

Council

20 April 2023



Title	Localism Act 2011: Appointment of Independent Persons 2023-2027
Purpose of the report	To approve the re-appointment of the existing Independent Persons and the appointment of two further persons.
Report Author	Farida Hussain, Group Head Corporate Governance
Ward(s) Affected	All Wards
Exempt	<p>Report - No Appendices - Yes</p> <p>The appendices are exempt on the grounds that it is likely to involve the disclosure of exempt information as defined in Paragraph 1 (Information relating to an individual) of Part 1 of Schedule 12A of the Local Government Act 1972.</p>
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
Recommendations	<p>Council is asked to agree the following:</p> <ol style="list-style-type: none">1. the re-appointment of:<ol style="list-style-type: none">a) Vivienne Cameronb) Bill Donnellyc) John Smith2. the Interview Panel's recommendation for the appointment of the two other applicants:<ol style="list-style-type: none">a) Andrea Armstrongb) Jane Clarke <p>as Independent Persons for a four year term of office expiring in May 2027</p>

	This report was considered at the Standards Committee on 11 April who resolved to recommend that Council agree the recommendations as above
Reason for Recommendation	To enable the Council to comply with its obligations under Section 28(7) of the Localism Act 2011

1. Summary of the report

- 1.1 This report seeks approval of the re-appointment of three existing Independent Persons and the appointment of further two persons who can be consulted by the Monitoring Officer to provide an assessment of an allegation that a Member of the Council has failed to comply with the Council's code of Conduct for Members.

2. Key issues

- 2.1 The Localism Act 2011 introduced a new ethical standards regime for local government in 2012 which, amongst other things, requires 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 after the complaint has passed the initial two stage filter. The Monitoring Officer 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.
- 2.2 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.
- 2.3 It has often been challenging to recruit suitable volunteers to serve as Independent Persons; due to the nature of the role, there are parameters set out in legislation regarding who and who may not be appointed. Consequently, the Council has adopted a pragmatic approach to recruitment of Independent Persons by entering into joint arrangements with other Surrey councils since April 2012.
- 2.4 Following the success of the previous joint appointment arrangement, all the Surrey councils (including Surrey County Council) were asked whether they would be interested in participating in a further joint arrangement for the appointment of Independent Persons for the next four years. Not all Surrey councils were at a point of needing to recruit, but the following councils agreed to participate:
- Epsom & Ewell Borough Council
 - Guildford Borough Council
 - Mole Valley District Council
 - Reigate & Banstead Borough Council
 - Spelthorne Borough Council
 - Surrey Heath Borough Council

- Waverley Borough Council

- 2.5 The vacancy for Independent Persons was advertised on each of the participating councils' websites and the details of the appointments were publicised via social media.
- 2.6 Our current Independent Persons were each asked if they would be happy to continue in the role until 2027 and, if so, invited to apply for re-appointment. Three of these, Vivienne Cameron, Bill Donnelly and John Smith, confirmed their wish to continue and formally re-applied.

Following the advertisement period, seven new applications were received. John Armstrong, Democratic Service and Elections Manager and Deputy Monitoring Officer at Guildford Borough Council contacted all seven councils as outlined in 2.4 of the report on 01 March 2023 to seek agreement to re-appointment the three existing Independent Persons that had re-applied. Councils were asked to consider the new applicants and to nominate which candidates they would like to be interviewed; the applicants with the most nominations would then be invited to attend an interview. The successful candidates were Andrea Armstrong and Jane Clarke who were invited for an interview that took place on Thursday 09 March. The interview panel comprised the Monitoring Officers (or their deputies) from Epsom & Ewell, Guildford, Mole Valley and Surrey Heath.

- 2.7 The interview panel found that both candidates demonstrated well-developed skills of independence, analysis, and fair dealing and has commended both for appointment by the participating councils. Copies of the candidates' CVs in support of their applications are attached to this report as **Confidential Appendices**.

3. Options analysis and proposal

Option 1 – Preferred Option

- 3.1 Approve the re-appointment of the Council's current Independent Persons, Vivienne Cameron, Bill Donnelly and John Smith and approve the appointment of the new Independent Persons, Andrea Armstrong and Jane Clarke to ensure that the Council complies with its obligations under Section 28(7) of the Localism Act 2011

Option 2

- 3.2 Do not approve the re-appointment of the Council's current Independent Persons nor the appointment of the new Independent Persons, which would result in the Council failing to comply with its obligations under Section 28(7) of the Localism Act 2011

4. Financial implications

- 4.1 The Council agreed on 21 February 2019 that the Independent Persons appointed by this Council shall not be entitled to receive any remuneration other than travelling expenses which will be paid at the same rate as currently provided for councillors under the Scheme of Allowances for Councillors.
- 4.2 There are no other financial implications arising from this report.

5. Risk considerations

- 5.1 Risk - The Council has not sought to achieve optimal arrangements for independent advice in pursuing investigations related to Member misconduct complaints.

Control and Mitigation – A collaborative approach has been taken with other Councils in arriving at a decision to recruit additional Independent Persons and reappoint some individuals, providing a wider level of insight. This report refers elsewhere to those candidates holding the necessary skills and experience to add value and provide the necessary support in taking up expectations of the post.

- 5.2 Risk – The Independent Persons appointed or reappointed fail to declare any political affiliation or conflict of interest that could undermine their impartiality in providing advice to inform assessment or decisions taken by the Council's Monitoring Officer.

Control and Mitigation – There should be appropriate and robust due diligence and onboarding checks incorporated into the recruitment and appointment process.

6. Procurement considerations

- 6.1 There are no procurement considerations arising from the report.

7. Legal considerations

- 7.1 Section 28 of the Localism Act prescribes the need for a Local Authority to appoint at least one Independent Person, although no term of office is specified. If the Committee should agree to Option 1 above, this will provide more resilience in considering standards complaints.

Other considerations

- 7.2 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.

8. Equality and Diversity

- 8.1 Public Authorities are required to have due regard to the aims of the Public Sector Equality Duty as set out in the Equality Act 2010 when making decisions and setting policies.
- 8.2 The recruitment process has sought to find a variety of candidates that whilst meeting the profile, offer a variety of different background and experiences.

9. Sustainability/Climate Change Implications

- 9.1 There are no sustainability or climate change implications.

10. Timetable for implementation

- 10.1 If Council agree to Option 1 this decision the Independent Persons will be appointed for a term of 4 years from 01 May 2023.

11. Contact

- 11.1 Farida Hussain, Head Corporate Governance, f.hussain@spelthorne.gov.uk

Background papers: There are none.

Confidential Appendices:

Appendix A – CV & Supporting Statement for Applicant A

Appendix B – CV & Supporting Statement for Applicant B

NB. This appendix is exempt from publication under Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 as it contains the personal information of the individuals concerned.