
Subject:	APPOINTMENT OF SANDWICH PORT AND HAVEN COMMISSIONERS
Meeting and Date:	Cabinet – 6 December 2021
Report of:	Louise May, Head of Governance and HR
Portfolio Holder:	Councillor Trevor Bartlett, Leader of the Council
Decision Type:	Non-Key Executive
Classification:	Unrestricted

Purpose of the report: The terms of office of six of the eight Sandwich Port and Haven Commissioners who are appointed by Dover District Council are due to expire on 20 February 2022. Cabinet is requested to approve the commencement of the selection process for the appointment of the four independent commissioner positions, and to appoint two District Councillors (or non-Members) to serve as commissioners.

Recommendation:

(a) That a Selection Panel be established, comprising a member of the Cabinet, a member of the Corporate Management Team and the Chairman of the Sandwich Port and Haven Commission, to interview applicants for the independent member positions, and make recommendations for appointment.

(b) That two District Councillors (or non-Members) be appointed to serve on the Sandwich Port and Haven Commission for a term of three years with effect from 21 February 2022.

(c) That the Chief Executive, in consultation with the Portfolio Holder for Planning and Environment, be authorised to make the final appointments for the independent member positions on the Sandwich Port and Haven Commission, having given consideration to the recommendations of the Selection Panel.

1. Summary

- 1.1 The terms of office of six of the eight commissioner appointments to the Sandwich Port and Haven Commission are due to expire on 20 February 2022. These comprise four independent commissioners, and two commissioners who may be appointed directly from the membership of Dover District Council (DDC). Cabinet is requested to agree that the selection process (including the establishment of a selection panel) for the appointment of the four independent commissioner positions be commenced, and to appoint two Dover District Councillors (or others of Cabinet's choosing) to serve for a term of three years with effect from 21 February 2022.
- 1.2 The two remaining commissioners are appointees nominated by Sandwich Town Council from the membership of the town council. Their appointments are not due to expire until 13 August 2022.

2. Introduction and Background

- 2.1 Using powers derived from the Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976, the Council is responsible for appointing the eight

commissioners that make up the Sandwich Port and Haven Commission. The Commission's primary duty is to take such steps as it considers necessary or expedient for the improvement, maintenance and management of the Port of Sandwich. Commissioners are expected to have a substantial interest in the Sandwich Port and Haven, from either a commercial, employment, recreational or conservational viewpoint, and be familiar with the area served by the port.

2.2 The composition of the Commission is currently as follows:

Category of Commissioner	Current Incumbents	Expiry of Term of Office
Four independent commissioners (recruited through external advertisement and interview by selection panel and appointed by Dover District Council)	Mr Nicholas Gray Mr Harvey Cole Mr Russ Pullen <i>Vacancy</i> (since December 2020 following resignation of Mr John Clandillon-Baker)	20 February 2022
Two commissioners appointed by Dover District Council (without the need for external advertisement and interview by selection panel - referred to as 'DDC-appointed commissioners' in this report)	Mr James Blackmore <i>Vacancy</i> (since October 2021 following resignation of Mr Robert Holden)	20 February 2022
Two commissioners nominated by Sandwich Town Council (who must be Sandwich Town Councillors when appointed) and appointed by Dover District Council	Town Councillor Keith Heaven Town Councillor Danielle Sivrikaya	13 August 2022

Dover District Council Appointments

2.3 One of the two DDC-appointed commissioners, Mr Robert Holden, resigned in October 2021. However, it is not recommended that Cabinet appoints his successor immediately, but rather to wait until February 2022 when his term of office would have expired. The Sandwich Port and Haven Commission has not indicated that carrying this vacancy is causing any operational difficulties and waiting until February will also offer the opportunity to choose a commissioner from amongst the candidates who apply for the independent commissioner positions (should Cabinet be of the view that this is preferable).

2.4 The other DDC-appointed commissioner is Mr James Blackmore who has served four full terms of office since 2010 - three as an independent commissioner. Whilst the Department for Transport's Modernising Trust Ports Guidance seeks to limit the number of terms served by commissioners to a maximum of three, it recognises that some parts of its guidance are not necessarily appropriate for smaller ports. Where such ports are unable to comply with the guidance, they are expected to state openly why this is the case. For example, where it is proposed to re-appoint a commissioner for a fifth term (in preference to another suitably qualified candidate), the reasons for doing so should be explicitly recorded.

- 2.5 The new DDC appointments will expire on 20 February 2025.
- 2.6 Cabinet has the following options when considering who to appoint as DDC-appointed commissioners:
- Re-appoint Mr Blackmore and fill the other vacancy with an individual chosen from the options given below; or
 - Appoint two DDC Members or Officers or one of each
 - Allocate one or both appointments to the independent commissioners (if suitable candidates are identified through the recruitment process) or to Sandwich Town Council
 - Appoint two commissioners from the community (i.e. no connection to DDC or Sandwich Town Council)

Independent Commissioner Appointments

- 2.7 An open and competitive selection process will be followed in order to fill the four independent commissioner vacancies, with the positions being advertised on the Council's website and in the East Kent Mercury in December. The selection panel will conduct interviews in January. The new appointments will expire on 20 February 2025.
- 2.8 For completeness, Cabinet is asked to note that the independent commissioner position left vacant by the resignation of Mr John Clandillon-Baker in December 2020 was not filled due to the difficulties of conducting interviews during the pandemic. This decision was taken with the agreement of the then Chairman of the Commission and in consultation with the Solicitor to the Council.

3. Identification of Options

- 3.1 Option 1 – not to approve the establishment of a selection panel for the appointment of the four independent commissioners, or to appoint two District Councillors or non-Members.
- 3.2 Option 2 – to re-appoint Mr James Blackmore and appoint another commissioner from the options given at paragraph 2.6. (If necessary, the second appointment could be postponed in case a suitable candidate is identified through the independent commissioner selection process.) In addition, to approve the selection panel for the appointment of the four independent commissioners.
- 3.3 Option 3 – to appoint replacements for both DDC-appointed commissioners, choosing from the options set out at paragraph 2.6. (If necessary, both appointments could be postponed in case suitable candidates are identified through the independent commissioner selection process). In addition, to approve the selection panel for the appointment of the four independent commissioners.

4. Evaluation of Options

- 4.1 Option 1 is not recommended as the Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976 requires that the Council appoints eight Commissioners. However, the composition of the Commission may be varied, providing there are at least two Town Councillors and at least four independent members. The options for varying the DDC appointments are set out at paragraph 2.6.
- 4.2 Options 2 or 3 are the recommended options.

5. Climate Change and Environmental Implications

5.1 None.

6. Resource Implications

6.1. There will be a cost for placing an advertisement in the East Kent Mercury. However, commissioners may not claim travel and subsistence expenses from the Council for attendance at meetings of the Commission due to a legal principle and must instead claim them from the Commission.

7. Corporate Implications

7.1 Comment from the Strategic Director (Corporate Resources): Accountancy has been consulted on this report and has no further comments to add. (AT)

7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

7.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications. However, in discharging their duties, Members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>.

8. Appendices

None.

9. Background Papers

Department for Transport's Modernising Trust Ports Guidance

Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976

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