

**INDEPENDENT PERSONS APPOINTMENT PANEL held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at
10.00am on 8 DECEMBER 2014**

Present: Councillors G Barker, C Cant, M Lemon, D Jones and T Knight
Mrs G Butcher-Doulton (Independent Member)

Officers in attendance: R Dobson (Principal Democratic Services Officer) and M Perry (Assistant Chief Executive – Legal and Monitoring Officer).

IP1 ELECTION OF CHAIRMAN

RESOLVED that Councillor Knight be elected Chairman.

IP2 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

IP3 APPOINTMENT OF INDEPENDENT PERSONS

The Assistant Chief Executive – Legal said it would be helpful for the Panel to hear from Mrs Butcher-Doulton regarding her own experiences in being recruited as an independent person.

Mrs Butcher-Doulton said she had been made aware of the advertisement for the independent person by a friend who had seen it in a local newspaper. She had found the interview to be rigorous, and thought it was good to have been asked questions which she had not expected.

Councillor Knight said she was concerned that the Standards regime itself had no teeth, and that the independent members of the Standards Committee could not vote.

Mrs Butcher-Doulton said whilst she did not have a vote in most cases this would not have made a difference because the Committee reached its decisions on a majority. Interviewees for this appointment might assume they had a vote, so the nature of the role should be made clear to them.

The Assistant Chief Executive – Legal said there was unfortunately no choice in that the role of the independent person was a statutory one. When the legislation was going through the Council had made strong representations that Independent Persons should vote and should be the Chairman of the Committee, but those representations were

ignored. He described the three roles of the independent persons, in that the Standards Committee had to seek and take account of the views of at least one of the independent members before it made a decision on an allegation of a breach of the code of conduct; the Council may seek the views of one or more of the independent members in other circumstances; and that members who were the subject of an allegation of a breach of the code of conduct may also seek the views of an independent member. He said the Council also permitted the independent persons a full say in consideration of policies and procedures.

The Assistant Chief Executive – Legal said he had recently attended a workshop at the London Borough of Southwark on the role of independent members. Discussion with delegates indicated it was apparently rare for independent members to be called to give their views by a subject member.

Mrs Butcher-Doulton said she had acted in the role of giving her view to a subject member, but by only offering a view this was a limited role. She felt it was necessary to formulate something that would help councillors realise independent members were friends, not foes, and to help councillors to look at the code. This was for her the most powerful of the three roles.

The Assistant Chief Executive – Legal confirmed that the role of the independent members was explained to a subject member when contact was first made following a decision to commence an investigation.

Councillor Jones asked whether it was a legal requirement that the independent person could not be chairman, and that they should not vote.

The Assistant Chief Executive – Legal said it was set out in law that the independent person could not vote. Consequently they could not be chairman, as they did not have a casting vote. The Standards Committee was appointed under the Local Government Act 1972, and was therefore subject to the rules of political balance, although provided no member disagreed, at Uttlesford the preference was to have equal representation of all groups on the Committee. The 1972 Act provided that the Committee could not have non-councillors who were voting members.

Further discussion of the lack of voting rights of independent members took place. The chairman asked that this discussion come to a close as the purpose of today's meeting was to look at the recruitment of independent members.

Members considered the report which informed members of the requirements relating to the appointment of independent persons under

the Localism Act 2011 and sought members' views on how best to recruit satisfactory candidates. The group were recommended to agree a person specification, an advertising/recruitment strategy, and a selection process.

Members considered the person specification.

Councillor Jones drew attention to an inconsistency between the requirements for those not eligible to be appointed and the essential requirements and section 6 of the application form, regarding the ineligibility of a relative or close friend of someone who was a member, co-opted member or officer of the Council. It was agreed the wording would be changed to ensure consistency.

Councillor Knight said the period of five years for the ineligibility criteria to apply was a long time. The Assistant Chief Executive – Legal said this was a statutory requirement.

