

Merton Council

Standards and General Purposes Committee

8 September 2016

Supplementary agenda

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|----|--|-------|
| 5 | Regulation of Investigatory Powers Act (RIPA)
Appendix 3: Proposed amendment to Part 3F of Merton's
Constitution | 1 - 2 |
| 10 | Appointment of Independent Person | 3 - 4 |

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3 Chief Legal Officer

3.1 The following matters are delegated to the Assistant Director of Corporate Governance for decision. Such decisions must be in accordance with the overall strategic policies set by the Council, and must in all cases be made within approved budgetary provision.

- (a) To authorise, issue, prosecute and defend any legal proceedings (including appeals and enforcement) on behalf of the Council in consultation with the Chief Executive or the appropriate officer in circumstances where the proceedings are incidental or ancillary to any power contained within the Scheme of Delegation to Officers.
- (b) To arrange for any legal proceedings to be conducted by any solicitor or barrister employed within the Corporate Governance Division including appearances before any court or tribunal in which the officer has rights of audience.
- (c) To authorise in consultation with the Head of Paid Service the payment of any award of damages, compensation and costs made by any court or tribunal against the Council.
- (d) To settle or compromise any legal proceedings on behalf of the Council in consultation with the appropriate Chief Officer including the agreement and payment or receipt of damages excluding legal costs.
- (e) To give undertakings to any court or tribunal on behalf of the Council and to give solicitor's undertakings where appropriate and within the rules and guidance issued by the Law Society.
- (f) To instruct counsel, solicitors, expert witnesses or cost assessors to act on behalf of the Council.
- (g) To issue and serve any legal notice or document necessary or ancillary or incidental to the given effect of any decision taken by Council, Cabinet, any Committee or Sub-committee or any officer under the Scheme of Delegation to Officers.
- (h) To be the Senior Responsible Officer (SRO) with regard to the Regulation of Investigatory Powers Act (RIPA) and ~~To~~ to nominate Authorised Officers to determine ~~Regulatory and Investigatory Powers Act~~RIPA requests.
- (i) Unless there is an express statutory requirement on a named official or category of officials, any document which the Council is required or authorised by or under any enactment to be given made or issued by the Council in any capacity may be signed on behalf of the Council by the "Authorised Officer". The "Authorised Officer" is the Assistant Director of Corporate Governance or any officer authorised by the Assistant Director of Corporate Governance.

- (j) To make proper arrangements with respect to any documents that belong to, or are in the custody of, the Council or any of the Council officers and workers.

3.2 These matters are in addition to the delegations and authorisations set out in Articles 12 and 14 of the Constitution. This Section must be read in conjunction with Section D,E and F of part 3F.

Committee: Standards and General Purposes Committee

Date: 8 September 2016

Wards: All

Subject: Appointment of Independent Person

Lead officer: Paul Evans, Assistant Director Corporate Governance

Lead member: Councillor Peter McCabe, Chair of Standards Committee

Contact officer: Julia Regan, Head of Democracy Services, 0208 545 3864

Reason for urgency: The Chair has approved the submission of this report as an urgent item, in order to prevent delay in filling the vacant Independent Person position.

Recommendations:

- A. That the Standards and General Purposes Committee agrees that an interview panel comprising one councillor from each political group should be appointed to interview and recommend to Council the appointment of one Independent Person to serve for a period of three years.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report seeks approval to commence the recruitment of a new Independent Person and to appoint an interview panel, comprising one councillor from each political group to interview all candidates and recommend to Council the appointment of the successful applicant.
- 1.2. The now defunct Standards Committee previously put arrangements in place for the recruitment of independent persons and agreed to combine the roles of the independent persons and the independent non-voting co-opted members of the Standards Committee.

2 DETAILS

INDEPENDENT PERSONS

- 2.1. The Localism Act 2011 requires the council to appoint at least one independent person. The functions of the independent person, set out in the council's constitution, are:
- The independent person must be consulted and views taken into account before the authority takes a decision on any allegation it has decided to investigate
 - The independent person may be consulted by the authority in circumstances where the authority is not taking a decision whether to investigate the allegation
 - The independent person may be consulted by a member of the authority against whom an allegation has been made.
- 2.2 Two independent persons were appointed in July 2015. One of them, Suresh Patel, resigned on 31 August 2016, creating a vacancy.

2.3 Officers will commence the recruitment of a new Independent Person as soon as possible, subject to the agreement of this Committee.

3 ALTERNATIVE OPTIONS

3.1. The Council must appoint at least one independent person

3.2. The composition of the interview panel is discretionary

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. None

5 TIMETABLE

5.1. N/A

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. Independent persons are invited to attend meetings of the Standards and General Purposes Committee, and are paid £100 per meeting. The recommendations in this report will not lead to any increase in the overall budget for allowances

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. See body of report

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None specific to this report

9 CRIME AND DISORDER IMPLICATIONS

9.1. None specific to this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None specific to this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. None