

<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>Wednesday 19 September 2018</b>
<b>Title of report:</b>	<b>Independent Person for Standards</b>
<b>Report by:</b>	<b>Solicitor to the council</b>

## **Classification**

Open – Report and Appendix 1

Appendices 2 to 5 are exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

1 Information related to any individual

And the public interest in maintaining this exemption outweighs the public interest in disclosing the information.

## **Decision type**

This is not an executive decision

## **Wards affected**

(All Wards);

## **Purpose and summary**

To inform Council of the progress in the recruitment of independent persons and to recommend a way forward.

## **Recommendation(s)**

**That:**

- (a) the committee consider the recommendation of the panel and determine whether to recommend any appointees to Council;**

- (b) **subject to receipt of any applications from members of the Worcestershire pool of independent persons, it be recommended to Council that Herefordshire Council join the Worcestershire pool; and**
- (c) **it be recommended to Council that authority be delegated to the monitoring officer to formalise appointment of any members of the Worcestershire pool of Independent Persons that apply to Herefordshire Council.**

## **Alternative options**

1. Do nothing: this is not recommended as Herefordshire currently only has one independent person. In order to avoid any potential conflicts of interest in dealing with complaints, allow flexibility during periods of holiday and sickness, to ensure good governance of the standards process and to provide the existing independent person with sufficient regular support, advice to members subject to complaints, and as a member of the standards panel, it is recommended that more independent persons are appointed.
2. Recommend appointment of the applicants interviewed by the panel: The panel were minded not to recommend appointment because of concerns that the potential appointees were all from a judicial background.
3. Join the Worcestershire pool (see details below). This is not recommended at this stage because no applications have been received from their independent persons.

## **Key considerations**

4. Under Section 28 (7) of the Localism Act 2011 (“the Act”) the council must appoint at least one independent person as part of the arrangements under which allegations about a failure to comply with the code of conduct can be investigated and decisions on allegations made. The role of independent persons is explained in the information pack for applicants at appendix 1.
5. A person may not be recommended for appointment under the Act unless (i) the vacancy has been advertised in such manner as the authority considers is likely to bring it to the attention of the public and (ii) the person has submitted an application to fill the vacancy.
6. Council delegated these two recruitment stages to the monitoring officer on 25 May 2012.
7. Whilst the council currently has one independent person, but has approved the principle that up to three independent persons be appointed.
8. A recruitment campaign commenced at the beginning of 2018 with the details being provided on the council and Hoople’s website. In addition, the advert was placed with several nationwide job boards, which included CV Library, Indeed and Universal Job Match. Social media platforms including LinkedIn, Twitter and Facebook were also utilised to communicate the post. This meant that users subscribing to these services would have been directly notified of this position when the advert was placed. This is the process that had been used previously and reflects the council’s digital approach to bringing matters to the attention of the public. Three applications were received.
9. On 31 July and 6 August 2018 three interviews were undertaken by a panel consisting of the monitoring officer and two members of the audit and governance committee.

10. The panel felt unable to make recommendations on the appointments due to the fact that the recruitment programme had only attracted interest from a selection of judicial office holders and not achieve any interest from the wider public.
11. A wider recruitment exercise can take place with more traditional advertising in the local newspapers..
12. A number of public authorities in Worcestershire (Worcestershire County Council, Malvern Hills District Council, Worcester City Council, Wychavon District Council, Wyre Forest District Council and the Hereford and Worcester Fire and Rescue Authority) have combined forces to create a joint pool of independent persons. Individuals may be used from this pool by any of the participating authorities as appropriate for particular cases. During 2012 Worcestershire County Council's Head of Legal and Democratic Services and the Monitoring Officer for Wyre Forest District Council undertook the process of recruiting the statutory Independent Persons on behalf of the six participating authorities.
13. Some exploration has been undertaken about the potential for Herefordshire to join this arrangement but in order to do so the independent persons who form part of the joint working arrangement must confirm their wish to apply to be an independent person for Herefordshire as well as the existing pool member authorities; having done so there would be no further interview requirement as that process has already been undertaken. The pool members have been asked if they wish to submit an application to fill the vacancy and their responses are awaited.
14. Subject to receiving one or more applications from existing pool members it is recommended that Herefordshire Council join the Worcestershire pool of Independent Persons. Doing so would attract a small annual fee but would provide resilience to the overall standards system in the county and would not preclude appointment of our own Independent Persons.

## **Community impact**

15. In accordance with the code of corporate governance Herefordshire Council is committed to behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law.
16. Ensuring that there are sufficient numbers of Independent Persons to facilitate and effective and robust standards process, and that the appointment of those Independent Persons has been carried out in an objective, transparent and lawful way assists us in upholding the principles of the code of corporate governance and the council's values.

## **Equality duty**

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 18. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 19. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. The council's recruitment process ensure compliance with equality legislation.

## **Resource implications**

- 20. The cost of advertising the post in the Hereford Times is anticipated to cost £200 and the fee to join the pool is approximately £250. Both of these costs will come from existing budgets within Democratic Services.

## **Legal implications**

- 21. The legal implications are set out in the key considerations section above.

## **Risk management**

- 22. There is a reputational risk to the council if it is unable to manage effectively its standards complaints process. There is also a risk to councillors in Herefordshire if there are no independent mechanisms in place to support them in their responsibilities towards good governance and adhering to the members' code of conduct.

## **Consultees**

- 1. The interview panel for the recruitment of independent persons, and their papers are appended at exempt appendices 2 to 5.

## **Appendices**

Appendix 1 – Information pack for recruitment of independent persons

Appendix 2 – Summary of scoring for each candidate

Appendix 3 – Application form for candidate 1

Appendix 4 – Application form for candidate 2

Appendix 5 – Application form for candidate 3

## **Background papers**

None