

SC/001/13

Committee: The Essex County Council and Essex Fire Authority Joint Standards Committee

Date: 15 January 2013

Report of the Assistant Director, Corporate Law and Monitoring Officer of the Council and the Clerk and Monitoring Officer of the Fire Authority

Enquiries to Terry Osborne 01245 431100; e-mail: terry.osborne@essex.gov.uk

The Localism Act 2011 – The Role of Independent Persons

1. Purpose of Report

To advise the Joint Committee of the role of statutory independent persons, following the appointment of two independent persons and the approval of arrangements for the assessment and determination of complaints at the Fire Authority meeting on 5th September 2012 and the Council meeting on 16th October 2012.

2. Recommendations

- 2.1. Recommended that the Joint Committee note the role of the Independent Persons in the handling of allegations of breach of the Member Code of Conduct as set out in the Appendix.

3. Background

- 3.1 The Localism Act 2011 introduced a new standards regime for local authority members. Under S.27 (2) the Council and the Fire Authority were required to adopt a new code of member conduct and this was done at their meetings 16th October 2012 and 5th September respectively.
- 3.2 Under S. 26(6) the Council and the Fire Authority are required to have in place arrangements under which allegations of breach of their Member Code of Conduct can be investigated and determined. Such arrangements must include provision for the appointment of at least one 'Independent Person'. They must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council.
- 3.3 Under S.28 (7) of the 2011 Act an Independent Person
- must be consulted by the Council or Authority before it 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.

- may be consulted by the authority in respect of a standards complaint at any other stage; and
 - may be consulted by a member or co-opted member against whom a complaint has been made.
- 3.4 Independent Persons are statutory office holders and are not members or co-opted members or employees or contractors. They have no right (beyond that enjoyed by members of the public) to attend at, or participate in, meetings of the Joint Committee or the Standards (Hearings) Sub-Committee unless invited to do so by the Committee.
- 3.5 At their September and October meeting the County Council and the Authority appointed Mr Norman Hodson and Mr Jonathan Swan as Independent Persons.
- 3.6 As this is a new statutory requirement the Monitoring Officer has prepared a protocol which sets out the Council's and the Authority's arrangements for the Assessment and Determination of Allegations of Failure to Comply with the Member Code of Conduct, including the Independent Persons' role and their relationship with the Monitoring Officers, the Joint Standards Committee and the Standards (Hearings) Sub-Committee.

4. Relevance to ECC's Corporate Plan and other Strategic Plans.

The proposals set out in this paper are wholly consistent with the Council's Code of Governance, the Leader and Chief Executive's Governance Statement and the Council's Annual Governance Statement for 2011/12 all of which embed the Nolan principles.

5. Legal Implications

The Council and the Authority are legally obliged to have arrangements in place for the determination of allegations and to appoint independent persons.

6. Finance and Human Resources Implications

There are no financial or human resources implications arising from this report.

8. Equality Impact Assessment

The Code of conduct prohibits members from doing anything that would breach the equality enactments.

9. Background Papers

None

Appendix

Role of Independent Persons in the Assessment and Determination of Allegations of Failure to Comply with the Member Code of Conduct