

Title of report: Appointment of Independent Persons

Meeting: Council

Meeting date: Friday 19 May 2023

Report by: Director of Governance and Legal Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

This report is to enable the Council to extend the term of office of its existing two Independent Persons, and to appoint two additional Independent Persons, for a term of four years.

As part of its arrangements under which allegations that elected members, town and parish councillors may have breached the code of conduct, the Council must appoint at least one independent person. Herefordshire Council resolved at its meeting in May 2022 to seek the views of two independent persons for each complaint. The same independent persons are utilised as part of any process that could lead to a dismissal of a statutory officer.

The Council currently has two independent persons whose initial term of office expires at this Annual General Meeting. The appointment of only two independent persons does not provide sufficient cover to address potential conflicts of interest, allow for periods of absence or enable the support of an independent person to be offered to subject members.

Recommendation(s)

That:

- a) **The Council appoint Jake Bharier, Claire Jenkins, Michelle Morgan and James Cooke as independent persons for a four year term of office.**

Alternative options

1. To re-advertise the vacancy and seek applications from others wishing to fulfil this role. The Council has already undertaken one unsuccessful recruitment exercise and the proposed new appointments both have local government experience which will be very useful in the standards process, as well as a range of wider skills that will make a good contribution to the office of Independent Person.
2. The Council could choose not to extend the term of the existing Independent Persons. However they have valuable experience that the Monitoring Officer would not wish to lose, and to remain with two Independent Persons would reduce capacity and put an increased workload on the two new Independent Persons.

Key considerations

3. Section 28 of the Localism Act 2011 requires the Council to appoint at least one Independent Person as part of its standards arrangements, and their views must be sought by the Monitoring Officer before making a decision on a Member Code of Conduct allegation. There is no maximum number of persons that may be appointed.
4. The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 and paragraph 4.9.23l of the Constitution requires at least two Independent Persons to be consulted and to sit on the Independent Panel when dealing with any recommendation to Council to dismiss a Statutory Officer.
5. The Council agreed at its meeting in May 2022 to modify the LGA Guidance so that it would have two Independent Persons to provide their views on each Member Code of Conduct complaint. In addition, subject members are able to seek the views of an independent person, thereby potentially requiring a third person to give a view.
6. A person may not be recommended for appointment under the Localism 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.
7. In accordance with the requirements of the Localism Act, a recruitment campaign was undertaken in February 2023. This did not prove successful and a further recruitment campaign took place in April 2023. The Council had two applicants, who were interviewed by the Monitoring Officer and Senior Governance Lawyer. A brief biography of the candidates to be recommended is attached as Appendix One.
8. The two existing Independent Persons were appointed by the Council for a four year term in February 2019. This was extended by the Chief Executive under his urgency powers and their term of office now expires at this Annual General Meeting. They have made a valuable contribution to the standards process over the last four years and have extensive experience, and the Monitoring Officer is keen to retain their services. They have both submitted applications and are willing to be re-appointed for a further four year term.
9. Under the Constitution, the recommendation for appointment of Independent Persons would usually be made by the Audit & Governance Committee. In view of the timetable for the recruitment exercise and the election period, this has not been possible and the recommendations are those of the Monitoring Officer, who has the statutory responsibility for dealing with standards matters.

Community impact

10. The position of Independent Person is required by statute and the appointed individuals play an important part in the work of the Council, monitoring the probity and conduct of elected councillors and Town and Parish Councillors, for the benefit of the community that the Council serves.

Environmental Impact

11. There is no obvious environmental impact.

Equality duty

12. The appointment process for Independent Persons is an open and transparent one that takes account of the need to ensure that the Council is complying with the public sector equality duty. The recruitment exercise followed the Council's usual procedures for the recruitment of employees, and the role was widely advertised.

Resource implications

13. Expenditure relating to recruitment and expenses can be contained within current budgets. There is no allowance paid to Independent Persons other than expenses.

Legal implications

14. These are set out elsewhere in the report

Risk management

15. In the event that the Council does not have sufficient Independent Persons, there is a risk that it will not be able to meet its legal obligations.
16. 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

17. None

Appendices

Appendix 1: brief biography of candidates recommended for appointment.

Background papers

None identified

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published

Governance	Matthew Evans	Date 05/05/2023
Finance	Wendy Pickering	Date 10/05/2023
Legal	Sean O'Connor	Date 05/05/2023
Communications	Luenne Featherstone	Date 05/05/2023
Equality Duty	Harriet Yellin	Date 10/05/2023
Procurement	Lee Robertson	Date 05/05/2023
Risk	Kevin Lloyd	Date 09/05/2023

Approved by Claire Porter Date 11/05/2023