

## Council

18 February 2025

### Part 1 - Public

#### Matters for Decision



Cabinet Member	n/a
Responsible Officer	Adrian Stanfield, Monitoring Officer
Report Author	Adrian Stanfield, Monitoring Officer

#### Appointment of Independent Person

##### 1 Summary and Purpose of Report

- 1.1 This report asks Members to appoint a second Independent Person under the Localism Act 2011.

##### 2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 Upholding high standards of conduct is an essential element of ensuring that the Council is able to deliver its services in the most efficient way.

##### 3 Recommendations

- 3.1 That Mr Paul Cummins is appointed as an Independent Person under s28 of the Localism Act 2011, for a 5-year term expiring on 17 February 2030.

##### 4 Introduction and Background

- 4.1 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.
- 4.2 The 'arrangements' adopted by the Council must include provision for the appointment by the Council of at least one Independent Person.
- 4.3 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.
- 4.3.1 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.
- 4.4 The Independent Person also has a statutory role in any localised disciplinary process in relation to the Council's Head of Paid Service, the Chief Finance Officer and the Monitoring Officer statutory positions. In the case of any proposed disciplinary action against such a statutory officer, the Council is required to invite the Independent Person(s) who have been appointed for the purposes of section 28(7) of the Localism Act (i.e., for the functions set out in para 4.3.1 of this report) to be considered for appointment to the Panel set up to advise the Council on any disciplinary action to be taken against a statutory officer. If the Independent Person(s) accept the invitation, then the Council must appoint up to 2 Independent Persons to the Panel in a priority order set out in our Standing Orders.
- 4.5 On 31 January 2022, the General Purposes Committee resolved to advertise for the appointment of 2 Independent Persons, for a 5-year period commencing on 1 July 2022. The Committee further resolved that a panel comprising the Chair and Vice-Chair of the Joint Standards Committee, together with the Group Leaders ('the Panel') be set up to short-list and interview candidates, and to make a recommendation to Council for appointment. The Council received one application for the post, from Mr David Mercier (one of our then existing Independent Persons), who was subsequently appointed by Council on 10 May 2022. Mr Mercier's current term of office will expire on 30 June 2027.
- 4.6 In order to create resilience in the Independent Person role, we have recently advertised for a second person to undertake the responsibilities alongside Mr Mercier.
- 4.7 Applicants for the post were interviewed by the Panel on 9 January 2025. Details of the applicant to whom the Panel propose to offer the position are set out below.
- 4.8 Mr Cummins is a qualified Solicitor, currently employed by the General Pharmaceutical Council as Head of Professional Regulation. He has extensive experience of local government legal practice and ethical standards, having served as Monitoring Officer for 3 Councils between 2009 and 2020 (Milton

Keynes City Council, Horsham District Council and Tunbridge Wells Borough Council). He currently acts as Independent Person for 4 authorities – Mid-Sussex District Council, Eastbourne Borough Council, Lewes District Council & Sevenoaks District Council.

- 4.9 He is Chair of the Law Society Conduct Committee and sits as the Law Society representative on the Kings Counsel Complaints Committee, which looks at complaints arising out of the annual Kings Counsel selection process.

## **5 Proposal**

- 5.1 That Mr Paul Cummins is appointed as an Independent Person under s28 of the Localism Act 2011, for a 5-year term expiring on 17 February 2030.

## **6 Other Options**

- 6.1 The Panel could recommend that Council appoint an alternative applicant to the post or make no appointment. However, following the competitive interview process undertaken by the Panel their preferred way forward is to appoint Mr Cummins.

## **7 Financial and Value for Money Considerations**

- 7.1 The Independent Person receives an annual allowance for performance of their role, currently £531 pa.

## **8 Risk Assessment**

- 8.1 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.
- 8.2 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.

## **9 Legal Implications**

- 9.1 The Council is under a statutory obligation to appoint at least one Independent Person. Failure to do so will mean that the Council will be unable to discharge the functions set out at paragraph 4.3.1 above. In particular, the Standards Hearing Panel will be unable to make a finding as to whether a member has failed to comply with the Code of Conduct.

## **10 Consultation and Communications**

- 10.1 All Group Leaders together with the Chair and Vice-Chair of the Joint Standards Committee participated in the interview panel and are supportive of the recommendation in this report.

## 11 Implementation

11.1 If approved, Mr Cummins would be appointed for a 5-year term expiring on 17 February 2030.

## 12 Cross Cutting Issues

12.1 Climate Change and Biodiversity

12.1.1 Limited or low impact on emissions and environment.

12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.2 Equalities and Diversity

12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	None