

FULL COUNCIL

23 FEBRUARY 2012

REPORT OF THE MONITORING OFFICER

LOCALISM ACT – STANDARDS AND THE APPOINTMENT OF INDEPENDENT PERSONS

1.0 PURPOSE OF REPORT

- 1.1 To inform Members of a specific change to the Standards arrangements as part of the Localism Act, in relation to the need to appoint an 'Independent Person' from 1st July 2012 and two potential options for doing so. Further reports on other specific changes will be forthcoming following consideration by the proposed Governance Committee and Standards Committee as required.

2.0 RECOMMENDATIONS

- 2.1 **That Members delegate authority to the Monitoring Officer in consultation with the Chairman of Policy Finance and Administration Committee and Chairman of the Standards Committee to determine the arrangements for the appointment of 'Independent Person/s'.**
- 2.2 **That the Monitoring Officer submit a report to Full Council recommending the appointment of the Independent Person/s following completion of the agreed selection process.**

3.0 KEY ISSUES

- 3.1 Chapter 7 of the Localism Act 2011 sets out new provisions in respect of the conduct of members. On 22nd December 2011 the Government indicated that whilst the abolition of Standards For England would take place no later than 31st March 2012 the new provisions would not come into force until at the earliest 1st July 2012.
- 3.2 There will no longer be a statutory requirement to have a Standards Committee, however each authority will need to put in place arrangements dealing with complaints and standards issues. It is a Council function, so the Council must either deal with it itself, appoint a Committee (politically balanced) or delegate specific functions to an officer. The current Independent Members and Parish Council representatives will cease to be Members of the Standards Committee and it will cease to exist on 1st July 2012.
- 3.3 Policy Finance and Administration Committee has given support to the introduction of a new Governance Committee and have recommended that the terms of reference and functions be established. This will include taking over responsibility for the oversight in respect of the new provisions relating to standards and complaints/investigations etc. It is proposed that this will be recommended to be established at the Councils Annual General Meeting on 8th May 2012 and will take on responsibility for the new system from that point on. The Standards Committee will continue to be required legally until 1st July 2012 or any other date that may be set and to deal with complaints until that point.

- 3.4 The new legislation sets out a requirement for the appointment of at least one independent person by the Council. The current independent persons elected under the current regime will not be able to sit as an independent person (for at least five years) once the new regime comes in.
- 3.5 The role of the independent person (IP) is also changing as there is now a requirement to consult them at various stages throughout the complaint but always prior to the authority making a finding on a matter. It also provides for the subject member to approach them (the IP) during the lifetime of the complaint, in order to seek advice and assistance. This may lead to cases where an independent person is regarded as prejudiced on a matter and cannot then be involved in the determination of a complaint.
- 3.6 The independent person or persons (the Act provides for more than one) must be appointed through a process of public advertisement, application and appointment but no matter how many are appointed the Council must be consulted before a decision is taken.
- 3.7 There are two current options for taking this forward. Firstly that this Council appoints its own independent person/s. This would have some advantages in that a consistent relationship could be formed and this is something that members have commented on previously. Members could become directly involved in the recruitment process and a suitable remuneration could be set for this position. If this Council decides on a different style of code then this would perhaps be better suited to this type of arrangement. However, if only one IP is appointed and they are conflicted out or are unable to respond to a particular complaint, due to other reasons, then the complaint process could be slowed down and in these circumstances the Council might wish to appoint two.
- 3.8 Alternatively, the Monitoring Officers throughout the County have been working together on this new legislation and the potential for the same code and shared recruitment processes. It has been suggested that, given the fact that independent persons can only be appointed following an advertisement, it would be more efficient to do this collaboratively with savings in time and costs. It was suggested that perhaps between 6 and 10 IPs could be recruited (on an expenses basis only) and appointed by each participating authority (subject to eligibility). It was felt that a small representative group of Monitoring Officers could undertake the selection process. A Member selection panel could be possible but given the potential number of participating authorities may be a little unwieldy. On this basis a more 'taxi-rank' system of access to the IP's would be achieved and different complaints allocated to different IP's and less opportunity to establish the sort of relationship that members have previously indicated a preference for.
- 3.9 In order to attain the necessary recruitment timelines for this process and as the Governance Committee will not be established until May members are requested to delegate authority to the Monitoring Officer in consultation with the Chairman of PFA and Standards Committee to determine the arrangements for the appointment of these person/s, including Job Descriptions etc. Their formal appointment will be a decision of Full Council at some future point but before 1st July 2012.

4.0 **POLICY AND CORPORATE IMPLICATIONS**

- 4.1 Effective corporate governance is important in order to ensure high standards of conduct.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 The implementation of the new requirements will be covered within existing resources.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Contained in the body of the report.

7.0 COMMUNITY SAFETY

7.1 There are no specific community safety issues.

8.0 EQUALITIES

8.1 There are no specific equalities issues.

9.0 RISKS

9.1 The impact of the changes will need to be managed to minimise any risk to the Council reputational or otherwise.

10.0 CLIMATE CHANGE

10.1 There are no specific climate change issues as a result of this report.

11.0 CONSULTATION

11.1 The Standards committee have been consulted on the requirement for IP's and have commented that they will need to have a strong skill set in terms of advocacy etc in a role such as this.

12.0 WARDS AFFECTED

12.1 All wards are affected.

Contact Officer Christine Marshall, Strategic Director & Monitoring Officer

Date: 16th February 2012

Appendices :

Background Papers: Localism Act 2011

Reference : X : Committees\Full Council\230212