

COUNCIL

13 OCTOBER 2016

COUNCILLOR CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011 – APPOINTMENT OF INDEPENDENT PERSON

Report from/Author: Jan Guyler, Head of Legal Services

Summary

The Localism Act 2011 requires the appointment of an Independent Person to investigate allegations that a member is in breach of the Code of Conduct and the appointment of an Independent Person must be approved by the majority of the Members of the authority.

This report provides an update on progress made in recruiting an Independent Person recommends the appointment of two Independent Persons.

1. Budget and Policy Framework

1.1 The Council has complied with a statutory duty to adopt a code dealing with the conduct expected of Members and co-opted Members and has in place a process for considering complaints about Councillors' conduct under the Localism Act 2011. The Council also has common law powers to take action after considering any concerns about the conduct of Councillors which can be delegated.

2. Background

2.1 S28(7) of the Localism Act 2011 requires authorities to appoint at least one Independent Person whose views must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate and whose views should be sought by a member if that persons behaviour is the subject of an allegation. The appointment of an Independent Person under section 28(7) of the Localism Act 2011 must be approved by a majority of the Members of the Council.

2.2 The two previous appointments have ended and need to be replaced. A recruitment exercise has recently taken place to appoint two Independent Persons, the second being considered necessary as they would be called

upon to act in cases where the Independent Person had a conflict of interest in a particular matter.

2.3 We received fourteen applications. Four candidates were shortlisted for interview but one withdrew their application and one was unable to attend. Two candidates were therefore interviewed by a panel consisting of Jan Guyler (Head of Legal Services) and Teri Reynolds (Democratic Services Officer) on 30 September and 3 October 2016. Both candidates were outstanding so it was not necessary to interview further candidates from the applications received.

2.4 The Panel decided to recommend the Council to appoint Martin Pilkington as an Independent Person. He currently sits on the national professional panel dealing with complaints about teachers after a career as an employment lawyer both in the private and public sector. Martin Pilkington best met the person specification criteria and was the unanimous choice of the panel.

2.5 The Panel also decided to recommend the Council to appoint Daniel Lucas as an Independent Person when Martin Pilkington has a conflict of interest which prevents him carrying out his role or if the role of the Independent Person is vacant for some other reason. Daniel Lucas is a barrister and an experienced local government lawyer specialising in Planning and Litigation and currently employed as a financial ombudsman. Daniel Lucas also met the person specification criteria and was the unanimous choice of the panel for this role.

3. Options

3.1 The Council does not have an option to do nothing as the Localism Act requires the appointment of an Independent Person by the Council.

4. Advice and analysis

4.1 It is a statutory requirement to appoint an Independent Person to assist with allegations against Members. It is proposed that a day rate fee of up to £300 is paid to be negotiated by the Monitoring Officer. Clear targets for work will be agreed in advance with the Independent Person on a case-by-case basis.

5. Risk management

5.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. Using the following table this section should therefore consider any significant risks arising from your report.

Risk	Description	Action to avoid or mitigate risk
1. Reputational risk to the Council if complaints are not progressed in accordance with complaints procedure.	It is a statutory duty to appoint an Independent Person. Failure to do so would prevent the authority from processing complaints in accordance with the Council's own complaints procedure.	Appoint an Independent Person.

6. Financial and legal implications

- 6.1 There are no financial implications arising from this report.
- 6.2 The legal implications of the proposals are set out in the body of the report.
- 6.3 The appointment of an Independent Person under section 28(7) of the Localism Act 2011 must be approved by a majority of the Members of the Council.

7. Recommendations

- 7.1 The Council is asked to agree the appointment of Martin Pilkington as the Independent Person under section 28(7) of the Localism Act 2011 from the date of this meeting for a period of 4 years, to carry out the functions required by section 28(7) of the Localism Act 2011.
- 7.2 The Council is asked to agree the appointment of Daniel Lucas as the Independent Person under 28(7) of the Localism Act 2011 when Martin Pilkington has a conflict of interest which prevents him carrying out his role or if the role of the Independent Person is vacant for any other reason from the date of this meeting for a period of 4 years, to carry out the functions required by section 28(7) of the Localism Act 2011.

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Background papers

None

Appendices

None