

DEMOCRACY AND GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday 31 March 2021
Time: 3.30 pm
Venue: Remote Meeting: The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council Website

Membership:

Councillors Mrs Blackmore, Chappell-Tay, Mrs Gooch (Chairman), Hastie, Joy, Lewins, Perry, Purle and Webb (Vice-Chairman)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Appointment of Independent Person 1 - 13

PART II

To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12 A and Brief Description

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| 8. | Exempt Appendices 3-6 - Application and Interview Assessment Forms | Paragraph 1 – information relating to an individual | 14 - 42 |
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Issued on Tuesday 23 March 2021

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

**DEMOCRACY AND GENERAL
PURPOSES COMMITTEE**

31 March 2021

APPOINTMENT OF INDEPENDENT PERSON

Final Decision-Maker	Full Council
Lead Head of Service	Patricia Narebor, Head of Legal Partnership and Monitoring Officer
Lead Officer and Report Author	Gina Clarke, Team Leader (Corporate Governance)
Classification	<p>Public report with private appendices.</p> <p><u>Exempt Category</u> – the information contained within Appendices 3 – 6 is considered exempt under the following paragraph of Part 1 of Schedule 12A to the Local Government Act 1972:- Paragraph 1 – Information relating to any individual.</p> <p><u>Public Interest Test</u> It is not in the public interest to make the information contained in this exempt Appendix public as to do so would reveal personal details of a member of the public who has applied to serve as an Independent Person. Similarly, it would be inappropriate to conduct the interviews in public because of the likely disclosure of information relating to an individual.</p>
Wards affected	All

Executive Summary

To make a recommendation to the Council as to the appointment of an Independent Person and a Reserve Independent Person to assist in dealing with complaints of Member misconduct.

Purpose of Report

For decision

This report makes the following recommendations to this Committee:

1. To consider the applications which have been received, interview the candidates and to recommend to the Council as to the appointment of an Independent Person and a Reserve Independent Person under s 28(7) of the Localism Act 2011 for a term of 4 years from 1 August 2021 to 31 July 2025.

2. To recommend to Council to approve the allowances paid per annum to the Independent Person and Reserve Independent Person being £749 and £250 respectively.

Timetable	
<i>Meeting</i>	<i>Date</i>
Corporate Leadership Team	19 January 2021
Democracy and General Purposes	31 March 2021
Council	22 May 2021

APPOINTMENT OF INDEPENDENT PERSON

2 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Council's values include taking responsibility. Taking into account the environment that the Council works in, the Council has undertaken to take ownership for its actions, which includes actions taken by Councillors. The value includes making the right choices and decisions that lead to a satisfactory outcome for all.	Team Leader (Corporate Governance), MKLS
Risk Management	The risk is that an unsuitable person will be appointed to serve as an Independent Person. However the selection process is designed to minimise this possibility.	Team Leader (Corporate Governance), MKLS
Financial	The position of Independent Person attracts an allowance of £749 a year for the Primary Independent Person and £250 a year for the reserve Independent Person (or as revised by the Members Remuneration Allowance Scheme) together with reasonable travel and subsistence expenses. The cost falls within the existing approved budget.	Section 151 Officer & Finance Team
Staffing	None identified in this report.	Team Leader (Corporate Governance), MKLS

<p>Legal</p>	<p>The legal implications are set out in the body of the report.</p> <p>The recommendations of the report will enable the statutory requirement to be discharged by the Council.</p> <p>In accordance with section 28(7) of the Localism Act 2011 any appointment of Independent Persons is required to be agreed by Full Council and so Full Council will be asked to confirm this appointment at its meeting on 22 May 2021.</p> <p>Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the Council must have in place arrangements for inviting Independent Persons (IPs) to be involved in making recommendations to Council before any decision to dismiss a statutory chief officer. It would be possible to use IPs other than those appointed to support the Code of Conduct, or IPs from other authorities for this purpose, however it is considered sensible to use the IPs supporting the Code of Conduct for this purpose if needed as well.</p>	<p>Team Leader (Corporate Governance), MKLS</p>
<p>Privacy and Data Protection</p>	<p>There is no specific privacy or data protection issues to address.</p>	<p>Team Leader (Corporate Governance), MKLS</p>
<p>Equalities</p>	<p>The recommendations do not propose a change in service therefore will not require an equalities impact assessment.</p>	<p>Policy & Information Manager</p>

