

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

11 JULY 2017

Report of the Monitoring Officer

Part 1 - Public

For decision

1 LOCALISM ACT 2011 – APPOINTMENT OF INDEPENDENT PERSONS

1.1 Introduction

- 1.1.1 The Localism Act 2011 requires that the Council adopt 'arrangements' for dealing with complaints of breach of the Code of Conduct both by Borough Council members and by Parish/ Town Council members.
- 1.1.2 The 'arrangements' adopted by the Council must include provision for the appointment by the Council of at least one Independent Person.
- 1.1.3 The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of members of the Borough Council.
- 1.1.4 The functions of the Independent Person(s) are –
- (i) They *must* be consulted by the authority (and their views taken into account) 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 Borough Council or of a Parish Council against whom a complaint has been made.
- 1.1.5 On 12 June 2012 Council resolved to appoint two Independent Persons, for a period expiring on 30 June 2017. The 2 appointed persons, namely Mr David Ashton and Mr John Gledhill, both indicated that they did not intend to seek re-appointment to their posts at the expiry of their terms of office so it has been necessary to recruit 2 new Independent Persons.

- 1.1.6 The Council has been well served by Mr Ashton and Mr Gledhill, both of whom have served the Council for a number of years as either Independent Persons (2012 to 2017) or as Independent Members under the previous standards regime (2008 to 2012). Their assistance to the Council in discharging its ethical standards responsibilities has been invaluable and I am sure Members will wish to join me in offering their gratitude.
- 1.1.7 As with the previous appointments, a Panel comprising the Chairman and Vice-Chairmen of the Joint Standards Committee, together with the Group Leaders was set up to interview candidates and make a recommendation to Council for appointment.
- 1.1.8 The necessary advertisement was placed on 27 February 2017, with a closing date of 31 March 2017.
- 1.1.9 At the time of preparing this report three applicants had been shortlisted for interview on 7 July 2017. I shall update Members further on the outcome of these interviews in a supplementary report.

1.2 Financial and Value for Money Considerations

- 1.2.1 The Independent Person receives an annual allowance for performance of their role, currently £513 pa.

1.3 Risk Assessment

- 1.3.1 It is important that a robust system exists for promoting and maintaining high standards of conduct. The absence of such a framework will lower public confidence in the democratic process.
- 1.3.2 The role of 'Independent Person' is an important element of the standards regime, and will provide independent advice to the Council and members in connection with complaints.

1.4 Equality Impact Assessment

- 1.4.1 None arising from this report.

1.5 Recommendations

- 1.5.1 To follow in a supplementary report

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Background Papers: