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| Subject: | APPOINTMENT OF SANDWICH PORT AND HAVEN COMMISSIONERS |
| Meeting and Date: | Cabinet – 2 December 2024 |
| Report of: | Rebecca Brough, Head of Corporate Services and Democracy |
| Portfolio Holder: | Councillor Kevin Mills, Leader of the Council |
| Decision Type: | Non-Key Decision |
| Classification: | Unrestricted |

Purpose of the report:

1. To approve the commencement of the selection process for the appointment of four independent Sandwich Port and Haven Commissioners.
2. To appoint two people (District Councillors or others as described in paragraph 2.8) to serve as DDC-appointed Sandwich Port and Haven Commissioners.

Recommendation:

(a) That a Selection Panel be established comprising a member of the Cabinet, a member of the Corporate Management Team and the Clerk to the Sandwich Port and Haven Commissioners (or, if deemed more appropriate, a member of the Sandwich Port and Haven Commission) to interview applicants for the vacant independent commissioner positions and make recommendations for appointment.

(b) That two people (chosen from the options set out in paragraph 2.8 of this report) be appointed to serve on the Sandwich Port and Haven Commission as DDC-appointed commissioners for a term of three years with effect from 21 February 2025.

(c) That the Chief Executive, in consultation with the Leader of the Council, be authorised to make the final appointments for the vacant independent commissioner positions on the Sandwich Port and Haven Commission, having given consideration to the recommendations of the Selection Panel.

1. Summary

1.1 Six of the eight commissioner appointments to the Sandwich Port and Haven Commission are due to expire on 20 February 2025. There is, therefore, a need to appoint six new commissioners to serve with effect from 21 February 2025. Cabinet is requested to approve the establishment of a selection panel and the commencement of the process for the recruitment of the four independent commissioner positions. In addition, Cabinet is asked to appoint two District Councillors or others of its choosing (see paragraph 2.8) to serve as the two commissioners directly appointed by Dover District Council (DDC).

1.2 The two remaining commissioners are appointees nominated by Sandwich Town Council. Their appointments are not due to expire until August 2025.

2. Introduction and Background

- 2.1 Under the Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976, the Council is required to appoint eight Commissioners, comprising four independent commissioners, two commissioners nominated by Sandwich Town Council and two nominated by Dover District Council.
- 2.2 The Sandwich Port and Haven is a trust port and differs from company or local authority-owned ports by reason of its constitution and powers. All port activities are funded from within revenue, supplemented in some cases by commercial borrowing up to prescribed limits. The Sandwich Port and Haven Commission's primary duty is to take such steps as it considers necessary or expedient for the management, maintenance and improvement of the Sandwich Port and Haven, for the benefit of users and stakeholders. The Commission employs a Harbour Master who is responsible for collecting harbour dues and river usage fees, managing navigation markers, helping and advising boat owners about the rules and regulations of the river and overseeing the general health and safety of the river.
- 2.3 Members of the Commission have a range of local or specialist interests and are often (but not always) also members of local authorities, port-users or involved in shipping or other stakeholder groups. Formal qualifications are not essential, but applicants will need to demonstrate that they have the relevant experience and a genuine interest in the port, from either a commercial, employment, recreational or conservational viewpoint, and to be familiar with the area served by the port.

Independent Commissioner Appointments

- 2.4 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. Interviews conducted by the Selection Panel will take place at the beginning of February. The new appointments will expire on 20 February 2028.

Dover District Council Appointments

- 2.5 The current DDC-appointed commissioners are Mr James Blackmore (also the chairman of the Sandwich Port and Haven Commission) and Councillor Oliver Richardson. Mr Blackmore will have served five full terms of office come February 2025, having first been appointed in 2010 as an independent commissioner. Councillor Richardson has served one full term as a commissioner.
- 2.6 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 further term (in preference to another suitably qualified candidate), the reasons for doing so should be explicitly recorded.
- 2.7 The Guidance is not statutory and, due to the size of Sandwich Port, the Solicitor to the Council has advised that he does not consider it problematic to re-appoint Mr Blackmore if Cabinet wishes to do so.
- 2.8 Cabinet has the following options when considering who to appoint as the two DDC commissioners:

- Reappoint Mr Blackmore and Councillor Richardson
- Reappoint one of the above plus somebody from the options set out below
- Appoint two DDC Members or Officers or one of each
- Defer one or both appointments until completion of the independent commissioner recruitment process and allocate one or both to them if suitable candidates are identified
- Allocate one or both appointments to Sandwich Town Council
- Appoint two commissioners from the community (i.e. no connection to DDC or Sandwich Town Council)

3. Identification of Options

- 3.1 Option 1 – Not to approve the establishment of a selection panel and process for the appointment of the four independent commissioners or the appointment of two District Councillors or others as described in paragraph 2.8.
- 3.2 Option 2 – To approve the establishment of a selection panel and process for the appointment of the four independent commissioners. In addition, to re-appoint Mr James Blackmore and Councillor Richardson to serve as DDC commissioners.
- 3.3 Option 3 – To approve the establishment of a selection panel and process for the appointment of the four independent commissioners. In addition, to appoint replacements for Mr Blackmore and/or Councillor Richardson, choosing from the options set out at paragraph 2.8.

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 Sandwich Town Councillors and at least four independent members. The options for varying the two DDC appointments are set out at paragraph 2.8.
- 4.2 Options 2 or 3 are the recommended options.

5. Climate Change Implications

- 5.1 No comments received.

6. Resource Implications

- 6.1. There will be a cost for placing an advertisement in the East Kent Mercury. 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 (Finance and Housing): 'Accountancy has been consulted and has no further comments to add.' (MR)
- 7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted during the preparation of this report and has no further comments to make.

7.3 Comment from the Equalities Officer: This report regarding the appointments to the Sandwich Port and Haven Commission 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 Modernising Trust Ports Guidance

Sandwich Port and Haven Commissioners (Constitution) Revision Order 1976

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