging these responsibilities.

The appointments will come into effect following agreement by the Council at its meeting to be held on 27 September 2012.

## **INDEPENDENT PERSON - SELECTION CRITERIA SKILLS AND COMPETENCIES**

The Independent Person will have:

- a keen interest in standards in public life.
- a wish to serve the local community and uphold local democracy.
- the ability to be objective, independent and impartial.
- sound decision making skills
- leadership qualities, particularly in respect of exercising sound judgement.

The Independent Person will:

- be a person in whose impartiality and integrity the public can have confidence.
- understand and comply with confidentiality requirements.
- have a demonstrable interest in local issues.
- have an awareness of the importance of ethical behaviours.
- be a good communicator.

Desirable additional criteria are:

- working knowledge/experience of local government or other public service and/or of large complex organisations and awareness of and sensitivity to the political process.
- knowledge and understanding of judicial/quasi-judicial or complaints processes.

## **INDEPENDENT PERSON - ROLE DESCRIPTION**

Responsible to: The Council

Liaison with: Monitoring Officer, members of the Standards Committee, officers and members of the District Council and Town and Parish Councillors within the District, key stakeholders within the community.

1. To assist the Council in promoting high standards of conduct by elected and co-opted members of Winchester City Council and town and parish councillors and, in particular, to uphold the Code of Conduct adopted by the Council and the seven principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To be consulted by the Council through the Monitoring Officer and/or the Standards Committee before it makes a decision on an investigated allegation and to be available to attend meetings of the Sub Committee of the Standards Committee for this purpose.
3. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
4. To be available for consultation by any elected member, including town and parish councillors, who is the subject of a standards complaint.
5. To develop a sound understanding of the ethical framework as it operates within Winchester City Council and its town and parish councils and to be available to attend and advise the Standards Committee on such matters.
6. To participate in training events to develop skills, knowledge and experience and in networks developed for Independent Persons operating outside the City Council's area.
7. To attend training events organised and promoted by the Council's Standards Committee.
8. To act as advocate and ambassador for the Council in promoting ethical behaviour.

