

# RIBBLE VALLEY BOROUGH COUNCIL REPORT TO ACCOUNT AND AUDIT COMMITTEE

Agenda Item No.

meeting date: 26 JULY 2017  
title: THE ROLE OF INDEPENDENT PERSONS  
submitted by: CHIEF EXECUTIVE  
principal author: MAIR HILL

## 1 PURPOSE

1.1 To inform Councillors on the role of the Independent Persons.

1.2 Relevance to the Council's ambitions and priorities:

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

## 2 BACKGROUND

2.1 At the meeting of this Committee on 29 March 2017, it was noted that the composition of the Committee had changed since the Localism Act 2011 came into effect and since the provisions were put in place with regard to Independent Persons. It was requested therefore that a report be submitted to Committee setting out the role of the Independent Persons.

2.2 The Localism Act 2011 (the "Act") implemented a new standards regime. The Council's arrangements for dealing with this are set out in the reports to Account and Audit Committee dated 27 June 2012 and 22 August 2012. Copies of these reports can be found at  
[https://www.ribblevalley.gov.uk/download/meetings/id/3589/changes\\_to\\_standards\\_reqi\\_me](https://www.ribblevalley.gov.uk/download/meetings/id/3589/changes_to_standards_reqi_me)  
[https://www.ribblevalley.gov.uk/download/meetings/id/3680/implementation\\_of\\_the\\_code\\_of\\_conduct](https://www.ribblevalley.gov.uk/download/meetings/id/3680/implementation_of_the_code_of_conduct)

2.3 The Act abolished the requirement for each Council to have a Standards Committee with independent members and chair. Section 28 of the Act, sets out the requirements, which replace it. 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]**

2.3 Having followed the required recruitment procedure, the Council appointed two Independent persons in July 2012 (Mr IB Dearing and Mr IS Taylor). They receive no allowance in respect of this. Their appointments were reaffirmed by Committee on 29 March 2017.

2.4 On 23 June 2013, Committee also approved a protocol for the Independent Persons to supplement the provision of the Act set out above. The protocol (which was finalised following a training session with members and the independent persons) contains a flow chart showing how complaints will be dealt with. A copy of the protocol is enclosed with the report as **Appendix 1**.

### 3. ISSUES

3.1 Members are asked to note the role of the Independent Persons as set out above.

### 4 RISK ASSESSMENT

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

- Resources – Resources will need to be expended if a recruitment process is required
- Technical, Environmental and Legal – The consideration of the appointments will fulfil the requirements of the Act.
- Political – None
- Reputation – The consideration of the appointments of independent persons will enhance the reputation of the Council.
- Equality & Diversity – None

### 5 CONCLUSION

5.1 Committee note the role of the Independent Persons.

MAIR HILL  
SOLICITOR

MARSHAL SCOTT  
CHIEF EXECUTIVE

### BACKGROUND PAPERS

For further information please ask for Mair Hill, extension 3216

REF: MJH/MJH/Account & Audit/ 26 July 2017

# APPENDIX 1



## INDEPENDENT PERSON PROTOCOL

### Introduction

The purpose of this protocol is to establish the relationship between each independent person (“IP”) and the various parts of the local authority involved in the process of handling standards complaints and promoting standards within the authority. In doing so it will ensure that responsibility is clear at each stage of the process and will set out the roles and responsibilities of the IPs. A flow chart illustrating the processes to be followed and the IP’s involvement in that can be found at **Appendix 1**.

### Consideration Of Written Allegations

1. The Monitoring Officer (“MO”) will seek the views of at least one IP before reaching a decision on whether any further action should be taken on a written complaint.
2. When issuing the decision letter or communication, the MO will record that the IP has been consulted and that their views have been taken into account. Where the view of the MO and IP differ, the MO will record the reasons for following a particular course. The letter will make clear that it is the MO and not the IP who is the decision maker.

### Matters Under Investigation

3. A member who is the subject of a complaint alleging that they have breached the code of conduct (“**Subject Member**”) may seek the views of the IP. A Subject member who wishes to consult an IP must do so through the MO who will either contact the IP by email/ in writing and/or arrange for a meeting to take place on Council premises. The MO shall communicate any such arrangements to the Subject Member. A Subject Member must not contact an IP directly, and the IP should inform the MO immediately should any direct contact be attempted.
4. Where possible the MO will provide the IP with all available information to enable them to deal with an approach from a Subject Member.
5. Where a Subject Member seeks the views of the IP via a meeting in person, an independent note taker from within the Council will take a record of the proceedings. The notes will be made available to all relevant parties, subject to any issues surrounding the Data Protection Act (“**DPA**”) and/or confidentiality.
6. The IP must agree in advance with the Subject Member rules of confidentiality but it will be the IP’s decision upon what shall remain confidential, but in the event that the matters remain confidential a note should be taken to make clear that confidential matters were discussed. Again, this is subject to the provisions of the DPA

7. The MO may also consult the IP at any time during the investigation.

### **Reference to Accounts and Audit Subcommittee for local hearing and determination**

8. Where a matter has been referred to the Subcommittee for determination, the Subcommittee must seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and where those views do not reflect the determination reasons must be given for any differences. However, it must be clear that it is the Subcommittee and not the IP who is the decision maker.

### **Relationship With Accounts And Audit Committee**

9. The IP shall receive agenda and minutes of all the meetings of Accounts and Audit Committee, be allowed to request for items to be added to the agenda with the agreement of the Chair and be permitted to speak at committee (but not take part in any debate).

10. The IP are not members of the Accounts and Audit Committee and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the Chair.

11. The MO or Accounts and Audit Committee may request the IP to assist in any training on conduct issues

12. The IP may raise any concerns about standards issues or implementation of the process with the MO or Chair of the Accounts and Audit Committee.

13. The IP shall be provided with access to such information and facilities within the Council premises as are necessary for them to carry out their role.

14. The MO will meet or communicate as required with the IP to review relevant matters.

### **Other matters**

15. The IP shall not make any comment to the media on any matter without the prior agreement of the MO. Any requests for comments from the media shall be referred in the first instance to the MO who may refer these to the Chair of the Accounts and Audit Committee or the Subcommittee as appropriate.

16. The IP will sign a Code of Conduct, including a register of interests to be held by the MO and will declare any relevant interests in relation to complaints which are received to the MO who will decide whether the interest conflicts with their role and as such they should not be involved.

**APPENDIX 1**

**FLOW CHART OF IP INVOLVEMENT IN STANDARDS COMPLAINTS**