There was further discussion on membership of political parties being one of the exclusion criteria. Members felt it was desirable to appoint people who had opinions, and the exclusions were therefore quite restrictive. The Assistant Chief Executive – Legal said there had been no difficulty previously in shortlisting six candidates who were not members of political parties.

Councillor G Barker suggested a definition of “ethical dilemma” should be included.

The quality of assertiveness was discussed, and it was agreed that this was a desirable quality in an independent person, as it meant they would not be afraid to disagree.

Members then discussed the job description. It was agreed that the elements which were specific to independent persons rather than to all members of the Standards Committee should be made clearer, that is, points 6 and 7 of the job description should clearly be stated to be specific to the independent persons.

It was agreed to change the word “determine” to “give their views” in relation to the role of the independent members set out in point 9, that is, that their role was in hearings considering a breach of the Code of Conduct, to give their views as to whether or not there had been a breach and in the event of a breach what sanction (if any) to impose.

In reply to a question from Councillor Jones regarding the standard of proof, the Assistant Chief Executive – Legal said where an investigation was carried out the standard was the balance of probabilities. If there was a finding of a breach of the Code, the Committee considered that finding and was not bound by the findings of the Monitoring Officer.

However, the Committee would need to have good reasons to depart from those findings.

Members confirmed they were content with the job description, subject to the above amendments.

The panel considered the person specification.

Councillor G Barker said there were various definitions of “ethical”.

The Assistant Chief Executive – Legal said in the context of the code of conduct “ethical” was based on the Nolan principles.

Members discussed further the need for exclusion of independent persons from membership of political parties, and considered how to question interviewees about how they would handle an ethical dilemma. In reply to a member question, the Assistant Chief Executive – Legal said there was no need to ask the interviewee about their familiarity with rules governing public life, as this would be addressed through training. Furthermore, the majority of allegations tended to relate to the Nolan principles, rather than to specific breaches of the code of conduct.

Members considered the advertising process. The Assistant Chief Executive – Legal said an advertisement would be placed in the local press and on the website; the advertisement would also be sent to members of the Council’s Citizens’ Panel, which was representative of the Uttlesford community, and to the chairmen of community groups, including disabilities organisations.

Members agreed the terms of the person specification.

Councillor Jones commented on the equal opportunities statement in the application form. The Assistant Chief Executive – Legal said this was included purely for monitoring purposes to enable the Council to demonstrate compliance with equal opportunities requirements. It would be detached from the application forms prior to consideration of applications received. This was the standard form used by the Council for all recruitment. However, a check with the HR department would be made to ensure the most up to date version was used.

The panel discussed the advertising strategy further. The Assistant Chief Executive – Legal said during the previous recruitment process there had been a good response as many enquiries received, although not many applications. Members asked whether the way in which the advertising process was carried out was prescribed by law. The Assistant Chief Executive – Legal said the appointments had to be advertised in a way that brought them to the attention of the public. This would be achieved by promotion in the press, as had been the

case last time, when the advert had been very successful. Parish clerks would be requested to place the advert on their notice boards.

Members considered the interview questions. Various comments were made regarding what information the questions should elicit. The Assistant Chief Executive – Legal said these questions, which were the same questions as had been asked during the last recruitment process, incorporated the points which members had made. Members were advised that all candidates had to be asked the same questions, although it was possible to follow up answers given. There would be a standardised scoring system.

The Panel discussed when the advertisement would be placed. Councillor Jones asked whether there was any urgency in appointing independent persons. The Assistant Chief Executive – Legal said the closer it got to the elections the higher the risk that there would be allegations of breaches of the Code of Conduct. It was preferable to address any such allegations promptly.

It was agreed that the advertisement should be published after the Christmas break. The closing date for applications would be the end of January. A meeting of the Panel would take place during the first week in February to shortlist applicants for interview two weeks after that.

Councillor G Barker suggested pre-advertising on the Council's website could also be arranged.

The Assistant Chief Executive – Legal said the rules of political balance did not have to apply in appointing a smaller group to conduct the interviews, provided no member disagreed.

The meeting ended at 11.55am.