

Title of report: Recruitment of Independent Persons and Standards update

Meeting: Audit and Governance Committee

Meeting date: Monday 13 March 2023

Report by: Senior Lawyer, Corporate Services

Classification

Part exempt, Schedule 1 contains information which relates to individuals who are recommended for appointment.

This report is open but Appendix 1 is exempt by virtue of the paragraph 1 of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended, as it contains information related to any individual.

Decision type

This is not an executive decision

Wards affected

(All Wards)

Purpose

To enable the committee to be assured that high standards of conduct continue to be promoted and maintained. To ensure that Independent Persons are appointed by the Council in accordance with the Localism Act 2011.

Recommendation(s)

That:

- a) Members recommend the full Council (at its AGM) appoint the Independent Persons set out in Appendix 1 for a four year term;**
- b) Members note the revised procedure to be used when dealing with complaints, set out at Appendix 2; and**
- c) Members note the new website pages.**

Alternative options

1. There are no alternative options as the Localism Act 2011 provides that the Council must appoint Independent Persons to help it deal with complaints and the standards process.

Key considerations

2. Herefordshire Council, and all parish, city and town councils in the county, have a statutory duty under the Localism Act 2011 to 'promote and maintain high standards of conduct by members and co-opted members of the authority'.
3. The Monitoring Officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct and for administering the local standards framework. This work must be supported by Independent Persons, under the Localism Act 2011.

Independent Persons

4. Section 28(7) of the Localism Act requires that the council appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct. The Council has agreed that two Independent Persons will be consulted. Therefore there is a requirement for at least four Independent Persons, as there also have to be Independent Persons who can be consulted by the complainant. There needs to be separation between these roles, due to the potential for conflicts of interest, hence the requirement for at least four Independent Persons.
5. There are currently two Independent Persons appointed, as we received two resignations during 2022/23. The two Independent Persons are appointed until the AGM in May 2023. There is therefore an urgent need to appoint additional Independent Persons, and the Monitoring Officer is grateful for the work of the current Independent Persons during their term of office.
6. The Council is currently undergoing a recruitment exercise for additional Independent Persons, and we anticipate reporting the outcome to the Committee at its meeting. This is an unremunerated post, and the recruitment pack has been published (at the time of publication, this is available at [Recruitment of Independent Persons](#)). Recommendations for appointment are made by the Audit and Governance Committee to full Council, who are responsible for the appointment. Interviews are scheduled for 6 and 7 March, and the Chair of the Audit and Governance Committee has formed part of the interview panel with the Monitoring Officer.
7. The recommended appointments are set out at Appendix 1 (exempt document, to follow).

Code of Conduct

8. A revised standards procedure to investigate code of conduct complaints was endorsed by this Committee on 24 September 2019. A review of the arrangements was started in January 2021, however this was put on hold as a model code of conduct complaints process was due to be developed by the Local Government Association. The [Guidance on Member Model Code of Conduct Complaints Handling | Local Government Association](#) was published in September 2021. This has now been adapted for use by the Council and a copy of the Council's own procedure is attached at Appendix 2.

Annual Report

9. The Annual Report was not carried out in 2021, presumably due to the various changes in the Monitoring Officer at that time. To ensure that we report at an appropriate interval, we propose to bring the next Annual Report to the June meeting of the Committee, which will ensure that

reporting timescales can run for each municipal year. This will also allow for the new Independent Members to have an involvement with the annual sampling process and the Annual Report, and will form part of their induction.

Website

10. We have reviewed the Code of Conduct complaints area on the Council's website. It has been sitting within the corporate complaints section and we feel that this could potentially be confusing for members of the public. Therefore a dedicated webpage has been provided which contains links to all relevant information. In addition, complaints are now received into a dedicated inbox which should speed up the procedure and allow for better oversight by the Monitoring Officer and her staff.

Community impact

11. Having an effective process for dealing with code of conduct complaints upholds principles A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities

Environmental impact

12. There are no environmental impacts arising from this report.

Equality duty

13. 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.
14. 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 recruitment of Independent Members has been carried out having regard to this duty, and we will be undertaking equalities monitoring in respect of the applications.

Resource implications

15. There are no resource implications arising directly from this report which is for information.
16. The Independent Persons receive no allowances and are only reimbursed their travel expenses for meetings with the Monitoring Officer or other necessary office attendance.

Legal implications

17. The Council is required to comply with the duties required under the Localism Act 2011, in particular the appointment of Independent Members.

Risk management

18. There is a risk that there are no suitable candidates for the role of Independent Member and that a new recruitment exercise will be needed. If this is the case, then the Monitoring Officer would recommend that the recommendations to full Council for appointment are made by her, in consultation with the Chair of the Audit and Governance Committee, who is involved with the recruitment exercise.

Appendices

Appendix 1 Recommendations for appointment as Independent Persons (exempt document, to follow)

Appendix 2 Arrangements for dealing with complaints about the Code of Conduct for members

Background papers

None identified.