

COUNCIL

8 OCTOBER 2020

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

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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 recruitment and 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 person's behaviour is the subject of an allegation. The appointment of an Independent Person under s28(7) of the Localism Act 2011 must be approved by a majority of the Members of the Council.
- 2.2. The Local Authorities (Standing Orders) (England) Regulations 2015 (SI 2015/881) provide that a local authority must include at least two independent

persons to a panel hearing the dismissal of a senior officer (Chief Executive, S151 Officer or Monitoring Officer).

- 2.3. At present there is no provision in the Localism Act 2019 that limits the number of times a person can be appointed as an IP and the term of appointment. The Local Government Ethical Standards – A Review by the Committee on Standards in Public Life report published in January 2019 made the following recommendations:
 - 2.3.1. Recommendation no.8 – The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once. The responsible body for making this amendment is central government.
 - 2.3.2. Best practice for Local Authorities no.7 – Local Authorities should have access to at least 2 Independent Persons.
- 2.4. The two previous appointments end on 12 October 2020 and need to be replaced. A recruitment exercise has recently taken place to appoint two Independent Persons. In light of the Covid-19 pandemic it is unknown when or if the government will amend the legislation. Therefore it is proposed that the status quo is maintained with the appointment of two Independent Persons with effect from 13 October 2020 for a term of 4 years. By appointing two Independent Persons the Council will have met the best practice requirements and provide for any conflicts of interest arising.
- 2.5. The post was advertised in early July prompting 8 applications. Seven candidates were shortlisted for interview with interviews taking place week commencing 27 July. The Panel decided to recommend the Council appoint John Greenhill and Harish Tekchandani as the two Independent Persons. John Greenhill is a retired Stipendiary Magistrate in the family and criminal courts. Harish Tekchandani is Solicitor specialising in property law. Both candidates best met the person specification criteria and were the unanimous choice of the panel.

3. Options

- 3.1. The Council does not have an option to do nothing as the Localism Act 2011 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 and subsequent legislation requires the appointment of 2 Independent Persons. It is proposed that a day rate fee of up to £350 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.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Reputational risk to the Council if complaints are not progressed in accordance with complaints procedure	It is a statutory duty to appoint two Independent Persons. Failure to do so would prevent the authority from processing complaints in accordance with the Council's own complaints procedure.	Appoint two Independent Persons.	B2

6. Financial implications

- 6.1. There are no financial implications arising from this report. Any payments to the Independent Persons would be covered within existing budgets.

7. Legal implications

- 7.1. The legal implications of the proposals are set out in the body of the report.
- 7.2. 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.

8. Recommendations

- 8.1. The Council is asked to agree the appointment of John Greenhill and Harish Tekchandani as the Independent Persons under section 28(7) of the Localism Act 2011 with effect from 13 October 2020 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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Appendices

None

Background papers

None