



Committee report

Committee	FULL COUNCIL
Date	16 NOVEMBER 2016
Title	DESIGNATED INDEPENDENT PERSONS TO ASSIST IN DEALING WITH COMPLAINTS AGAINST MEMBERS
Report of	HELEN MILES, HEAD OF LEGAL SERVICES AND MONITORING OFFICER

EXECUTIVE SUMMARY

1. The council is required to appoint at least one designated independent person (DIP) who may be consulted by the monitoring officer and elected members in relation to complaints made about councillors of this council and town and parish councils on the Island breaching the code of conduct. When considering complaints against members, the monitoring officer must consult with a DIP before a complaint is referred for investigation; in all other cases the monitoring officer may consult a DIP. Members subject to a complaint can also consult a DIP.
2. The council is also required to include in any panel considering the dismissal of the head of paid service, monitoring officer or chief finance officer, two independent members.
3. At its meeting on 20 November 2013, the council appointed Mr Alistair Drain as a DIP for a three-year term of office.
4. This report seeks council approval, for Mr Alistair Drain's term of office as a DIP to be extended for a further period of three years.

BACKGROUND

5. Under the act, the appointments of DIPs can only be made by the Full Council and it is recommended that the term of office be extended for a further three years.
6. Given the potential for conflicts of interest and/or delays due to holidays or sickness it was agreed by Full Council on 20 June 2012 that up to five DIPs should be appointed by Full Council.
7. The council has operated with two DIPs for the last 2 years and this has proved to be a sufficient number. Only having one DIP would present

potential problems in terms of issues relating to conflicts of interests and to provide sufficient cover for holidays etc.

8. If the recommendation is accepted this will mean that the council has two DIPs. There is no proposal to appoint any further additional DIPs at this time, and this would only be likely to be necessary if the number of complaints was to significantly increase.
9. Following a change in the legislation in 2015 that required the council to include in any panel considering the dismissal of the head of paid service, monitoring officer or chief finance officer, two independent persons a report was approved by Annual council in May 2015 to amend the constitution to reflect this change in the law.
10. The legislation is quite clear that DIPS must be independent of the council (including the town and parish councils) and cannot have been members of either councils during the last five years.

FINANCIAL / BUDGET IMPLICATIONS

11. Under the Members' Allowances Scheme, DIPs receive an annual allowance of £301. The budget assumes that five DIPS will be appointed. If this appointment is made then there will be only two DIPs drawing this allowance, thus creating a small saving from this budget until, or unless, three other DIPs are appointed.

LEGAL IMPLICATIONS

12. Under the Localism Act 2011, and subsequent regulations, it is a legal requirement for the council to appoint at least one DIP in accordance with the act and for the monitoring officer to consult a DIP before a decision is made to investigate a potential breach of the code of conduct. The arrangements set out in this report ensure the legal requirements can be met.
13. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 required an amendment to the constitution to provide that at least 2 independent members appointed under the Localism Act in para 12 above must also be included in a panel when considering the dismissal (in disciplinary cases) of the head of paid service, monitoring officer or chief finance officer ("s151 officer").

EQUALITY AND DIVERSITY

14. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

15. Prior to Mr Drain's original appointment an advertisement for the appointment was placed in the Isle of Wight County Press and interviews undertaken.
16. There is no impact on the groups of those with protected characteristics with regard to this proposed appointment.

OPTIONS

17. Option 1: That Mr Alistair Drain is appointed as a designated independent person for a further period of three years until 17 November 2019.
18. Option 2: Not to appoint Mr Alistair Drain as a designated independent person for a further period of three years and to agree to advertise for an alternative candidate.

RISK MANAGEMENT

19. Appointment to this position will reduce the risk of any challenge being successfully made to our procedure for dealing with complaints against members under the current arrangements.

RECOMMENDATION

20. Option 1 - That Mr Alistair Drain is appointed as a designated independent person for a further period of three years until 17 November 2019.

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