



Agenda Item 11

COUNCIL

Tuesday, 17 July 2018

EXTENSION OF THE TERM OF APPOINTMENT OF INDEPENDENT PERSONS (CL 19/18)

EXECUTIVE SUMMARY

1. The Council, at its meetings on 24 May 2012 (CL16/12), 26 July 2012 (CL22/12), 26 July 2014 (CL15/14), and 28 July 2016 (CL16/16) appointed Independent Persons to meet the requirements of the Localism Act 2011.
2. At a further meeting of the Council on 25 May 2017, (CL19/17) it was reported that one of the Independent Persons had retired and moved abroad, therefore an additional Independent Person, Mr Urey, was appointed. The term of office of Mr Urey was the same as Dr Peck's, for consistency.
3. This report seeks approval to extend the term of office of the current Independent Persons, namely Dr Peck and Mr Urey, from July 2018 until this Council ceases to exist on 1 April 2019.

Is the report Open or Exempt?	Open
Wards Affected:	All Wards in the District
Cabinet Member:	Councillor Ray Herring Leader of the Council
Supporting Officer:	Hilary Slater Monitoring Officer and Head of Legal & Democratic Services 01394 444336 Hilary.slater@eastsuffolk.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 24 May 2012 (CL16/12), 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 Act, 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 co-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 In 2012, Mr Keys and Dr Peck were appointed as the Independent Persons. Mr Keys lived in Waveney's district. Dr Peck lives in Suffolk Coastal's district.

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 July 2014 (CL15/14 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. Therefore, in July 2016, the term of office of Dr Peck was extended for a further two years (CL16/16 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 A full recruitment process was undertaken and Mr Urey was duly appointed in May 2017 (CL19/17 refers). Training has been provided to Mr Urey, and he has met with Dr Peck and other Independent Persons across the County. Mr Urey has proved to be a very conscientious, able, and wise Independent Person, as is Dr Peck.

- 3.9 Both Dr Peck and Mr Urey's terms of office expire in July 2018. It is proposed that their terms of office be extended from July 2018 until this Council ceases to exist, on 1 April 2019. This will allow for a consistent approach and will enable any complaints which are received before that date to be fully investigated.
- 3.10 It should also be noted that Mr Urey and Dr Peck have been appointed as the Independent Persons for the Shadow Authority for the East Suffolk Council (Report REP1 (SH) to the Shadow Authority meeting held on 4 June and relevant minute refer). The Shadow Authority is in existence for the Shadow Period, which runs until the fourth day after the local government elections on 2 May 2019, that is, until 6 May 2019.
- 3.11 Therefore, should any complaints be received against members of the Shadow Authority, between now and when it ceases to exist, on 6 May 2019, these can be dealt with by either Dr Peck or Mr Urey. The East Suffolk Council, at its first meeting in May 2019, will need to consider the appointment of its own Independent Persons.
- 3.12 As the East Suffolk Council will come into existence, shortly, on 1 April 2019, and there will be local government elections to it, on 2 May 2019, it appears to be impractical and unnecessary to undertake a recruitment exercise to find other Independent Persons for the period July 2018 to 1 April 2019. Moreover, we have two experienced, able, Independent Persons who will be acting for the Shadow Authority, in any event, until next May.
- 3.13 Therefore, the purpose of this report is to recommend that the term of office of Mr Urey and Dr Peck be extended, so that they may continue to act as the Independent Persons for this Council (and Waveney District Council) until each Council ceases to exist on 1 April 2019.

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 Act, the Council must appoint at least one Independent Person. The Council has appointed two Independent Persons, who provide resilience and enable the effective management of complaints, across East Suffolk. It is considered appropriate that Dr Peck and Mr Urey continue in this role until this Council ceases to exist on 1 April 2019.

6 OTHER KEY ISSUES

None, save as the above.

7 CONSULTATION

7.1 None.

8 OTHER OPTIONS CONSIDERED

8.1 To not extend the terms of office of Mr Urey and Dr Peck and to go out to recruitment. This has been rejected for the reasons set out in paragraph three of this report, above.

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 terms of office of Dr Peck and Mr Urey be extended from July 2018, until this Council ceases to exist on 1 April 2019.
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.

APPENDICES – none

BACKGROUND PAPERS – none