

Meeting:	Council
Meeting date:	Friday 15 February 2019
Title of report:	Recruitment of independent persons
Report by:	Chairperson of audit and governance committee

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To approve the appointment of additional independent persons for standards.

As part of its arrangements under which allegations that elected members may have breached the code of conduct, the council must appoint at least one independent person. Herefordshire Council currently has one independent person, but this does not provide sufficient cover to address potential conflicts of interest or enable the support of the independent person to be offered to subject members. Audit and Governance Committee, which Council has delegated to oversee the process of recruitment of independent persons, has undertaken a thorough recruitment and selection process and is recommending the appointment of a further eight independent persons serving a term of office of four years.

Recommendation(s)

That:

- (a) **the following candidates be approved for appointment for a term of office of four years from the date of appointment:**
- **Sheila Archer**
 - **Jake Bharier**
 - **Bryn Caless**

- **Malcolm Foorde JP**
- **Gelard Hodson**
- **Claire Jenkins**
- **Stephen Willmot**
- **Roger Yates**

Alternative options

1. Not to recommend the appointment of additional independent persons for standards. 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. The interview and selection process was carried out by the panel in accordance with the council's processes for recruitment of employees, to ensure that a fair and robust process had been followed.

Key considerations

2. 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. There is no maximum number of persons that may be appointed.
3. 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.
4. The audit and governance committee at its meeting on 23 January 2019 approved the recommendation to Council to appoint additional independent persons for standards.
5. It is a function of the audit and governance committee to oversee the process for the recruitment of the Independent Persons and to make recommendations to Council for their appointment.
6. At the meeting of the committee held on 28 November, and following an extensive advertising campaign, a panel was established to interview the nine candidates who had applied, all of whom had confirmed their eligibility for appointment.
7. The interviews were held on 12 and 14 December 2018, and the interview panel consisted of:
 - Councillor ACR Chappell
 - Councillor EJP Harvey
 - Councillor PD Newman, OBE
 - The chief finance officer (substituting for the monitoring officer)
8. The interview panel unanimously recommended that eight candidates be appointed as independent persons for standards. A brief biography of the candidates are contained within appendix 1.

Community impact

9. 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.
10. Ensuring that there are sufficient numbers of Independent Persons to facilitate an 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

11. 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;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
12. 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

13. The cost of advertising the post in the local press was £1,043 (inclusive of VAT) and was met from existing budgets within Democratic Services
14. There is currently no budgetary provision made for allowances to be paid to any appointed independent persons. It is also not possible at this point to assess the average time commitment expected if a larger group of Independent Persons were available. If the committee is minded to consider recommending to Council the payment of an allowance it may be appropriate to do so after the wider pool has been operating for a period of time to inform any assessment of appropriate remuneration. It may also wish to consider seeking the views of the council's Independent Remuneration Panel.

Legal implications

15. The Localism Act 2011 created the role of 'independent persons'. The Act requires all councils to adopt a code of conduct for elected members and to appoint at least one independent person to assist the council in dealing with complaints that the code of conduct may have been breached

16. Section 28(7) of the Act provides that a person is not independent if he is :-
- a) a member, co-opted member or officer of the council
 - b) a member, co-opted member or officer of a parish council of which the council is a principal authority
 - c) a relative, or close friend, of a person within a or b above.
17. Further a person may not be appointed if any time during the 5 years ending with the appointment the person was:-
- (i) a member, co-opted member or officer of the authority, or
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;
18. A person may not be appointed unless:-
- (i) the vacancy for an independent person has been advertised in such a manner as the council considers is likely to bring to the attention of the public
 - (ii) the person has submitted an application to fill the vacancy to the authority, and
 - (iii) the person's appointment has been approved by a majority of the members of the authority;
19. An independent person does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.
20. The council has complied with the legal requirements regarding appointment of independent persons

Risk management

21. 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

22. None

Appendices

Appendix 1 – brief biography of candidates recommended for appointment.

Background papers

None identified.