

REPORT TITLE: RECRUITMENT OF INDEPENDENT PERSONS

29 FEBRUARY 2024

REPORT OF CABINET MEMBER: Councillor Kathleen Becker – Cabinet Member for Community and Engagement

Contact Officer: Daniel Toohey – Deputy Monitoring Officer and Service Lead: Legal
Tel No: 01962 848 155 or Ext 2155 Email dtoohey@winchester.gov.uk

WARD(S): ALL

PURPOSE

In order to ensure the effectiveness of the council's arrangements for dealing with complaints against councillors it is recommended that a recruitment process be commenced for the role of Independent Person ("IP"), in compliance with statutory requirements.

RECOMMENDATIONS:

The Audit and Governance Committee is recommended to agree;

1. To commence the recruitment, via advertisement, selection, and interview, of three Independent Persons in accordance with the process outlined in Appendix 2.
2. The interview panel to consist of four Councillors, including three members of this committee and the Cabinet Member for Community and Engagement, due to her Cabinet Member responsibilities, with the Monitoring Officer and/or Deputy Monitoring Officer to be present as adviser to the panel.
3. The interview panel should subsequently recommend to Council the appointment of up to three Independent Persons.

IMPLICATIONS:

1. COUNCIL PLAN OUTCOME

- 1.1. This committee is responsible for maintaining high governance standards within the Council pursuant to its duties under the Localism Act 2011. The committee has the role of ensuring that the ethical standards regime forming part of the governance framework of the Council is robust, thereby engendering public confidence that the Council can deliver upon its priorities within the Council Plan.

2. FINANCIAL IMPLICATIONS

- 2.1. The costs of the advertising and recruitment process will be met from existing resources. The IPs (three) receive an allowance, which is proposed to be set at £800 per annum (currently £400 per annum) which is commensurate with remuneration at other Councils. This is a total additional annual cost of £1,200 which can be funded within existing budgets.

3. LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1. Under section 28 of the Localism Act 2011 the council is required to appoint, at least one IP to give a view on complaints against members, including whether to investigate a complaint for alleged breach of the Councillor's Code of Conduct.
- 3.2. The council may not appoint a person (or close associate of a person) who has been an officer, member, or co-opted member of the council within the 5 years prior to the appointment.
- 3.3. The appointment of any IP must be approved by Full Council.
- 3.4. As a result of the Local authorities (Standing Orders) (England) (amendment) Regulations 2015 the IP will also have a role in relation to the dismissal of the Head of Paid Service, Monitoring Officer, or Chief Financial Officer. At least two IP's must be invited to join any disciplinary panel in this respect.
- 3.5. There is a statutory requirement to ensure that the post is brought to the attention of the public therefore the selection process should entail notice via public advertisement and a draft of the proposed advert is shown at Appendix 1.
- 3.6. As above, in order to meet the eligibility criteria and given the importance the role plays in good governance, an appropriately robust selection and interview process should be carried out.

4. WORKFORCE IMPLICATIONS

4.1. None from this report.

5. PROPERTY AND ASSET IMPLICATIONS

5.1. None from this report.

6. CONSULTATION AND COMMUNICATION

6.1. This process is being undertaken in consultation with:

- The Audit and Governance Committee
- The Cabinet Member for Community and Engagement, due to her Cabinet Member responsibilities.
- The Council's Statutory Officers, being the Chief Executive, the S151 Officer and the Monitoring Officer
- Legal Services
- Democratic Services

7. ENVIRONMENTAL CONSIDERATIONS

7.1. None from this report.

8. PUBLIC SECTOR EQUALITY DUTY

8.1. The recruitment will be carried out in accordance with council's duties under the Equality Act 2010 and in accordance with the principles in the Council's Corporate Equality, Diversity, and Inclusion Plan.

