

Report to: **Council**

Date: **23 May 2024**

Title: **Appointment of Independent Persons – Standards and the Audit & Governance Committee**

Portfolio Area: **Council Leader**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **Immediately**

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RECOMMENDATIONS

That the Council:

- 1. agrees to the re-appointment of the following persons as 'Independent Persons' to assist in the discharge of the Council's arrangements for dealing with standards complaints:**
 - George Barnicott;**
 - Peter Boreham;**
 - Martin Gleed;**
 - Trevor Kirkin; and**
 - Victoria Spence; and**
- 2. delegates authority to the Section 151 Officer, in consultation with the Chairman and Vice-Chairman of the Audit & Governance Committee, to appoint the 'Independent Person' to serve on the Audit & Governance Committee.**

with each of these appointments being in place for the remainder of the 2023/27 Council administration.

1. Executive summary

Standards Matters

- 1.1 The appointment of at least one Independent Person is an important part of the arrangements for dealing with complaints that councillors have breached their code of conduct. Their independence contributes to an objective and impartial assessment of complaints.
- 1.2 The Council shares its Independent Persons with West Devon Borough Council.
- 1.3 The current Independent Persons have each been asked if they wish to continue in the role. All of them have expressed an interest in continuing and it is therefore recommended that they each be re-appointed for the remainder of the 2023/27 Council administration.

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- 1.4 In 2022, CIPFA (The Chartered Institute of Public Finance) issued a position statement that stated that '*The Audit Committees of Local Authorities should include co-opted independent members in accordance with the appropriate legislation.*'
- 1.5 The Audit & Governance Committee considered a detailed report on this matter at its meeting held on 27 July 2023 (Minute AC 12/23 refers).

2. Background

Standards Matters

- 2.1 Under the Localism Act 2011, the Council has a duty to promote and maintain high standards of conduct by its Members and Co-Opted Members. As part of discharging the duty, the Council has to have adopted a Code dealing with the conduct that is expected of Members and Co-opted Members of the authority when they are acting in their capacity as Members (that is in an official capacity).
- 2.2 In addition, the Council must have arrangements in place to deal with complaints that its code of conduct has been breached, including arrangements for:
 - (a) Complaints to be investigated.
 - (b) Decisions on allegations to be made.
- 2.3 The arrangements for dealing with code of conduct complaints must include the appointment of one or more Independent Persons to assist in the standards process. The functions of the Independent Persons are:

- (a) to be consulted by the Council before it makes a finding as to whether a councillor has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member;
 - (b) to be consulted by the Council in respect of a standards complaint at any other stage and they may be consulted by a councillor or a Co-opted Member; and
 - (c) separately from the standards arrangements, under the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 to advise a panel of the Council on matters relating to dismissal of the Council's Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- 2.4 The Council's arrangements for dealing with allegations that councillors have breached their Code of Conduct are set out in Chapter 6 of the Council's constitution (<https://southhams.gov.uk/constitution>).
- 2.5 The Council shares its Independent Persons with South Hams District Council. The current Independent Persons have been asked if they wish to continue and it is proposed that the following persons, who have served the Councils as Independent Persons are re-appointed for the remainder of this Council administration:
- George Barnicott;
 - Peter Boreham;
 - Martin Gleed;
 - Trevor Kirkin; and
 - Victoria Spence,

Audit & Governance Committee

- 2.6 At its meeting held on 27 July 2023, the Audit & Governance Committee noted the intention for Devon Local Authorities to work together in a joint exercise to seek and recruit up to two Independent (**non-voting**) Persons to serve on that Committee;
- 2.7 Following a debate, the Committee proceeded to resolve that:
1. *The Section 151 Officer be asked to work with the Devon Audit Partnership in progressing the appointment of up to two Independent Persons to the Audit & Governance Committee as soon as is reasonably practicable;*
 2. *Consideration to be given to joint appointments of Independent Persons to more than one Devon Local*

Authority Audit (and Governance) Committee (through a joint exercise with neighbouring Local Authorities in Devon – co-ordinated through the Devon Audit Partnership);

3. *Devon Local Authority partners consider setting a consistent remuneration value to avoid competing with one another in what may be a limited pool of candidates;*
4. *It be noted that Independent Persons would not have voting rights at meetings of the Audit & Governance Committee; and*
5. *The Section 151 Officer present a report to Full Council following the conclusion of the recruitment exercise to formally appoint the successful co-opted Independent Members to the Audit & Governance Committee.'*

2.8 Following an advertisement and recruitment exercise organised by the Devon Audit Partnership (DAP), a prospective candidate for the role of Independent Member has applied and has had an initial meeting with officers from DAP and the Section 151 Officer. The next stage will be for the candidate to meet with the Chairman and Vice-Chairman of the Audit & Governance Committee. It is therefore recommended that the Council gives delegated authority to the Section 151 Officer, in consultation with the Chairman and Vice-Chairman of the Audit & Governance Committee, to appoint the 'Independent Person' to serve on the Audit & Governance Committee.

2.9 This timeline will ensure that all involved are comfortable that a positive, constructive and supportive working relationship can be formed, in order to both aid the Audit & Governance Committee and meet the CIPFA guidance.

3. Outcomes/outputs

Standards Matters

3.1 The appointment of the Independent Persons ensures that the Council's arrangements comply with the Localism Act 2011, while also ensuring that complaints are assessed objectively and impartially.

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3.2 The appointment of an Independent Person to serve on the Audit & Governance Committee will ensure compliance with the CIPFA requirements in this regard.

4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>Standards Matters: These are set out in the report at paragraphs 2.1 – 2.5.</p> <p>Audit & Governance Committee: The Redmond Review proposed legislation requiring Audit & Governance Committees to have at least one Independent Member on the Audit Committee.</p>
Financial implications to include reference to value for money	Y	<p>Standards Matters: Under the Council's Allowances Scheme each Standards Independent Person is entitled to an annual allowance of £500.</p> <p>Audit & Governance Committee: The appointed Independent Person will be entitled to claim an annual allowance set at 0.5 x the Council's Basic Allowance (currently £3,250 per annum).</p>
Risk	N	
Supporting Corporate Strategy	Y	<p>The Council Plan states that <i>'our Plan will be underpinned by Good Governance' and sets out our commitment to 'make sure that we have a robust governance framework, effective decision making, and that we shape our policies and strategies in consultation with our communities and key stakeholders.'</i></p> <p>Each of the recommendations in this report help to ensure that the Council has a robust governance framework in place.</p>
Consultation & Engagement Strategy	N	
Climate Change - Carbon / Biodiversity Impact	N	
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	

Health, Safety and Wellbeing	N	
Other implications	N	

Supporting Information

Appendices:

None

Background Papers:

Audit & Governance Committee agenda and minutes – 27 July 2023 Meeting.