

COUNCIL	AGENDA ITEM No. 13(d)
26 JULY 2023	SUPPLEMENTARY REPORT

Report of:	Matthew Gladstone, Chief Executive	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Legal, Finance and Corporate Services	
Contact Officer(s):	Rachel Edwards, Head of Constitutional Services	Tel. 452277

ESTABLISHMENT OF AN INDEPENDENT PANEL - UPDATE

RECOMMENDATIONS	
FROM: Chief Executive	Deadline date: N/A
<p>It is recommended that Council:</p> <ol style="list-style-type: none"> 1. Approve the establishment of an Independent Panel. 2. Approve the terms of reference as set out in Appendix 1, for inclusion in the constitution. 3. Approve the subsequent changes to the constitution as set out in paragraph 2.3. 	

1. PURPOSE AND REASON FOR REPORT

- 1.1 The purpose of this report is to establish an Independent Panel to fulfil its role in statutory dismissal procedures.
- 1.2 This updated version of the report has been issued in order to provide clarification to paragraphs 2.2.6 and 2.3.2.

2. BACKGROUND AND KEY ISSUES

2.1 Independent Person

- 2.1.1 The need for an 'Independent Person' was introduced by the Localism Act 2011 (the Act) on 1 July 2012 as part of the current standards regime. Under the Act, the Council must appoint an Independent Person whose views may be sought and taken into account by the Council, as delegation to the Constitution and Ethics Committee, before it makes its decision on an allegation that it has decided to investigate.
- 2.1.2 The Council appoints an Independent Persons annually at its Annual Council meeting. At the Annual Council meeting on 22 May 2023 Gillian Holmes was appointed as the Council's Independent Person.

2.2 Independent Panel

- 2.2.1 In 2015, statutory dismissal procedures relating to the Head of Paid Service, Monitoring Officer, and Section 151 Officer were amended and a new role was created for Independent Persons.
- 2.2.2 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 amended The Local Authorities (Standing Orders) (England) Regulations 2001 and required that dismissal

decisions (other than for reasons of redundancy and ill-health) relating to the statutory officers have to be taken by Council, who, before taking a vote on whether or not to approve such a dismissal, must take into account, in particular, and among other things, any advice, views or recommendations of the Independent Panel.

This was noted at a Full Council meeting held on 15 July 2015 and the constitution updated.

2.2.3

The regulations state, however, that the Independent Panel must be appointed by Council as an advisory committee under s102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of the statutory officers.

2.2.4

Therefore, in order for the process to be followed as regulations dictate, the Council must determine the establishment of the Independent Panel, including the creation of terms of reference (**Appendix 1**), which set out the membership and functions of the panel.

2.2.5

Further to this, and as identified in the terms of reference, the Monitoring Officer, the Head of Paid Service, or the Deputy Monitoring Officer where it is inappropriate for the Monitoring Officer to do so because of conflict will appoint Independent Persons to the panel to sit as and when required, in accordance with Appendix 1 – Independent Panel Terms of Reference.

2.2.6

Amendments to the Constitution

2.3

In order to ensure that the Council's constitution accurately reflects the position as set out in the Regulations, the below amendments are required.

2.3.1

Part 2 – Article 4 – Articles of the Constitution

2.3.2

- j) Confirm the appointment and dismissal of the Chief Executive;
- k) Confirm the appointment and dismissal of the Head of Paid Service Chief Executive, Monitoring Officer, and/or the Chief Finance Officer and in the case of a dismissal following a recommendation from the which has been considered by the Independent Panel which shall include at least 2 independent persons;
- l) Establish an Independent Panel for the purposes of considering and commenting upon and proposal to dismiss any statutory officers;
- m) Appointment of Independent Person to the Council;

Part 3 – Section 1 - Functions Reserved to the Council

2.3.3

- 1.3.8 To appoint and dismiss 'statutory 'proper officers'; ~~for particular purposes including~~ the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

Part 4 – Section 9 – Officer Employment Procedure Rules

2.3.4

6. DISCIPLINARY ACTION & DISMISSAL OF THE HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER

6.1 The full Council will consider ~~approve~~ the dismissal of the Head of Paid Service, Chief Finance Officer and/or Monitoring Officer following a relevant recommendation of ~~dismissal by from~~ which has been considered by the Independent Panel.

6.2 The Independent Panel will be established on annual basis by Council meeting, as per the Local Government Act 1972, section 102(4).

3. CORPORATE PRIORITIES

3.1 The recommendation links to the following Council Corporate Priorities:

- Sustainable Future City Council
 - How we Work

3.2 Further information on the Council's Priorities can be found here - [Link to Corporate Strategy and Priorities Webpage](#).

4. CONSULTATION

4.1 No formal consultation is required for this decision, as it is a statutory requirement to establish an independent panel fulfil its role in statutory.

5. IMPLICATIONS

Financial Implications

5.1 The financial implications of this report will result from the remuneration paid to any Independent Person appointed to the independent panel. The current annual remuneration for the Council's Independent Person is £1,000.

Legal Implications

5.2 The legal implications are set out in the body of the report.

Equalities Implications

5.3 There are no equalities impacts directly arising from this report.

6. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- Council Report 15 July 2015 – 'Local Authorities (Standing Orders) (England) Amendment Regulations 2015'
- Local Government Act 1972
- The Local Authorities (Standing Orders) (England) Regulations 2001
- The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

7. APPENDICES

7.1 Appendix 1 – Independent Panel Terms of Reference

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