

## STANDARDS COMMITTEE

24 October 2024

### REPORT OF THE MONITORING OFFICER

#### A.1 STANDARDS COMMITTEE – INDEPENDENT PERSONS RECRUITMENT

(Report prepared by Lisa Hastings and Karen Hayes)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To enable the Committee to comment on Independent Persons' recruitment pack prior to advertisement and to determine the representatives of the Standards Committee on the interview panel.

##### **EXECUTIVE SUMMARY**

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 Persons for the purposes of standards arrangements.

The appointments as Independent Persons (IPs) were extended for a year from May 23-24, at Full Council on 22<sup>nd</sup> November 2022 (Minute no. 52).

At its Annual Council meeting on 30<sup>th</sup> April 2024, Tendring District Council approved (Minute no. 14) that –

- 1. The previous local arrangements for joint appointments to both roles, being the Independent Remuneration Panel and Independent Persons ceases;**
- 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;
- For the purposes of (b) above 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 for 2026/27 and into the net term of office for District Councillors; and
- 4. The term of office for those Independent Persons who express and interest in doing so, be extended for a further year without an application process, in order to allow a separate recruitment exercise to be undertaken for the sole role of Independent Person.**

##### **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 Tendring District Council to continue recruiting and appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.

Since the recruitment last undertaken in 2018, the Committee on Standards in Public Life (CSPL) published its report in January 2019, which included recommendations with regards to the role of the Independent Persons, the Government responded to them in March 2022. Therefore, it is timely for Tendring District Council to review its own approach and give consideration to different options and determine the best one for its own governance arrangements, Government supported such choices to be determined at a local level.

### **Term of Office**

Whilst the term is to be determined by Full Council on appointment, the practice which has been adopted since 2018 has been to appoint Independent Persons for a term of 4 years, which aligns with the term for elected members. However, it is also essential to provide continuity, developing the relationship between the Independent Persons with the Monitoring Officer is important to ensure the robustness in the delivery of and confidence in the arrangements and building upon the expectations of the Nolan Principles.

### **Eligibility**

The CSPL recommended in its review in 2019 that the role of the Independent Person should be fixed to a term of office for 2 years and renewed once. Whilst it is understood how this approach could demonstrate a perception of independence, the competencies required for the Independent Persons to demonstrate confidence in the arrangements and the training necessary require dedicated resources being committed by the Council, to ensure the role is sufficiently performed. In addition, experience obtained depends upon the number of Member Code of Conduct complaints received and this cannot be predicted in advance; a longer term of office would allow previous experienced Independent Persons to reapply and would assist with the opportunity for experience to be gained. However, previous local appointments should not detract other members of the public interested in the role from applying and the Council will always encourage individuals to express an interest in the role.

## **RECOMMENDATION(S)**

**It is recommended that the Standards Committee:**

- a) Notes the contents of this report;**
- b) Supports the proposal to recruit 4 Independent Persons, for a term of office for 4 years at the suggested allowance of £600 per annum (subject to Full Council approval on appointment);**
- c) Endorses previously appointed Independent Persons being permitted to reapply for this role;**
- d) Subject to debate within the meeting, supports the recruitment pack for the role of the Independent Persons; and**
- e) Authorises 3 members of the Standards Committee to form part of the Interview Panel.**

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<b>REASON(S) FOR THE RECOMMENDATION(S)</b>
To present to the Standards Committee the draft Independent Person Recruitment Pack for comment on and to determine the representatives of the Committee to form part of the Interview Panel. <b>PICK UP MATTERS TO BE COVERED THROUGH DEBATE</b>

<b>ALTERNATIVE OPTIONS CONSIDERED</b>
To utilise the pool of Independent Persons 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.

## PART 2 – IMPLICATIONS OF THE DECISION

<b>DELIVERING PRIORITIES</b>	
The existence of sound governance, internal control and financial management practices and procedures are essential to the delivery of Corporate priorities supported by effective management and forward planning within this overall framework.	
<b>LEGAL REQUIREMENTS (including legislation &amp; constitutional powers)</b>	
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.  In accordance with the Council's Constitution, the advertisement of vacancies of Independent Person(s), 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, the Chief Executive and Monitoring Officer are of the view that it is considered appropriate that representatives from the Committee are involved in the recruitment process.	
<b>FINANCE AND OTHER RESOURCE IMPLICATIONS</b>	
<b>Finance and other resources</b> The previous allowance for the dual role of Independent Person and member of the Independent Remuneration Panel for Tendring District Council was £600 per annum (last reviewed in 2018). Due to the length of time since the last review, it is recommended retaining £600 per annum for the sole role of Independent Person (subject to review by Full Council).	
<b>USE OF RESOURCES AND VALUE FOR MONEY</b>	
The following are submitted in respect of the indicated use of resources and value for money indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	As stated within Finance and other resource implications
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Advertisement of vacancies, interview and recommendation of appointment to Full Council

	has been delegated to the Chief Executive and Monitoring Officer.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Nothing to add in the context of this report.
<b>MILESTONES AND DELIVERY</b>	
Take into consideration the comments of the Standards Committee in relation to the Independent Persons' Recruitment Pack prior to the advertisement and determine the representatives of the Standards Committee on the interview panel for the subsequent interview process.	
<b>ASSOCIATED RISKS AND MITIGATION</b>	
There is a risk that the position of Independent Persons does not get recruited to, or applicants are not of the calibre required, along with appropriate experience available within the role.	
<b>OUTCOME OF CONSULTATION AND ENGAGEMENT</b>	
It is requested that Members of the Standards Committee discuss the content of the Independent Persons' Recruitment Pack and determine whether they wish to recommend any amendments. As stated in the main body of the report, the vacancies would be advertised locally.	
<b>EQUALITIES</b>	
<p>In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment and victimisation to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.</p> <p>The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>The proposed Independent Persons' Recruitment Pack does not impact on the protected characteristics.</p>	
<b>SOCIAL VALUE CONSIDERATIONS</b>	
There is an element of social value relating to the Independent Persons' role in that the public must have confidence that complaints raised against Members that relate to the Members' Code of Conduct will be looked at in a fair manner. The Recruitment Pack and Process are considered robust to ensure this confidence.	
<b>IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030</b>	
Not applicable.	
<b>OTHER RELEVANT IMPLICATIONS</b>	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	

<b>Crime and Disorder</b>	Not applicable
<b>Health Inequalities</b>	Not applicable
<b>Area or Ward affected</b>	All Wards could be affected
<b>ANY OTHER RELEVANT INFORMATION</b>	
None	

### PART 3 – SUPPORTING INFORMATION

#### BACKGROUND

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

- Up to 4 people were to be appointed to serve as both the Independent Remuneration Panel and Independent Person;
- 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 18<sup>th</sup> 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.

#### **PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

At its meeting on 27 November 2018, Full Council agreed the appointment of the current four Independent Persons for the purposes of Standards arrangements.

At its meeting on 22 November 2022, Full Council extended the appointment for a year from May 23-24.

At its Annual Council meeting on 30 April 2024, Full Council approved that:

1. The previous local arrangements for joint appointments to both roles, being the Independent Remuneration Panel and Independent Persons ceases;
2. 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;
3. For the purposes of (b) above 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
4. 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, in order to allow a separate recruitment exercise to be undertaken for the sole role of Independent Person.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

None

**APPENDICES****Appendix A – Independent Persons' Recruitment Pack****REPORT CONTACT OFFICER(S)**

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