Public Health	None identified in this report.	
Crime and Disorder	None identified in this report.	
Procurement	None identified in this report.	Head of Service & Section 151 Officer
Cross Cutting Objectives	None identified in this report	Team Leader (Corporate Governance), MKLS

2. INTRODUCTION AND BACKGROUND

- 2.1 The Localism Act 2011, section 28(7) requires the Council to appoint at least one Independent Person, who must be consulted, and whose views are to be taken into account before any decision is taken on an allegation to be investigated regarding a breach of the Members Code of Conduct by a Borough or Parish Councillor. The Independent Person may be consulted on other issues and by a Member who is the subject of a complaint.
- 2.2 In addition Independent Persons appointed to this position may also be appointed to a panel convened to consider a proposal to dismiss a Statutory Chief Officer under the Local Authorities (Standing Orders) (England) Regulations 2015.
- 2.3 The term of the current Independent Person's appointment expires on 31 July 2021 and the Council is required to appoint a new Independent Person(s). Although currently only one Independent Person has been appointed, it is considered good practice to have a secondary Independent Person as a reserve, because of the additional duties for which the Independent Person may now be used.
- 2.4 An Independent Person must be appointed following an advertisement and application process and confirmation by Council. These appointments must be made at the latest, by the May 2021 Annual Council. The position was advertised in Jobs Go Public, Kent Online and Jobs in Kent. A copy of the advertisement and recruitment pack is attached at Appendices 1 and 2. Three applications were received in response to the advertisement and the applications are set out in exempt Appendices 3 to 6.
- 2.5 The Committee has been convened to consider the applications which have been received and to make a recommendation to the Council to confirm the appointment of an Independent Person and reserve Independent Person,

and allowances. A majority of the Council must agree the recommendations of the committee in order for the appointment to be made.

- 2.6 It is proposed that the interviews are conducted in private because of the likely disclosure of information relating to an individual.

3. AVAILABLE OPTIONS

- 3.1 The alternative would be not to appoint an Independent Person. However, this is not an option since it is a requirement of the Localism Act 2011 for the Council to appoint at least one Independent Person.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That the Committee recommend to the Council the appointment of suitable candidates to the role of the Independent Person and reserve Independent Person. This will ensure that the Council complies with the statutory requirement for at least one Independent Person to be appointed by the Council and for a vacancy to be avoided.

5. RISK

- 5.1 There is a risk that is that an unsuitable person will be appointed to serve as an Independent Person. However the selection process is designed to minimise this possibility.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Monitoring Officer has consulted with the current Independent Person and she is aware that her appointment ends on 31 July.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 If agreed, the Committee's recommendations will be referred to full Council to confirm the appointment and allowances payable to the Independent Person and Reserve Independent Person. Appointment to commence on 1 August 2021 for a term of 4 years.

8. REPORT APPENDICES

Appendix 1 - Appointment of Independent Person – Recruitment Advert
Appendix 2 – Recruitment Pack for Appointment of an Independent Person

Exempt Appendix 3 – Applications to the position of Independent Person
Exempt Appendix 4 – Interview Assessment Form
Exempt Appendix 5 – Interview Assessment Form
Exempt Appendix 6 – Interview Assessment Form

9. BACKGROUND PAPERS

None.



APPOINTMENT OF INDEPENDENT PERSON **Localism Act 2011**

Maidstone Borough Council (MBC) is looking to appoint an Independent Person to assist the Council's Monitoring Officer in assessing complaints of alleged misconduct by Elected Members and Co-opted Members of MBC and Parish Councils within the borough.

