

STANDARDS COMMITTEE

3 AUGUST 2022

REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER

A.2 INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT

(Report prepared by Karen Townshend and Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable the Committee to comment on the Independent Remuneration Panel and Independent Persons' term of office, exploring alternative options and future recruitment, with consideration to recommendations to full Council.

EXECUTIVE SUMMARY

Current Position

- At the meeting on 27 November 2018, Council agreed the appointment of Mr David Irvine, Mrs Clarissa Gosling, Mrs Jane Watts and Mrs Sue Gallone as the Council's Independent Remuneration Panel for the purposes of making recommendations to Council on Members' allowances.
- Mr David Irvine, Mrs Clarissa Gosling, Ms Jane Watts and Ms Sue Gallone were also confirmed as the Council's Independent Persons for the purposes of standards arrangements.
- The roles are still separate but the same individuals have been appointed to both and are in place until Annual Council in May 2023.
- Full Council last considered the Members' Allowances Scheme in September 2020 and the recommendations from the Independent Remuneration Panel (IRP), within the covering report it was highlighted that if the Council approved a Scheme of Allowances for the following two financial years (being 2021/22 and 22/23) the next scheduled time for the IRP to review the Allowances Scheme for this Council would be prior to the start of 2023/24 and therefore this will concern the Scheme of Allowances to be paid following the scheduled elections to this Council in 2023.
- Without alternative arrangements there will be a need to recruit a new Independent Remuneration Panel and new Independent Persons in time to make new formal appointments at Annual Council in May 2023, whilst undertaking a review on the Members' Allowance Scheme, with the support of officers in the late Autumn/early Winter 2022.

Recruitment and alternative options

- With regard to the roles of Independent Persons for the Ethical Standard arrangements, a pool of Independent Persons are available through the Public Law Partnership (covering Essex, Hertfordshire and Suffolk) that can be called on by any authority, subject to the necessary approvals through formal appointments.. These arrangements are considered appropriate to use where capacity or conflicts of interest are an issue. Whilst the Council has approved and adopted this flexibility, using the pool has not been required due to having four Independent Persons. Therefore, it is still considered prudent for Tendring District Council to continue appointing its own Independent Persons whilst retaining the flexibility of a

wider pool to call upon if necessary.

- The Independent Persons and the Independent Remuneration Panel could continue as joint appointments or be separated.
- The Council could also look to alternative arrangements such as joint Independent Remuneration Panels with other Councils, either on flexible or formal basis. Early research has indicated that a small number of Councils might be interested in a joint approach, but no commitments can be made at this time, therefore, any recruitment undertaken by Tendring, would have to reflect some flexibility with recommendations to Full Council.
- Since the recruitment undertaken in 2018, the Committee on Standards in Public Life published its report in January 2019, which with regards to the role of the Independent Persons and their recommendations were responded to by Government in March 2022. Therefore, it is timely for Tendring District Council to review its own approach and give consideration to different options.

Statutory and Constitutional Requirements

- Section 28(6) and (7) of the Localism Act 2011 requires the Council to appoint at least one Independent Person to work with the Monitoring Officer within the Standards Framework.
- Section 20 of The Local Authorities (Members' Allowances) England Regulations 2003 requires that an Independent Remuneration Panel shall be established in respect of each authority and that the Panel shall consist of at least three people.
- In the Council's Constitution, the advertisement of vacancies of Independent Person(s) and the Independent Remuneration Panel, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed, are delegated to the Chief Executive or Monitoring Officer. However, as both of these independent roles do have strong engagement with Councillors it is considered appropriate that representative from the Committee are involved in the recruitment process. It is recommended that the existing Independent Persons term of office be extended for a year to allow the joint working opportunities for the Independent Remuneration Panel to be explored further.

RECOMMENDATION(S)

It is recommended that the Standards Committee:-

- (a) notes the contents of this Report;**
- (b) recommends to Full Council that alternative arrangements for the Independent Remuneration Panel are explored further to maximise options available with other Councils within Essex and give consideration to the outcome prior to any future recruitment; and**
- (c) subject to debate within the meeting, recommend to Full Council that the term of office for those Independent Persons who express an interest in doing so, be extended for a further year without an application process, to**

allow the review within (b) above to be undertaken.

BACKGROUND

The following recruitment process was undertaken for the roles in 2018/19:-

- up to four people were to be appointed to serve as both the Independent Remuneration Panel and Independent Persons;
- an allowance of £600 per annum was allocated for payment to each person;
- a Recruitment Pack be produced incorporating comments from the Standards Committee;
- the posts were advertised locally;
- interviews be undertaken by a Joint Member / Officer panel;
- the recommended appointments by the Panel be submitted directly to Full Council for approval.

The Committee on Standards in Public Life (CSPL) reported the outcome of their national review in a Report published in January 2019, which included a number of recommendations relating to Local Government Ethical Standards. The Report also includes a number of Best Practice recommendations, those which relate to the role and responsibilities of the Independent Person were:

Recommendation 8: The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

Whilst, the following did not translate into the formal recommendation or within the list of best practice, the CSPL report stated (page 56) *“The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory”*.

In the Letter from Kemi Badenoch MP (Minister of State for Equalities and Levelling Up Communities) to Lord Evans, Chair, Committee on Standards in Public Life dated 18th March 2022, in response to this recommendation it was stated:

“The government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The government’s view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution “fresh” and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.”

CSPL Best Practice 7: Local authorities should have access to at least two independent Persons.

CSPL Best Practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial.

APPENDICES

None