
Subject:	REVIEW OF THE CONSTITUTION
Meeting and Date:	Governance Committee – 26 September 2013 Council – 27 November 2013
Report of:	Dave Randall, Director of Governance
Classification:	Unrestricted

Purpose of the report:	To determine the remuneration arrangements and other matters for the Independent Person and Substitute Independent Person.
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Recommendation:	<i>That it be recommended to Council that subject to receiving the views of the East Kent Joint Independent Remuneration Panel:</i>
	<ol style="list-style-type: none"> 1. That the Independent Person be paid an allowance of £927 per annum and be entitled to claim travel and subsistence at the same rates as if s/he were a member of the authority. 2. That the Substitute Independent Person be paid an allowance of £232 per annum and be entitled to claim travel and subsistence at the same rate as if s/he were a member of the authority.

1. Summary

In undertaking the Review of the Constitution there are several reports that have to be considered prior to bringing the final draft of version 18 before Members. The majority of these have now been considered and approved by Council and/or Cabinet but the remaining key areas are:

- The East Kent Joint Independent Remuneration Panel's Review of Member Allowances. This will be completed prior to the next meeting of the Governance Committee and will be subject to a separate report.
- The report defining the training specification for members as this will involve changes to Article 13 of the Constitution. This will be considered by the Governance Committee at its meeting held on 26 September 2013.
- The determination of arrangements for the Independent Person and Substitute Independent Person, which this report seeks to address.

It is ultimately for the Council to determine such terms as to the remuneration and expenses of the Independent Person and Substitute Independent Person as it sees fit, taking into consideration the views of the Governance Committee and the East Kent Joint Independent Remuneration Panel.

The revised Constitution will be submitted to Members for consideration by Council at its meeting to be held on 26 November 2013. If required an additional Governance Committee meeting can be held prior to that date to consider the draft version.

2. Introduction and Background

- 2.1 A new Code of Conduct was approved by the Council at its meeting on 25 June 2012 which came into effect on 1 July. The Localism Act 2011 abolished not only the previous statutory Code of Conduct but the statutory regime that went with it. The District Council had to replace this with new arrangements which were required under Section 27 of the Localism Act to include the appointment of an Independent Person. The Council also appointed a Substitute Independent Person to ensure a continuous provision in the event of the Independent Person being unavailable.
- 2.2 The Independent Person is Mr B P S Dowley. The substitute Independent Person, is Mr A M Hayes
- 2.3 The role of the Independent Person is set out in detail at Appendix 1 to this report.
- 2.4 In summary, the Independent Person must be consulted by the authority before it makes a decision on an allegation that it has decided to investigate. In addition, the views of the independent person, may be sought in relation to an allegation in any other circumstances or by a member or co-opted member of either the Council or a parish council if that person's behaviour is the subject of an allegation.
- 2.5 The Independent Persons is not a member of the Standards Committee and may not be co-opted onto it. This does not however prevent the independent persons from attending meetings of the Standards Committee as an observer as can any member of the public, or, from being invited to attend meetings by the Standards Committee itself
- 2.6 The presence of independent members on the Standards Committee was well established and Dover District Council's Standards Committee was chaired by an independent member prior to it becoming a statutory requirement. However, unlike the old independent members who acted in a decision-making capacity the Independent Person is not charged with decision making but rather as an advisor to the Monitoring Officer in his decision making and as a consultee for members who are the subject of a complaint.
- 2.7 The new Code of Conduct has seen a small but significant increase in the volume of complaints. For the part year 1 July – 31 March the Monitoring Officer in consultation with the Independent Person considered 33 complaints. Since 1 April 2013, there have been 16 complaints considered. In contrast 29 complaints were considered in the last year of operation of the previous regime with the workload spread between five independent members.
- 2.8 The small increase in the number of complaints is not in itself significant in terms of the workload of the Independent Person. However, the local arrangements for dealing with complaints afford the subject member the facility to make representations to the Monitoring Officer before he decides what action to take in relation to the complaint, whereas the previous arrangements did not.. This has led to a very significant increase in the amount of documentation which the Monitoring Officer and the Independent person need to read, understand and consider in reaching a deciding what course of action to take. To put this in context, subject members have, on occasions, submitted very voluminous bundles of documents taking many hours to read – this has not just been a case of reading 2 or 3 sheets of A4. This is not an untypical situation.

2.9 As the independent person is not a Member he or she would not automatically have benefited from the indemnities which District Council Members have. As part of the arrangements to establish the position of Independent Person, the Council agreed to confer a specific indemnity and arrange any necessary insurance.

3. Identification of Options

3.1 Option 1: To recommend to Council That the Independent Person be paid an allowance of £927 per annum, plus travel expenses at the same rate as councillors and the Substitute Independent Person be paid an allowance of £232 per annum plus travel expenses at the same rate as councillors.

3.2 The Council has to have an Independent Person. While the option to pay nothing is available, some form of remuneration is likely to improve the retention of qualified members and the recruitment of suitable new members at the end of the current terms of office.

3.3 The recommended levels are the same as those previously paid to the Independent Chairman and Vice-Chairman of the Standards Committee under the previous Code of Conduct arrangements.

3.4 The Team Leader – Democratic Support has raised the matter of remuneration for the Independent Person and Substitute Independent Person as part of the review of members allowances. The Panel has provisionally indicated that it is minded to recommend an allowance in accordance with this option.

3.5 Option 2: To recommend to Council That the Independent Person and Substitute Independent Person only be paid travel expenses.

3.6 This is not the recommended option as it does not adequately remunerate the Independent Person for their time commitment and out of pocket expenses.

3.7 Option 3: To recommend to Council That the Independent Person and Substitute Independent Person not be paid an allowance or travel expenses.

3.8 This is not the recommended option as it does not adequately remunerate the Independent Person for their time commitment and out of pocket expenses.

3.9 Option 4: To recommend to Council an alternative level of allowance for the Independent Person and Substitute Independent Person.

3.10 As the Council only has to be mindful of the views of the East Kent Joint Independent Remuneration Panel. However, in recommending an alternative allowance, members' are reminded that the level of remuneration will impact either beneficially or adversely on the retention of qualified members and the recruitment of suitable new members at the end of the current terms of office.

4. Evaluation of Options

4.1 The report advises that an allowance be paid, preferably at the levels set out in Option 1. Allowances were paid to independent members of the Standards Committee under the old arrangements in recognition of their responsibilities and their time commitment and it is suggested that this position be continued.

5. **Resource Implications**

- 5.1 There would be a notional additional cost of £1,159.00 per annum plus any travel expenses agreed under the Members' Allowances Scheme. However, due to the restrictions on the number of Special Responsibility Allowances that a Member can claim this should be fundable from within the headroom within the budget for the existing Members Allowance Scheme.

6. **Corporate Implications**

- 6.1 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. **Appendices**

Appendix 1 – Independent Person Job Description

8. **Background Papers**

Localism Act 2011

Contact Officer: Rebecca Brough, Team Leader – Democratic Support