The Council is required by the Localism Act 2011 to have a Member Code of Conduct setting out the standards of behaviour expected of its Members. It also requires the Council to have in place arrangements for handling complaints about the conduct of Members. These arrangements must include the involvement of at least one person independent of the Council, who is consulted for an independent and impartial view prior to a decision is made on what to do.

MBC is looking for someone who has a keen interest in matters of probity and integrity and can bring an impartial and objective perspective, possesses good communication skills and is able to work as part of a team.

There are restrictions on who can apply. These include that they must **not** be someone who:

- Has been an elected or co-opted Member of Maidstone Borough Council or any of the Parish Councils within its area within the last five years
- Has been an elected or co-opted Member of any Committee or Sub-Committee of the Borough Council or of any of the Parish Councils within its area within the last five years
- Is a relative or a close friend of a current elected or co-opted Member or officer of the Council or any Parish Council within its area, or of any elected or co-opted Member of any Committee or Sub-Committee of such Council

It is the intention of the Council to appoint 1 Independent Person and a Reserve Independent Person who would be called upon to give a view on Member conduct complaints when the Independent Person is not available.

The appointment will come into effect on 1 August 2021 for an initial period of four years, with the possibility that the period may be extended. Appropriate training will be given. The position is purely voluntary and there is no salary attached to it. However, the Council currently pays an annual allowance of £749 and will reimburse reasonable travel and subsistence expenses.

If you are interested in being an Independent Person please contact Patricia Narebor Monitoring Officer for more information. For an application form please contact Gina Clarke on gina.clarke@midkent.gov.uk.

Please telephone: 01789 260400 or email: patricia.narebor@midkent.gov.uk

Closing Date: 5 March 2021

Interviews to be held 30 March 2021

**Recruitment pack for
Appointment of an
Independent Person**

Appointment of Independent Person – Background Information

Section 28 of the Localism Act 2011 requires the Council to appoint one or more Independent Person(s) to help it discharge its duty to promote and maintain high standards of conduct by helping to deal with complaints about the conduct of its elected councillors and of parish councillors in the borough. You may find it useful to refer to this section of the Act which can be located online via: <http://www.legislation.gov.uk/ukpga/2011/20/section/28>

The Borough Council has adopted a Code of Conduct for Councillors, and most of the 41 parish councils in the borough also adopted the same Code as their local Code.

The role of the Independent Person has been expanded recently by Government to include involvement in disciplinary action against a Council's statutory officers (i.e. Head of Paid Service, Chief Finance Officer or Monitoring Officer). This will involve the appointment of a panel of at least two independent persons for the purpose of advising the Council on matters relating to the dismissal of these officers.

It is intended to appoint up to 2 Independent Persons, (a Primary Independent Person and a Reserve Independent Person) who will deal with complaints on a case by case basis as notified by the Monitoring Officer. It is anticipated that the Council will confirm the appointment of the Independent Person(s) at its meeting on 21 April 2021, and the appointment will be for a term of 4 years, commencing 1 August 2021 until 31 July 2025.

Applications must be received by 5pm on **5 March 2021**. Short-listed candidates will be invited to attend for interview which will take place during the week commencing 29 March 2021.

Copy documents/link

You will find it useful to refer to the Council's Constitution which can be located online via: [Councillors Code of Conduct](#) (Part 4. Council Constitution pages 168-179)

and also via:

[Arrangements for dealing with allegations of misconduct by councillors and co-opted Members](#) (Part 4 Council Constitution pages 180 -205)

