

MEETING:	COUNCIL
DATE:	25 MAY 2012
TITLE OF REPORT:	TRANSITIONAL STANDARDS MATTERS
REPORT BY:	MONITORING OFFICER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To authorise the recruitment of an Independent Person as required by Section 28 (7) of the Localism Act 2011.

Recommendation

- THAT (a) the Monitoring Officer be authorised to recruit up to three Independent Persons pursuant to Section 28 (7) of the Localism Act 2011;**
- (b) Independent Persons shall be entitled to reimbursement of expenses;**
- (c) the Monitoring Officer be authorised to appoint such additional parish members as may be required to complete the outstanding business of the Standards Committee**

Key Points Summary

- The Localism Act abolishes the current standards regime including Standards for England and the obligation on principal councils to have a standards committee.
- Councils must, under new arrangements to investigate and make decisions on allegations, appoint at least one independent person, whose view will be sought on various related matters.
- The new standards regime comes into force on 1 July 2012 and, although transitional provisions are expected to extend certain aspects of the Standards Committee including the tenure of current independent members for a limited period, it is considered advisable to make appointments to the role of Independent Person at an early stage to ensure a smooth handover.
- Standards Committee is endeavouring to complete all its outstanding cases and to this end it may be necessary to appoint additional parish members to transact parish council business.

Alternative Options

- 1 On the premise that the tenure of Independent Members may be extended by transitional

provisions, so that they may fill the role of Independent Persons on a temporary basis, the recruitment of new/Independent Persons could be delayed. Standards Committee do not recommend this course and wish to ensure a period of familiarisation alongside the outgoing committee and independent members.

- 2 Independent Persons could be paid an allowance instead of or in addition to reimbursement of expenses. That would be a departure from the current practice with our independent members of Standards Committee and has not been referred to the Remuneration Panel.
- 3 Failure to appoint additional parish members may mean that outstanding parish cases are delayed or not concluded at all.

Reasons for Recommendations

- 4 The recommendations ensure compliance with a legal obligation.

Introduction and Background

- 5.1 The Localism Act 2011 contains provisions for a new standards regime. Principal councils have a duty to promote and maintain high standards of conduct and must adopt a code of conduct. They must make arrangements under which allegations can be investigated and decisions on allegations can be made. These arrangements must include the appointment of at least one Independent Person.
- 5.2 By section 28 (7) the Independent Person is someone:
 - “(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
 - (b) whose views may be sought:-
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a)
 - (ii) by a member, or co-opted member, of the authority if that person’s behaviour is the subject of an allegation and
 - (iii) by a member, or co-opted member, of a parish council if that person’s behaviour is the subject of an allegation and the authority is the parish council’s principal authority”
- 5.3 Existing independent members of our Standards Committee may not serve the Council as an Independent Person, save to the extent that they may be permitted to do so under transitional provisions for a limited period. The Standards Committee considered the matter at its April meeting and decided it would be better if the Council pressed ahead with these appointments to ensure a smooth transition.
- 5.4 There are also a number of outstanding parish cases before Standards Committee which require resolution before it concludes its business and this will require the appointment of at least one extra parish member.

Key Considerations

- 6.1 A recruitment pack has been prepared and applications will be invited from those living within the County. They would be reimbursed any necessary expenses in carrying out their role. It

is recommended that up to three such persons be recruited to fulfil the role envisaged for them under arrangements currently being finalised by Standards Committee for recommendation to Council. A further report on these arrangements, a new code and the new rules on registration of interests will be submitted once the necessary secondary legislation is issued.

- 6.2 Because time for concluding outstanding cases before Standards Committee is short, it is suggested that the Monitoring Officer be authorised to appoint at least one additional parish member to it on the relevant sub-committees and complete any parish business

Community Impact

7. The duty to promote and maintain high standards of conduct is a key element in the Council's commitment to sound governance

Equality and Human Rights

8. The proposal does not raise issues which engage section 149 of the Equality Act 2010 save that the recruitment process will have regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it.

Financial Implications

9. Independent Persons and Parish Members can expect their expenses to be reimbursed. Otherwise the costs are those normally associated with a recruitment process for members of the public from the local area.

Legal Implications

10. The recruitment of Independent Persons discharges a legal obligation imposed by the Localism Act 2011. The discharge of outstanding parish cases completed the Council's obligations under the Local Government Act 2001.

Risk Management

11. Failure to comply with the requirements of the Localism Act could place the Council in breach of its statutory duty. Implementation is regularly reviewed by Standards Committee and a working group of its members. Also the appointment of additional parish members will address potential reputational damage were outstanding parish cases delayed or not completed at all.

Consultees

12. There has been no consultation over this matter, since it discharges a clear legal obligation

Appendices

13. None

Background Papers

14. Draft recruitment pack