

ANNUAL COUNCIL

Wednesday 17 May 2017

APPOINTMENT OF INDEPENDENT PERSONS (STANDARDS) (REP1572)

EXECUTIVE SUMMARY

1. This report follows on from the recommendations adopted by the Council at its meeting on 23 May 2012 (REP746), 25 July 2012 (REP870), 23 July 2014 (REP916), and 20 July 2016 (REP 1149) whereby Independent Persons were appointed to meet the requirements of the Localism Act 2011.
2. This report considers the appointment of a new Independent Person.

Is the report Open or Exempt?	Open
Wards Affected:	All Wards in the District
Cabinet Member:	Leader of the Council
Supporting Officer:	Hilary Slater Monitoring Officer and Head of Legal & Democratic Services 01394 444336 Hilary.slater@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 The revised provisions with regard to the regulation of standards of conduct for elected and co-opted Councillors, under the Localism Act 2011 ('the Act') came into effect on 1 July 2012.
- 1.2 At the Council meeting on 23 May 2012 (REP746), the Council adopted the Suffolk Code of Conduct (Appendix A to that report). The Council has therefore been operating under the new Suffolk Code of Conduct since 1 July 2012.
- 1.3 The Council's Standards Committee ceased to exist from 1 July 2012. All the Standards Committee's residual relevant functions, and the Council's new responsibilities under sections 26 to 37 of the Localism Act 2011, were transferred to the Audit and Governance Committee. "Arrangements" for dealing with complaints made under the Suffolk Code of Conduct were put in place (see Appendix D of that report).

2 INDEPENDENT PERSONS

- 2.1 The "arrangements" adopted by Council for dealing with complaints under the Suffolk Code must include provision for the appointment by Council of at least one Independent Person.
- 2.2 To remind Members, the Independent Person 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).
- (a) A person is considered not to be "independent" if:-
- (i) S/he is, or has been within the last 5 years, an elected or co-opted member or an officer of the District Council or of any of the Parish / Town Councils within its area;
- (ii) S/he is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish / Town Councils within its area (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or
- (iii) S/he is a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish / Town Council within its area, or of any elected or cop-opted member of any Committee or Sub-Committee of such Council.
- (b) For this purpose, "relative" comprises:-
- (i) The candidate's spouse or civil partner;
- (ii) Any person with whom the candidate is living as if they are spouses or civil partners;
- (iii) The candidate's grandparent;
- (iv) Any person who is a lineal descendent of the candidate's grandparent;
- (v) A parent, brother, sister or child of anyone in Paragraphs (i) or (ii);
- (vi) The spouse or civil partner of anyone within Paragraphs (iii), (iv) or (v); or
- (vii) Any person living with a person within Paragraphs (iii), (iv) or (v) as if they were spouse or civil partner to that person.

3 ROLE OF THE INDEPENDENT PERSON

- 3.1 The functions of the Independent Person(s) are:-

(i) They must be consulted by the authority before it 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; this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding;

(ii) They may be consulted by the authority in respect of a standards complaint at any other stage; and

(iii) They may be consulted by a member or co-opted member of the District Council or of a Parish / Town Council against whom a complaint has been made.

3.2 The Act gave discretion to appoint one or more Independent Persons, provided that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there appeared to be little advantage in appointing more than one Independent Person. However, it was an area where joint working with other authorities was useful, in setting up a panel of Independent Persons who could be called upon by any authority when their own was unavailable or conflicted out. Therefore, the Suffolk Leaders agreed that the Monitoring Officers should recruit a pool of Independent Persons for Suffolk.

3.3 Following a recruitment process, the Council originally appointed eight Independent Persons, to act as a pool, to be drawn upon as and when required. It was agreed that these Independent Persons be appointed for an initial term of 2 years, with an option for Council to renew their appointment for a further 2 years thereafter.

3.4 It was agreed that the remuneration for Independent Persons comprised of an annual allowance of £300, and a fee of £50 for each investigation report that an Independent Person considered.

3.5 Since 2012, the level of complaints received against town, parish or district councillors under the new regime has been low. Since 2012, there have been on average, two complaints per year. These were referred to Mr Keys, the Independent Person who lived locally, in Lowestoft. Dr Peck, who lives locally, also, in Suffolk Coastal's district, tended to deal with their complaints.

3.6 At the end of the initial two years term of the appointment, Suffolk Coastal District Council and Waveney District Council extended the appointment of Mr Keys and Dr Peck for a further term of two years from 23 July 2014 (REP961 refers), the Council continuing to pay an annual allowance of £300 to each and £50 for each investigation report that they considered on behalf of the Council.

3.7 Mr Keys retired to Tenerife in 2016 (REP1149 refers). Therefore, in July 2016, the term of office of Dr Peck was extended for a further two years (REP1149 refers), on the same terms as previously agreed. However, the Council wished to recruit another independent person to provide some resilience and cover, should Dr Peck not be available, for what ever reason. It was agreed that a further recruitment exercise be undertaken.

3.8 Therefore, advertisements were placed in the EADT and the EDP. We had 24 applicants which we shortlisted to 5. The best candidate was a Mr Michael Urey, who lives in Melton, Suffolk. He spent 24 years in the Royal Engineers and having left, worked for international companies as an HR specialist. He has also worked for BDO, the accountants. He is a very personable, helpful man with whom both the Monitoring Officer and Deputy Monitoring Officer consider that they could work with, easily and efficiently.

4 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?

- 4.1 The East Suffolk Business Plan (ESBP) contains a “Vision” for the future of the district- which is to maintain and sustainably improve the quality of life for everyone growing up in, and living in the district. In order to deliver this Vision, a three-pronged strategy has been adopted around “Enabling Communities”, promoting “Economic Growth” and becoming “Financially Self- Sufficient”.
- 4.2 The ESBP underpins the Council’s activities and its decision-making. The Code regulates how Members of this Council behave and how they go about the exercise of the Council’s business. The Code ensures that Members of other Councils in the district also behave properly and it helps promote and maintain high standards of conduct across the district and parish tiers of local government. The Council must maintain arrangements whereby complaints that the Code has been breached can be made. The Council must appoint at least one Independent Person and they play an integral role in the arrangements for dealing with complaints.

5 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 5.1 Under the Localism Act 2011, the Council must appoint at least one Independent Person. It has only one, currently, and wishes to appoint another to provide resilience and to effectively manage complaints, across east Suffolk.

6 OTHER KEY ISSUES

- 6.1 None, save as the above.

7 CONSULTATION

- 7.1 None.

8 OTHER OPTIONS CONSIDERED

- 8.1 None.

9 REASON FOR RECOMMENDATION

- 9.1 To comply with the requirements of the Act which took effect from 1 July 2012, and to have Independent Persons to whom the Monitoring Office may refer complaints.

RECOMMENDATIONS

1. That the Council appoints Mr Michael Urey as an Independent Person for the remainder of Dr Peck’s term of office, that is, until July 2018.
2. That the Council pays an annual allowance of £300 to the Independent Persons, and agrees to pay a fee of £50 for each investigation report that the Independent Person considers on behalf of the Council.