

<b>EXTRAORDINARY COUNCIL</b>	<b>AGENDA ITEM No. 4</b>
<b>31 AUGUST 2023</b>	<b>PUBLIC REPORT</b>

Report of:	Matthew Gladstone, Chief Executive and Head of Paid Service	
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

<b>INDEPENDENT PANEL MEMBERS</b>
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<b>RECOMMENDATIONS</b>	
<b>FROM: Matthew Gladstone, Chief Executive and Head of Paid Service</b>	<b>Deadline date: N/A</b>
<p>It is recommended that Council:</p> <ol style="list-style-type: none"> <li>1. Ratify the appointment of Grant Osbourn, Stuart Webster and Mike Sofianos as the Independent Persons who form part of the Independent Persons Panel.</li> <li>2. Note and consider the Section 5 report appended to this report and the Council's response.</li> </ol>	

## **1. PURPOSE AND REASON FOR REPORT**

- 1.1 The purpose of this report is to update Council on various matters and for Council to ratify (to the extent required) the appointment of the three members of the Independent Panel after approval of the establishment of Full Council on 26 July 2023.
- 1.2 This report contains appendices (1 and 3) that are NOT FOR PUBLICATION by reason of paragraphs 5 of Schedule 12A of Part 1 of the Local Government Act 1972 because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. The public interest test has been applied to the information contained within this exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

## **2. BACKGROUND AND KEY ISSUES**

### **2.1 Independent Panel**

- 2.1.1 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.
- 2.1.2 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.
- 2.1.3 This was noted at a Full Council meeting held on 15 July 2015 and the constitution updated.

- 2.1.4 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.
- 2.1.5 This Independent Panel was established at Full Council meeting held on 26 July 2023 and the constitution updated.
- 2.1.6 An Independent Panel meeting was held on 14 August 2023.
- 2.1.7 Prior to the meeting on 14 August, the Council's Monitoring Officer obtained legal advice from King's Counsel which advised that it was a statutory requirement for the Council to name the Independent Persons appointed to the Panel. A copy of the advice obtained is included at **Appendix 1**.
- 2.1.8 The Monitoring Officer then issued a statutory report under Section 5 of the Local Government and Housing Act 1989 suggesting that the appointments made to the Panel were invalid as a result. This report was sent to all elected members of the Council. A copy of the report is included at **Appendix 2**
- 2.1.9 The Council subsequently sought further advice from an alternative King's Counsel on the lawfulness of the Panel. The advice is included at **Appendix 3** and an excerpt is included below.

*'Regulation 6 and Schedule 3(7) reserve appointment of Panel Members to Full Council, and prescribe a priority order, a significant element of the legislative structure. Full Council duly observed that priority order and the substance of the legislative requirement and discharged its function of determining the appointments. There is simply no requirement, express or necessarily to be implied, for individual naming or identification in the record of the appointments, beyond appointment in accordance with cascading acceptance of invitations, however, for the avoidance of doubt these appointed independent persons are shown below.*

The Independent Persons appointed on 27 July 2023 to the independent panel are: -

- Grant Osbourn
- Stuart Webster
- Mike Sofianos

For further clarification, the above-named members of the Independent Panel were formally appointed at other local authorities. Links to the reports outlining their appointments are included in the background section of this report.

### **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.

### **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 advice for this matter has been provided by Weightmans Solicitors and Counsel, the 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

- [Full Council report – 26 July 2023](#) (pg15-17)
- [Independent Panel Agenda front sheet – 14 August 2023](#)
- Reports from other local authorities formally appointing independent persons:
  - [Grant Osbourn](#)
  - [Mike Sofianos](#)
  - [Stuart Webster](#)

## **7. APPENDICES**

- 7.1 Appendix 1 – KC Advice obtained by Monitoring Officer  
Appendix 2 – S.5 report from Monitoring Officer  
Appendix 3 – KC advice obtained by Peterborough City Council.

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