

## **COUNCIL**

**17 JUNE 2010**

### **CONSTITUTIONAL MATTERS**

Report from/Author: Deborah Upton, Monitoring Officer

#### **Summary**

This report asks the Council to appoint a new independent member to the Standards Committee and to agree to increase the size of the Health and Adult Social Care Overview and Scrutiny Committee to include a non-voting representative of the Medway Pensioner's Forum. This report also informs the Council of a change to the scheme of delegation relating to executive functions.

#### **1. Budget and Policy Framework**

- 1.1 Constitutional issues and the membership of Committees are matters for full Council.

#### **2. Membership of the Standards Committee**

- 2.1 There must be at least three people on the Standards Committee. It must include at least two members of the authority and at least one independent member. The Standards Committee (England) Regulations 2008 require the Council to ensure that at least 25% of the members of the Standards Committee are independent members. The Chairman of the Committee must be an independent member. Other provisions prescribe that no more than one member of the Cabinet can be appointed to the Standards Committee but this must not be the Leader of the Council. In addition, because Medway is responsible for Parish Councils, at least two members of the Committee must be members of Parish Councils, who are not also members of Medway Council. The Parish representatives must sit on the Committee at all times when parish matters are being discussed.
- 2.2 The current composition and membership of Medway's Standards Committee is as follows:

<b>Composition</b>	<b>Current members</b>	<b>Date of Appointment</b>
4 Medway Councillors	Councillor Burt Councillor O'Brien Councillor Shaw Councillor Smith	Medway Councillors are appointed each May for a one year term of office.
6 Independent Members	Anthony Dance Janet Gray Christopher Sanford Fatima Shah Charles Thompson  One vacancy	12 May 2004 7 May 2008 15 April 2010 15 April 2010 15 April 2010
3 Parish Council representatives	Parish Councillor Buckwell Parish Councillor Coomber Parish Councillor Marsh	7 May 2008 15 May 2002 23 May 2006

- 2.3 Standards for England (SfE) guidance recommends that independent members should be appointed to serve on the Committee for fixed periods of four years and that they should serve no longer than two terms.
- 2.4 Independent members must be chosen in a fair and open way. The position has to be advertised in at least one local newspaper and in other similar publications or websites as considered appropriate. Independent members of the Standards Committee must not have been a member or employee of the Council within the previous five years and cannot be a member or officer of this or any other relevant authority. They must not be a relative or close friend of a Medway Councillor or employee of the Council and they must have applied for the appointment. The appointment has to be approved by the majority of members of the Council.
- 2.5 The Monitoring Officer has only recently completed a recruitment exercise for new members of the Standards Committee.
- 2.6 In conducting the interviews the Monitoring Officer had regard to recent guidance published by SfE which highlights the attributes and skills expected of an independent member as follows:
- a keen interest in standards in public life
  - a wish to serve the local community and uphold local democracy
  - high standards of personal integrity
  - the ability to be objective, independent and impartial
  - sound decision-making skills
  - questioning skills
  - leadership qualities
  - the ability to chair meetings

- 2.7 The outcome of interviews conducted in March was reported to the Council at its last ordinary meeting on 15 April when it was agreed to appoint three of the four high calibre applicants to the three vacancies on the Committee.
- 2.8 On 29 April 2010 Sue Jenkins, an independent member of the Committee since May 2008, notified the Monitoring Officer of her resignation. This has created a further vacancy for an independent member.
- 2.9 As this vacancy for an independent member of the Standards Committee has arisen so soon after the recent recruitment exercise the Monitoring Officer recommends the Council to appoint Mr John Sindrey, the fourth applicant, to this vacancy for a four year term. Mr Sindrey has confirmed his willingness to serve and, at the invitation of the Monitoring Officer, attended a briefing session for new independent members of the Committee on 27 May 2010.

### **3. Membership of the Health and Adult Social Care Overview and Scrutiny Committee**

- 3.1 At its meeting on 3 June 2010 the Health and Adult Social Care Overview and Scrutiny Committee agreed to recommend the Council to approve the addition of a second non-voting member to the membership of the Committee. Currently the Medway Local Involvement Network (LINK) nominates a representative to serve as a co-optee on the Committee in a non-voting capacity. The Committee would now like to invite The Medway Pensioners Forum to take up a place on the Committee in the same capacity. This is in response to the significant degree to which issues affecting older people are reflected in the business and work programme of the Committee.

### **4. Scheme of Delegation – Executive Functions**

- 4.1 Paragraph 1.4 (b) of the Leader and Cabinet rules, as set out in the Constitution, states that the Leader may amend the scheme of delegation relating to executive functions at any time during the year. The Leader must give written notice to the Chief Executive and to the person, body or Committee concerned. The notice must set out the extent of the change to the scheme of delegation, and whether it entails the withdrawal of delegation from another person or body. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- 4.2 The Leader has given written notice to the Chief Executive to make the following amendment to page 3.36 of the Constitution:

<b>8. Director of Regeneration, Community and Culture</b>	
8.19 Medway Park Car Park: <ul style="list-style-type: none"> <li>The operation of the parking ticket reimbursement system to the Medway Park users.</li> </ul>	Cabinet

## **5. Financial and legal implications**

- 5.1 There are no costs arising from the recommendations in this report.
- 5.2 The composition and membership of the Standards Committee has to comply with the provisions of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.
- 5.3 The Council is able to appoint non-voting co-optees to Overview and Scrutiny Committees and this was encouraged in government guidance on new Council Constitutions in 2000/2001 to bring outside views to the work of overview and scrutiny.

## **6. Risk management**

- 6.1 By ensuring a full complement of independent members, the Standards Committee will be able to operate effectively and efficiently.
- 6.2 The appointment of a representative from the Medway Pensioners Forum will provide the Health and Adult Social Care Overview and Scrutiny Committee with additional expertise around issues affecting older people.
- 6.3 There are no risk management implications arising from the amendment to the Scheme of Delegation.

## **7. Recommendations**

- 7.1 The Council is asked to appoint Mr John Sindrey as an Independent member of the Standards Committee for a four year term of office expiring in June 2014.
- 7.2 The Council is asked to agree a place on the Health and Adult Social Care Overview and Scrutiny Committee for a non-voting co-optee nominated by the Medway Pensioners Forum.
- 7.3 The Council is asked to note the Leader's amendment to the Scheme of Delegation relating to executive functions, as set out in paragraph 4 of the report.

### **Lead officer contact**

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### **Background papers**

The role and make-up of Standards Committees – guidance published by The Standards Board for England.