

Appendices: 0



NORTHAMPTON
BOROUGH COUNCIL

STANDARDS COMMITTEE REPORT

Report Title	Roles of Independent Persons appointed pursuant to the Localism Act 2011
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	14 th September 2015
Policy Document:	No
Directorate:	Borough Secretary & Monitoring Officer

1. Purpose

- 1.1 To report on the functions of the Independent Persons appointed pursuant to the Localism Act 2011, including additional functions resulting from changes introduced by the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2015.

2. Recommendations

- 2.1 It is recommended that Members note the content of the Report.

3. Issues and Choices

3.1 Report Background

- 3.1.1 In accordance with the provisions of the Localism Act 2011, the Council adopted the *Northampton Borough Council Members' Code of Conduct* and the *Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils (the 'Arrangements')* with effect from 1st July 2012.
- 3.1.2 The Localism Act 2011 requires local authorities to appoint at least one "Independent Person" in connection with the arrangements that the local authority has in place for dealing with allegations that a Councillor has breached the Code of Conduct for Councillors. Broadly the Independent Person must be someone who is not (or has not recently been) an Officer of the Council or a Member or co-opted Member of the Council or of any Parish

Council within the Borough. Certain classes of relatives and close friends of Members and Officers are also prevented by law from being an Independent Person.

- 3.1.3 The Council currently has two appointed Independent Persons; Peter Glover and Alan Haynes. Mr Glover and Mr Haynes were originally appointed by Council on 3rd June 2013. Their terms of office have been renewed on a fixed basis until the Annual Council meeting in May 2019.

3.2 Issues

3.2.1 The role of the Independent Person in the Members' Code of Conduct complaints process


3.2.1.1 The functions of the Independent Person(s) as set out in the Localism Act 2011 are:

- they must be consulted by the authority and their views taken into account before the authority makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member. (This means that their views must be sought on a decision to take no action where the investigation finds no evidence of breach, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- they may be consulted by the authority in respect of a standards complaint at any other stage; and
- they may be consulted by a Member or co-opted Member of the Borough Council or of a Parish Council against whom a complaint has been made.

3.2.1.2 The Council's *Arrangements* reflect the requirements of the Localism Act 2011 and set out full details of the role of the Independent Person in the standards process. In practice, to date the main role of each of the Independent Persons is that they have been consulted by the Council's Monitoring Officer when he is making an initial assessment decision about a Code of Conduct complaint (ie. deciding whether the complaint warrants any further action and if it does whether it would be suitable for alternative resolution or whether it should be referred for investigation).

3.2.2 The role of the Independent Person in the new statutory dismissal procedures relating to Heads of Paid Service, Monitoring Officers and Section 151 Officers

3.2.2.1 There has been a recent change in the law that affects Independent Persons appointed under the Localism Act 2011.

- 3.2.2.2 The *Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015* have amended the provisions that Councils are required to have in place relating to disciplinary processes for senior officers. The 2015 Regulations prescribe the process that must be followed in relation to any proposed dismissal of one of the Council's three statutory officers (the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer). On 8th June 2015, Full Council approved the amendments to the Council's Standing Orders required to comply with the 2015 Regulations. Full details can be found in the Council report at [[Changes to Statutory Dismissal Procedures - Amendments to Standing Orders](#)] 
[PDF 120 KB](#)
- 3.2.2.3 The 2015 Regulations require the Council to take into account the views, advice or recommendations of a Panel (which is to be a Committee of Council) before approving the dismissal of one of the protected officers.
- 3.2.2.4 The 2015 Regulations require the Panel to appoint at least two Independent Persons. The Regulations define those Independent Persons as being Independent Persons who have been appointed under the Localism Act 2011 in relation to the Councillor Code of Conduct complaints arrangements.
- 3.2.2.5 Therefore, the Independent Persons that the Council has appointed in connection with the Councillor Code of Conduct complaints process could be called upon to carry out this additional and separate role, if a disciplinary Panel ever had to be convened in relation to one of the three statutory officers. Although the 2015 Regulations are in force, there is still a significant amount of national debate about how they should operate in practice.

4. Implications (including financial implications)

4.1 Policy

4.1.1 There are no policy implications arising from this report.

4.2 Resources and Risk

4.2.1 There are no financial or other resource or risk implications arising directly from this report.

4.3 Legal

4.3.1 Legal implications are set out in the body of this report.

4.4 Equality

4.4.1 There are no equality implications arising directly from this report.

4.5 Consultees (Internal and External)

4.5.1 Not applicable.

4.6 Other Implications

4.6.1 None.

5. Background Papers

5.1 None.

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