

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO FULL COUNCIL

Agenda Item No.

meeting date: 17 JULY 2012
 title: APPOINTMENT OF TWO INDEPENDENT PERSONS
 submitted by: CHIEF EXECUTIVE
 principal author: MAIR HILL

1 PURPOSE

1.1 To advise the Council of the Working Group's recommendation for the appointment of two independent persons to assist with standards.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – The appointment of independent persons will promote the Council's priority of being a well-managed Council.
- Corporate Priorities – As above.
- Other Considerations – None

2 BACKGROUND

2.1 The Localism Act 2011 (the "Act") has from 1 July 2012 abolished the requirement for each Council to have a Standards Committee with independent members and chair. Section 28 of the Act however sets out the requirements, which will take its place. Sections 28(6) & (7) state:

"(6) A relevant authority other than a parish council must have in place-

(a) arrangements under which allegations can be investigated, and

(b) arrangements under which decisions on allegations can be made.

*(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of **at least one independent person-***

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought-

(i) by the authority in relation to an allegation in circumstances not within paragraph (a);

(ii) by a member, or co-opted member of the authority if that person's behaviour is the subject of an allegation; and

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority." [Emphasis added]

2.2 Section 28(8)(b) of the Act provides that "a person may not be appointed under the provision required by sub-section (7) if at any time during the 5 years ending with the appointment the person was (i) a member, co-opted member of the authority, or (ii) a

member, co-opted member or officer of a parish council of which the authority is the principal authority”.

- 2.3 This provision would have prevented persons who had previously been independent members of the Standards Committee from applying for the position. However, on 6 June 2012, the Localism Act 2012 (Commencement No.6 and Transitional Savings and Transitory Provisions) Order 2012 (the “**Regulations**”) came into force. Regulation 7 of the Regulations provides that “*Notwithstanding section 28(8)(b) of the Act, a person may be appointed by a relevant authority as the independent person under Section 28(7) of the Act, if that person-*
- (a) is not a member or co-opted member of the standards committee of the relevant authority on 1 July 2012; but*
 - (b) has held such a post at any time during the 5 years ending on 30th June 2012.*
- (2) paragraph (1) only applies in relation to appointments made before 1st July 2013”.*
- 2.4 The Regulations therefore allow persons who have previously been independent members to apply for the position, providing that their appointment is made prior to 1 July 2013.
- 2.5 On 28 June 2012 however a letter was received from the Department for communities and local Government, which states “*...we have made transitional arrangements to allow the appointment as an independent person of someone who has been an independent chairman or member of the authority’s Standards Committee. However, given the importance that the new arrangements are, and are clearly perceived to be, a wholly fresh start we are minded to make further provision so that any former members of a Standards Committee appointed under the transitional arrangements as an independent person can hold that office only until 30 June 2013.*”
- 2.6 This was followed by The Localism Act 2012 (Commencement No.6 and Transitional, Savings and Transitory Provisions) (Amendment) Order 2012 (the “**Amendment Order**”) which came into force on 2 July 2012. The Amendment Order provides that “*(1) Article 7 of the Order is amended as follows:*
- (2) After paragraph (2) insert –*
 - (2A) A person who falls within the description in sub-paragraphs (a) and (b) of paragraph (1) may not be appointed for a period ending on or after 1 July 2013.*
 - (2B) Paragraph (2A) does not apply in relation to an appointment –*
 - (a) made before 24 July 2012; and*
 - (b) where the period of appointment ends on or after 1st July 2013”*
- It would appear therefore that the Council would not need to reappoint after one year should appoint as an independent person someone who had previously been a member of chair of its standards committee as the appointment will have been made prior to 24 July 2012.
- 2.7 The appointment of independent persons has previously been considered by Standards Committee on 1 February and 27 March 2012 and Policy and Finance on 12 June 2012, where it was agreed that the Head of Legal and Democratic Services be authorised to begin the process to recruit two independent members and that Group of members which had assisted in considering future arrangements for Overview and Scrutiny Committee and the new standards committee arrangements (the “**Working Group**”) also be asked to recommend who the Council should select as its Independent persons to advise Members on matters of conduct.
- 2.8 Section 28(8)(c) of the Act provides that “*a person may not be appointed under the provision required by subsection (7) unless-*

- (i) *the vacancy for an independent person has been advertised in such a manner as the authority considers is likely to bring it to the attention of the public,*
(ii) *the person has submitted an application to fill the vacancy to the authority, and*
(iii) *the person's appointment has been **approved by a majority of the members of the authority**...*"

2.9 As a result a press release was issued and an advert placed on the Council's Website. Five applications were received. It was subsequently agreed between the Council's solicitor and the Chair of the Working Group that the Head of Legal and Democratic Services and the Solicitor would interview all the candidates and then report a summary of those interviews to the Working Group. The Working Group would then make a recommendation to Full Council based upon the candidate's application forms and the summary of the interviews.

2.10 The interviews took place on 4 July 2012 with 4 candidates attending. Unfortunately the fifth candidate was unavailable on that date and so was interviewed on Wednesday 11 July 2012.

3 ISSUES

3.1 The Working Group met on 13 July 2012 and made a recommendation, which is set out in Appendix 1 that Mr I B Dearing and Mr I S Taylor be appointed as the independent members. The reasons for their recommendation are set out in Appendix 1 also.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – None
- Technical, Environmental and Legal – The appointment will fulfil the requirements of the Act.
- Political – None
- Reputation – The appointment of independent persons will enhance the reputation of the Council.
- Equality & Diversity – None

5 RECOMMENDED THAT FULL COUNCIL

5.1 Consider and approve the Working Group's recommendation for the appointment of Mr I B Dearing and Mr I S Taylor as independent persons to assist with standards.

Mair Hill

MAIR HILL
SOLICITOR

Marshal Scott

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

Appendix 1 – Recommendation of Working Group

Letter from the Department for Communities and Local Government to all Local Authority Leaders dated 28 June 2012.

Report of Head of Legal and Democratic Services dated 1 February 2012

Minutes of Standards Committee 1 February 2012

Report of the Head of Legal and Democratic Services dated 27 March 2012

Minutes of Standards Committee 27 March 2012

Report of the Head of Legal and Democratic Services dated 12 June 2012

Minutes of Policy and Finance Committee dated 12 June 2012

For further information please ask for Mair Hill, extension 3216

REF: MJH/MJH/Full Council/17July 2012

APPENDIX 1

RECOMMENDATION OF WORKING GROUP

Date of Meeting: 13 July 2012

The Working Group comprised the following Members:

Chairman: Councillor S Hirst
Councillor R Sherras
Councillor T Hill
Councillor A Knox (Not in attendance but contacted by telephone)

In attendance: Diane Rice - Head of Legal and Democratic Services
Mair Hill - Solicitor

Recommendation and reasons

The Working Group met on 13 July 2012 and considered the 5 applications received for the position of Independent Person along with the summary of the interviews provided by the Council's solicitor.

The decision reach by the Working Group was as follow:

1. To recommend the appointment of Mr IB Dearing and Mr IS Taylor as Independent Persons pursuant to Section 28 the Localism Act;
2. The period of the appointment should be three years from the date of their appointment.

Whilst all the candidates impressed the Working Group and it was felt that all could carry out the role, it considered that the two candidates selected were most suited to the role and also that it would be beneficial for the Council to have one independent person with previously experience of dealing with standards in the context of a local authority, and the other with experience of standards in a different context.