

# Members' Code of Conduct Committee

13 February 2019



<b>Title</b>	Localism Act 2011: Appointment of Independent Persons 2019-2023		
<b>Purpose of the report</b>	To make a recommendation to Council		
<b>Report Author</b>	Michael Graham, Monitoring Officer		
<b>Cabinet Member</b>	Councillor Ian Harvey	<b>Confidential</b>	No
<b>Corporate Priority</b>	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
<b>Recommendations</b>	<p>(1) That the Monitoring Officer (Michael Graham) be authorised to establish a Joint Appointments Panel with participating Surrey councils' monitoring officers so that the Panel may:</p> <p>(a) advertise for, short-list, and interview candidates and</p> <p>(b) make recommendations to the respective councils</p> <p>for the appointment of Independent Persons under Section 28(7) of the Localism Act 2011, for a four-year term of office expiring in May 2023.</p> <p>(2) That the Independent Persons appointed by this Council be entitled to receive the same level of travelling expenses as are provided for councillors under the Scheme of Allowances for Councillors.</p> <p>(3) That the Monitoring Officer be authorised to withdraw from joint arrangements in the event that we are not content with the process or proposed appointments, and make separate arrangements for Spelthorne Borough Council to appoint its Independent Persons.</p>		
<b>Reason for Recommendation</b>	To comply with the Council's obligations under the Localism Act 2011 in respect of ethical standards and The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 in respect of dismissal and disciplinary arrangements for statutory officers.		

## **1. Key issues**

- 1.1 The Committee will be aware that the Localism Act 2011 introduced a new ethical standards regime for local government in 2012 which, amongst other things, required the Council to seek the views of an Independent Person before it takes a decision on an allegation of misconduct by a councillor which it has decided to investigate. The Monitoring Officer also decides, after consultation with the Independent Person, whether a complaint merits a formal investigation. The Independent Person's views may also be sought by the Council at any other stage in a misconduct complaint, or by a councillor against whom an allegation has been made.
- 1.2 The Council is also required to use its Independent Persons in respect of dismissal or disciplinary procedures against the Head of Paid Service, Monitoring Officer or Chief Finance Officer in accordance with the provisions of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.3 In accordance with the requirements of Section 28(7) of the Act, the Council appointed Vivienne Cameron and Roger Pett, David Seymour, Tony Allenby and Paul Sherar as Independent Persons, for a term of office expiring in May 2019.
- 1.4 The five independent persons were appointed by the Council on the recommendation of a joint appointments panel comprising the respective monitoring officers, at that time, of Spelthorne, Guildford, Waverley and Mole Valley Councils. The joint approach with participating Surrey councils to short-list and interview candidates and make recommendations to the respective councils for the appointment of Independent Persons was approved by the Council in April 2012.
- 1.5 Our Independent Persons, and others appointed elsewhere, also act in that capacity for a number of other councils in Surrey.

## **2. Options analysis and proposal**

- 2.1 The Committee is asked to approve a procedure for the appointment/re-appointment of the Council's Independent Persons similar to that which was adopted in 2012.
- 2.2 Following consultation with the ten other Borough and District Councils in Surrey and Surrey County Council, the following councils have expressed a wish to participate with Spelthorne in the Joint Appointments Panel for the appointment of Independent Persons for the period May 2019 to May 2023:
  - Epsom & Ewell
  - Guildford
  - Mole Valley
  - Reigate & Banstead
  - Surrey Heath
  - Waverley
- 2.3 The joint arrangements will involve the placing of an advertisement simultaneously by the seven participating councils, with the respective Monitoring Officers agreeing a shortlist of candidates for interview, and

agreeing which of them shall comprise the Joint Appointments Panel to interview shortlisted candidates. The panel's recommendations will then be referred to each of the participating councils so that they may consider the formal appointments, taking effect as stated above from May 2019 until May 2023.

- 2.4 Councils are permitted to remunerate appointed Independent Persons such allowance/honorarium/expenses as they consider appropriate. Spelthorne does not pay an allowance but does pay travelling expenses to its Independent Persons at the same level provided for councillors under the Scheme of Allowances. It is recommended that this arrangement should continue.

### **3. Financial implications**

There are no direct financial implications arising from this report as the process for the appointment of Independent Persons will be undertaken within existing budgets.

### **4. Other considerations**

- 4.1 In order to satisfy the very prescriptive requirements of the Act, we are required to advertise any vacancy for an Independent Person in such a manner as we consider is likely to bring it to the public's attention and those interested must submit an application.
- 4.2 In addition, the appointment of an Independent Person must be *approved by a majority of the members of the authority*. This means that any appointment must be approved by at least 19 councillors, not merely a simple majority of councillors present and voting.

### **5. Timetable for implementation**

- 5.1 Subject to the co-operation of the participating councils, it is envisaged that the process should be completed well in advance of next May. An indicative timetable is set out below:

<b>Action</b>	<b>By when</b>
Advertise for applications	January 2019
Joint Appointments Panel to shortlist, interview and recommend to the participating councils suitable candidates for appointment	End February/March 2019
Committee to receive details of Joint Appointments Panel's recommendations	10 April 2019
Council to consider appointments	25 April 2019
Appointments come into effect	May 2019

**Background papers:** There are none

**Appendices:** None