Independent Person Selection Criteria

Knowledge		
Essential	Desirable	
<ol style="list-style-type: none"> 1. Good understanding of the ethical standards required of people holding public office and the impact of ethical issues within a local authority context. 2. Understand and comply with confidentiality requirements. 	<ol style="list-style-type: none"> 1. An understanding of the workings of local government or other large complex organisations and awareness of and sensitivity to the political process. 2. Knowledge and understanding of judicial/quasi-judicial or complaints processes. 	
Skills		
<ol style="list-style-type: none"> 1. A calm, rational approach to problem solving which considers detailed evidence to reach a balanced judgement. 2. Good interpersonal skills, demonstrated through a considered, measured and consultative approach when dealing with potentially difficult or complex issues. 3. Sound decision making skills. 4. Good communication skills. 		
Qualifications		
<ol style="list-style-type: none"> 1. High degree of personal integrity. 	<ol style="list-style-type: none"> 1. Experience of working in or with local authority bodies. 	

You should demonstrate in your application how you meet the above criteria as this will assist the short-listing process.

Means of assessment will be by application form and by interview.

Eligibility for Appointment

A person cannot be appointed as an Independent Person if they are or were within a period of five years prior to the appointment:

- (a) a member, co-opted member or officer of Maidstone Borough Council, or another Council
- (b) a member, co-opted member or officer of a parish council in the Maidstone borough area or in the area of another Council;

or if they are a relative or close friend of a person in (a) or (b) above.

A relative is defined as:

- (a) The candidate's spouse or civil partner;
- (b) Any person with whom the candidate is living as if they were spouses or civil partners;
- (c) The candidate's grandparent;
- (d) Any person who is a lineal descendent of the candidate's grandparent;
- (e) A parent, brother, sister or child of anyone in paragraphs (a) or (b);
- (f) The spouse or civil partner of anyone within paragraphs (c), (d) or (e); or
- (g) Any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

Role of Independent Person

1. The Independent Persons will assist in maintaining and promoting high ethical standards in the Borough Council and the parish councils within the Borough. The role of "independent person" was created by the Localism Act 2011. The Act requires all local authorities to adopt a code of conduct for their elected members and to appoint at least one independent person to assist the Council in dealing with complaints that the code of conduct may have been breached.
2. If the Council has decided to investigate an allegation that the code of conduct has been breached then the views of an Independent Person must be sought, and taken into account, before the Council makes its decision on any such allegation. The Council may also seek the views of an Independent Person in relation to allegations where no decision to investigate has been made. In addition any Councillor, who is the subject of a complaint, may seek the views of an Independent Person.
3. It is anticipated that the views of an Independent Person will usually be sought by the Monitoring Officer by e-mail but, on occasions, contact may be by telephone or in face to face meetings.
4. An Independent Person may be invited to attend any meeting of the Hearings Sub-Committee which is considering an allegation of a breach of the code of conduct.
5. The Independent Persons will be encouraged:
 - to develop their knowledge of the code of conduct,
 - to analyse and to exercise fair and impartial judgment on conduct issues,

- to set high standards of ethical behaviour, and develop a sound understanding of the ethical framework
6. The Independent Persons will be expected to provide a view on the conduct of Borough and parish councillors from an external perspective, reflecting the expectations and views of the local community on ethical standards.
 7. The Independent Persons will be encouraged to acquire some understanding of the work of the Borough and parish councils and how they operate, and must be prepared to undertake training and also to participate in training events organised by the Council to promote awareness of the Code of Conduct.
 8. The Council will also invite Independent Persons to be considered for appointment to a panel which will be involved in advising the Council on matters relating to the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
 9. Support will be provided by the Council's Monitoring Officer, who will arrange any necessary training and provide such information and assistance as is necessary to enable the Independent Persons to perform the role effectively.
 10. An Independent Person is not an employee of the Council and the post is not remunerated although an annual allowance of £749 is paid to the Primary Independent Person and travel expenses may be claimed for attending meetings. The Reserve Independent Person will receive an annual allowance of £249, and may also claim travel expenses. The term of office will be for a fixed term expiring in 31 July 2025 and will be subject to the Independent Person maintaining high standards of personal conduct. The Borough Council may terminate an appointment at any time.

Agenda Item 9

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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