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STANDARDS COMMITTEE

20 MARCH 2024

REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER

A.1 INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT

(Report prepared by 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 of Independent Remuneration Panel and Independent Persons are still separate but the same individuals have been appointed to both and are in place until Annual Council in April 2024. Each role is covered by separate legislation and are different in their nature, the statutory provisions regarding these roles are set out below, although due to economies dual appointments were previously made.
- The appointments as Independent Persons (IPs) were extended for a year from May 23 – 24, at Full Council in on 22nd November 2022 (Minute no. 52) and as Independent Remuneration Panel (IRP) members at Full Council on 2nd March 2023 (Minute no. 108).
- There was a requirement, following the decision at Full Council on 22nd November 2022, that alternative arrangements for the IRP be explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment.
- During last year, Braintree District Council (BDC) expressed an interest in joint working on the role of the IRP (not IP) and recently advertised to recruit to their IRP role and included reference to working with other Essex Councils (although Tendring District Council was not specifically named).
- The Assistant Director (Governance) & Monitoring Officer took part in the BDC interview process and each candidate confirmed they would be interested in joint working with TDC, if this was approved locally as an approach going forward.
- Following the decision of Full Council in November 2022, the Monitoring Officer can report there is interest in a joint working arrangement whereby a pool of IRPs could be appointed to undertake reviews of Members' Allowance Schemes for different Councils and the successful candidates through the BDC process could be recommended for appointment by Tendring.

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- The advertisement of vacancies for the position 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 is delegated to the Chief Executive (Part 3.9).
- It is recommended that this delegation is amended to include the Monitoring Officer together with the Chief Executive, so that the administrative process for Tending can be undertaken and recommendations made to Full Council in July 2024. Currently, there is no requirement for a review of Tending's Members' Allowances Scheme through the interim period.
- It is recommended that in light of the proposed joint working arrangements for IRPs, the automatic appointment to both roles at Tending ceases to allow different arrangements to be implemented.
- It is recommended that the existing appointments to IPs are extended, to those who express a wish to continue, to ensure we comply with the requirements of the Localism Act 2011. The current appointments are working well and there are a few standards cases in the pipeline whereby consistency and continuity would be beneficial.

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 previously 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 Tending District Council to continue appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.
- The IP and the IRP could continue as joint appointments or be separated.
- The term of office for IRP and IPs were currently aligned to the term of office for District Councillors and consideration should be given to alternative approaches such as staggering and overlap of terms, providing consistency and effective use of resources, preventing regular recruitments.
- Since the recruitment last 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 Tending 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

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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. However, as both of these independent roles do have strong engagement with Councillors it is considered appropriate that the views of the Committee are sought. 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 implemented.

RECOMMENDATION(S)

It is recommended that the Standards Committee:-

(a) notes the contents of this Report;

(b) recommends to Full Council that:

- (i) the previous local arrangements for joint appointments to both roles, being the Independent Remuneration Panel and Independent Persons ceases;**
- (ii) future arrangements continue to be explored for a joint Independent Remuneration Panel with other Councils, and the delegation for recruitment be extended to the Chief Executive and Monitoring Officer for recommendations to be made to a future meeting of Full Council;**
- (iii) for the purposes of (b)(ii) the term of office of future Independent Remuneration Panel members be for a period of up to 7 years, being staggered if appropriate, to cover the Review of the Members' Allowances Scheme required for 2026/27 and into the next term of office for District Councillors; and**
- (iv) 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 a separate recruitment exercise to be undertaken for the sole role of Independent Person.**

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

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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