

Extension of Appointment of Independent Persons

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This report does not relate to a Key Decision

Purpose of this report

1. To consider the extension of the appointment of the Independent Persons for Central Bedfordshire Council.

RECOMMENDATIONS

Council is asked to approve:

1. A temporary extension of the appointments of the existing Independent Persons for six months on the current terms and conditions pending discussions with neighbouring authorities to explore the potential for the continuance and expansion of the Panel arrangement.
2. That the Monitoring Officer, in consultation with the Chairman or Vice-Chairman of the General Purposes Committee, be authorised to negotiate the terms of the Independent Persons Panel with neighbouring authorities with a view to bringing a proposal back to Council for approval.

2. Overview and Scrutiny Comments/Recommendations

This matter was not referred to Overview and Scrutiny Committee.

3. Legal Background

- 3.1. Chapter 7 of the Localism Act 2011 sets out the duty of a local authority to promote and maintain high standards of conduct by members and co-opted members of the authority.

- 3.2. Section 28 of the Act, on codes of conduct, requires an authority to provide for the appointment of at least one Independent Person whose views will be sought and taken into account in connection with the process for dealing with allegations that members have breached the code.
- 3.3. Section 28 sets out those persons who would not be considered to be independent, who include members, co-opted members and officers of the authority and their relatives and close friends. However, it provides that the person(s) appointed do not cease to be independent as a result of being paid allowances or expenses for performing the duties of the appointment.
- 3.4. Section 28 also sets out the conditions for the process of appointing such persons. These conditions are that:
 - a. the vacancy has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
 - b. the person has submitted an application to fill the vacancy to the authority, and
 - c. the person's appointment has been approved by a majority of the members of the authority
- 3.5. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 required at least two Independent Persons appointed under section 28 of the Localism Act 2011 to be part of a panel to make recommendations in relation to disciplinary actions against the statutory officers of the Council

4. Local Implementation

- 4.1. At an early stage of implementation of the Localism Act 2011 it was recognised that a joint panel of Independent Persons in collaboration with Bedford Borough, Luton Borough and Milton Keynes Councils and the Fire Authorities for Buckinghamshire and Bedfordshire would provide resilience and allow some sharing of costs.
- 4.2. The advertisement, recruitment, training and payment processes were similarly to be shared amongst the authorities although ultimately Bedford Borough Council did not take part.
- 4.3. On 13 September 2012 Council confirmed the appointment of 10 Independent Persons in accordance with the legislative requirements.

- 4.4. Since then the panel has reduced to 7 Independent Persons but is still considered to be working well in terms of resilience and experience. The term of appointment of the remaining 7 Independent Persons is due to expire in September 2016.

5. Current Issues

- 5.1. Arrangements are needed for Full Council to appoint one or more Independent Persons beyond September 2016. The remuneration of these appointees must also be agreed.
- 5.2. Because independent persons are not members or co-opted members of the Council, their remuneration falls outside the Members' Allowances Scheme, and can be determined without reference to an Independent Remuneration Panel. The current independent persons receive an annual allowance of £300 per Independent Person (shared amongst the collaborating authorities).
- 5.3. In addition each Independent Person has a flat fee of £50 per consultation and their travelling and other expenses reimbursed whenever they consult on a code of conduct or disciplinary issue.
- 5.4. On 24 March 2016 General Purposes Committee was informed that it was possible to reappoint the existing Independent Persons for a further period.
- 5.5. General Purposes Committee were of the view that the arrangement should continue and approved the proposal to do so.
- 5.6. The only legislative requirement is that a majority of members appoint the Independent Person(s). Full Council made the appointments in 2012 for a term of four years to September 2016.

6. Joint Arrangements

- 6.1. The current Independent Persons Panel is used by Milton Keynes and Luton Councils and Bedfordshire and Buckinghamshire Fire Authorities as well as Central Bedfordshire Council.
- 6.2. These arrangements are found to be mutually beneficial both in terms of cost effectiveness and resilience and it is proposed that these arrangements continue and are expanded to include neighbouring authorities where appropriate.
- 6.3. The current 5 authorities are carrying out their own processes to ensure they have Independent Persons after September 2016.
- 6.4. The practical aspects of the continuing joint arrangements will need to be discussed and agreed once the arrangements for each authority are finalised.

7. Extension of Appointments

- 7.1. It is considered that a temporary extension of the current appointments at this stage pending such discussions will ensure the continued Panel or joint arrangements may continue to benefit the Council.
- 7.2. It is therefore proposed that a six month extension is applied in respect of the appointment of:
 - a. John Jones;
 - b. Chris Fogden;
 - c. Vasco Fernandes;
 - d. Christopher Ensor;
 - e. Maureen Briggs;
 - f. John McKay;
 - g. Alexandra di Stefano.
- 7.3. In view of the pressure on Council budgets and the low level of public sector pay increases it is recommended that the extension is on the same terms and conditions as currently.
- 7.4. Once joint arrangements and terms of the Panel have been further explored and discussed with colleagues from neighbouring authorities the matter will be brought back to Council with a view to making longer term appointments extending until September 2020.

8. Council Priorities

- 8.1. Extension of the appointment of the Independent Persons will contribute to the achievement of the following Council priorities:
- 8.2. An efficient and responsive Council

9. Corporate Implications

9.1. Risk Management

Failure to have Independent Persons appointed will result in the processes for dealing with complaints against Councillors being compromised and open the Council to risk of challenge. As regards disciplinary matters there is a mechanism for using Independent Persons appointed by other authorities in this regard.

9.2 Staffing (including Trades Unions)

There are no specific staffing issues arising from this report.

9.3 Legal Implications

None except as stated in this Report.

9.4 Financial Implications

None except as stated in this Report.

9.5 Equalities Implications

Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These requirements are recognised in the accountability principle of public life and is embedded into the complaints procedure for which the Independent Persons are appointed to support.

Appendices

None