



Committee report

Committee	FULL COUNCIL
Date	19 JULY 2017
Title	APPOINTMENT OF DESIGNATED INDEPENDENT PERSONS TO ASSIST IN DEALING WITH COMPLAINTS AGAINST MEMBERS AND OTHER APPOINTMENTS
Report of	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 17 September 2014, the council appointed Mr Ken Hicks as a DIP for a three-year term of office.
4. This report seeks council approval, for Mr Ken Hick's term of office as a DIP to be extended for a further period of three years.
5. In April 2015 council appointed Mr Chris Mathews to the official post of returning officer and electoral registration officer for the council. Mr Mathews is due to retire in early August. In light of this, council is asked to approve the appointment of Claire Shand as returning officer and electoral registration officer for the council with effect from 1 August 2017.

BACKGROUND

6. 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.
7. 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.

8. The council has operated with two DIPs for the last two 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. Full council at its meeting on 15 November 2016 re-appointed Mr Alistair Drain for a period of three years as the other DIP.
9. 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.
10. 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 Full Council in May 2015 to amend the constitution to reflect this change in the law.
11. 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.
12. Due to the pending retirement of Mr Chris Mathews, it will be necessary to make provision for the appointment to the official posts of returning officer and electoral registration officer for the council. As required by legislation, these posts can only be made by Full Council. It is therefore proposed that Claire Shand, head of resources, be appointed as the returning officer and electoral registration officer in light of her previous experience as a deputy returning officer.

FINANCIAL / BUDGET IMPLICATIONS

13. 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.
14. No additional cost arises through the appointments to the role of returning officer and electoral registration officer.

LEGAL IMPLICATIONS

15. 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.
16. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 required an amendment to the constitution to provide that at least two 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 (section 151 officer).

17. With regard to the requirement to make new provision for the official post of returning officer and electoral registration officer for the council, section 35(1) of the Representation of the People Act 1983 provides that the council “shall appoint an officer of the council to be the returning officer for the election of councillors”. In addition, section 8(2)(a) of the Representation of the People Act 1983 provides that the council “shall appoint an officer of the council to be registration officer for any constituency situated” within its boundaries. Finally, section 52 (2) of the Representation of the People Act 1983 provides that “the duties and powers of a registration officer may be performed and exercised, by any deputy for the time being approved by the council which appointed the registration officer”.

EQUALITY AND DIVERSITY

18. 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. No impacts arise as a result of the proposed appointments.

OPTIONS

19. Option 1: That Mr Ken Hicks is appointed as a designated independent person for a further period of three years from 18 September 2017 until 17 September 2020.
20. Option 2: Not to appoint Mr Ken Hicks as a designated independent person for a further period of three years and to agree to advertise for an alternative candidate.
21. Option 3: That Claire Shand is appointed as returning officer and electoral registration officer with effect from the 1 August 2017.
22. Option 4: Not to appoint Claire Shand as returning officer and electoral registration officer and to identify an alternative officer.

RISK MANAGEMENT

23. Appointment to the position of DIP will reduce the risk of any challenge being successfully made to our procedure for dealing with complaints against members under the current arrangements
24. Appointment to the role of returning officer and electoral registration officer will ensure the council is compliant with the requirements placed upon it and could expose the council to legal challenge.

RECOMMENDATIONS

25. Option 1 - That Mr Ken Hicks is appointed as a designated independent person for a further period of three years from 18 September 2018 until 17 September 2020.
26. Option 3 - That Claire Shand is appointed as returning officer and electoral registration officer with effect from the 1 August 2017.

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