

# **STANDARDS COMMITTEE**

## **URGENT BUSINESS**

### **Appointment of Independent Person 10th October 2013**

#### **Report of the Monitoring Officer**

##### **PURPOSE OF REPORT**

To enable the Committee to consider the process for appointing an Independent Person following the resignation of Mr Stephen Lamley.

**This report is public**

##### **RECOMMENDATIONS**

- (1) That if either of the “reserve” independent persons appointed by Council in June 2012 is willing to undertake the role of “lead” independent person, Council be recommended to confirm that designation.**
- (2) That if neither is willing to undertake the role, a “lead” independent person be recruited through public advertisement, and recommended to Council for appointment.**
- (3) That any necessary shortlisting/selection process be undertaken by a panel comprising the Chairman and two members nominated by the Committee, advised by the Monitoring Officer.**
- (4) That the Monitoring Officer, in consultation with the Chairman, be authorised to make the appropriate arrangements for this process.**

##### **1.0 Introduction**

- 1.1 As Members are aware, the Localism Act 2011 requires the Council’s arrangements for dealing with complaints of breach of the Code of Conduct to include provision for the appointment by the Council of at least one Independent Person, who must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting).
- 1.2 The Independent Person must be consulted before the Council makes a finding as to whether a member has failed to comply with the Code of Conduct, or decides on action to be taken in respect of that member. The Independent Person may be consulted by the Council in respect of a

standards complaint at any other stage, and may be consulted by a member or co-opted member of the Council or of a parish council against whom a complaint has been made.

- 1.3 The Act provides that a person is not considered independent if he is, or has been within the last five years, an elected or co-opted member of the Council, a parish council in the district, or of a Committee or Sub-Committee of the Council or a parish council, or an officer of the Council or a parish council, or is a relative or close friend of a current member or officer of the Council or a parish council. This would have precluded the independent members of the former Standards Committee from being appointed as independent persons. However, transitional arrangements contained in Statutory Instrument 1463 of 2012 made in June 2012 provided that a person who was not a co-opted member of the standards committee on the 1st July 2012, but who had held such a position at any time during the 5 years ending on the 30th June 2012, might be appointed as an independent person, provided that the appointment was made before the 1st July 2013. Because the former Standards Committee was disestablished on the 30th June 2012, this meant that the independent members of the former committee were eligible for appointment as independent persons
- 1.4 In February 2012, Council resolved that the Monitoring Officer be authorised to commence the recruitment process for the Independent Person and up to two reserves. An advertisement was published in April 2012, but no applications were received by the closing date. However, in the light of the transitional arrangements referred to above, it became possible in June 2012 for applications to be considered from the independent members of the former Standards Committee. As a result, Council, on the 13th June 2012 resolved that that Mr Stephen Lamley be appointed as the Independent Person for the purposes of Section 28(7) of the Localism Act 2011, with effect from the 1st July 2012 and for the remainder of the 2012/13 Municipal Year and that Mr Tony James and Mr David Jordison be appointed as “reserve” Independent Persons for the same period.
- 1.5 Subsequently, on the 18th July 2012, these appointments were extended to the 1st May 2015. This was because a further statutory instrument (1714 of 2012) provided that a former independent member of a Standards Committee could not be appointed as the Independent Person for a period ending on or after the 1st July 2013. This did not however apply in relation to an appointment made before the 24th July 2012 where the period of the appointment ended on or after the 1st July 2013. This meant that it was lawful for the Council on the 18th July 2012 to extend the appointments of Mr Lamley, Mr Jordison and Mr James to 2015.
- 1.6 Since July 2012, it has not been necessary to call on the “reserve” independent persons, as Mr Lamley has always been available to fulfil the role. However, on the 5th October 2013, Mr Lamley submitted his resignation with effect from the 31st December 2013. This is to enable him to take up his new role as Chairman of the Lancaster Bench of Magistrates. It is therefore necessary to consider the appointment of another “lead” Independent Person. The terms of reference of this Committee include assisting the Council with the appointment of an independent person.

## **2.0 Proposal Details**

- 2.1 Because Mr James and Mr Jordison were appointed as independent persons, albeit “reserves”, in accordance with the transitional arrangements contained in statutory instruments made in June and July 2012, it would be possible for

Council to designate either of them as the independent person following Mr Lamley's resignation. As a matter of courtesy, the Monitoring Officer is contacting both Mr James and Mr Jordison to ascertain whether either or both would be willing to take on this role. If available, their responses will be reported at the meeting. If one of them is willing, then a recommendation could be made to Council accordingly.

- 2.2 If neither is willing to take on the role, it would be necessary to advertise the position and undertake a recruitment process.
- 2.3 In that event, or indeed if both Mr James and Mr Jordison expressed an interest, it would be necessary for candidates to be interviewed with a view to a recommendation on the appointment being made to Council. It is recommended that the shortlisting/selection panel should comprise the Chairman of the Committee and two other members nominated by the Committee, advised by the Monitoring Officer.

## **5.0 Conclusion**

- 5.1 The Committee's instructions are sought.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)
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None directly arising from this report.

<b>LEGAL IMPLICATIONS</b>
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The statutory provisions with regard to the appointment of an independent person are complex because of the transitional provisions that were made in June/July 2012 following the implementation of the Localism Act 2011. This means that whilst the two current "reserve" independent persons were properly appointed in 2012 and are eligible to continue in the role of independent person, they could not now be appointed as a result of a new recruitment process because their membership of the former Standards Committee would preclude such a new appointment.

<b>FINANCIAL IMPLICATIONS</b>
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There are no financial implications. No allowance is payable to the independent person, but travel and any other expenses are reimbursed.

<b>OTHER RESOURCE IMPLICATIONS</b>
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**Human Resources:**

None

**Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**DEPUTY SECTION 151 OFFICER'S COMMENTS**

The Deputy Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Committee.

**BACKGROUND PAPERS**

None

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