

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

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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.
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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.