9. DATA PROTECTION IMPACT ASSESSMENT

9.1. None from this report.

10. RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	Ensuring the Council always has the required complement of IPs to consider complaints or allegations against councillors or dismissal decisions re statutory officers, will ensure independent oversight and mitigate against improper decision-making which in turn protects the Council's strong financial arrangements.	Will meet the statutory requirements (set out in the body of this report) for independent oversight, strengthening governance and in turn ensuring reputation, and public confidence
Exposure to challenge	Appointment of IPs in accordance with statutory requirements removes the risk of non-compliance in that regard. In addition, the role of IPs aid in independent oversight therefore mitigating against poor decision making and inappropriate behaviours, aiding overall good governance.	Will meet the statutory requirements (set out in the body of this report) for independent oversight, strengthening governance and in turn ensuring reputation, and public confidence
Reputation	Appointment of IPs are required as this is a role which is part of the framework of independent oversight within the Council, which is key to maintaining trust and confidence in the good governance of the Council, and its reputation among residents and others.	Appointment of IPs, and the role they carry out, is an example of how the Council can demonstrate its engagement with independent oversight, to ensure good governance, in a reputable and appropriate manner.

Achievement of outcome	The Council is required by law to appoint IPs and the recommendations in this report achieve that critical outcome. In addition, the appointment of three IPs will mitigate against the risk of being below complement, in the event of illness or conflict arising with one of the IPs.	
Timescales	The Council should move to commence recruitment in a timely fashion to mitigate against the possibility of the existing IP resigning or becoming unavailable for whatever reason.	

11. SUPPORTING INFORMATION:

- 11.1. The Independent Persons (IPs) fulfil a statutory role in relation to Member conduct issues. There are also statutory provisions requiring that the Independent Persons will have a role in the event of a proposed dismissal of the Head of Paid Service, Monitoring Officer, or S151 Officer.
- 11.2. Independent Persons are appointed under section 28(7) of the Localism Act 2011. Their view is sought and taken into consideration before any decision is taken on whether a councillor has failed to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.
- 11.3. Two independent persons are also required to form an Independent Panel for the purpose of advising Council on the dismissal of any Statutory Officers.
- 11.4. The Audit & Governance Committee advises the Council on the adoption or revision of the Councillors' Code of Conduct and monitors the operation of the Code of Conduct, overseeing arrangements for dealing with complaints against councillors.
- 11.5. The Council currently has only one IP after the resignation of one and sadly the loss of another, and the Committee is being asked to approve the commencement of a recruitment process for the Council to increase its current complement to three IPs. This is the approach taken before and is considered

appropriate to ensure there is always availability among the pool of IPs, and to mitigate against the risk of being under complement, in the event of illness or conflict of interest arising with one or two of the IPs. This is in keeping with the approach adopted at other local authorities.

12. KEY ISSUES FOR CONSIDERATION

- 12.1. It is recommended that the interview panel consist of three members of this committee and the Cabinet Member for Community and Engagement, due to her Cabinet Member responsibilities. The Monitoring Officer and/or Deputy Monitoring Officer will also be present as advisers to the panel.
- 12.2. In line with the recommendations in the review of Local Government Ethical Standards by the Committee on Standards in Public Life the term of the appointments will be for two years with one extension allowed of up to two years.
- 12.3. Following interviews, the interview panel will recommend the successful candidates to be formally appointed at a subsequent Full Council meeting.

13. TIMETABLE

- 13.1. Subject to the Committee's approval, the timetable for the recruitment process will commence as soon as possible for appointment by Full Council at the earliest opportunity. The target date for Full Council is currently 11 July 2024.

14. OTHER OPTIONS CONSIDERED AND REJECTED

- 14.1. To not commence a recruitment process at this time. This would leave only one IP which could make dealing with complaints problematical and leaves the process open to delay. IPs are required for any Independent Panel required for the purpose of advising Council on the dismissal of any Statutory Officers

APPENDICES:

Appendix 1 – Draft Advertisement

Appendix 2 – Selection Procedure

Appendix 1

Appointment of an 'Independent Person'

Winchester City Council invites applications from anyone who wishes to take on the role of 'Independent Person' to assist it in its duty of promoting and maintaining high standards of Councillor conduct.

By law, the council's procedures for handling complaints about the conduct of Councillors must include the involvement of at least one person independent of the council. That person, when appointed, will need to be ready to attend meetings, to participate in discussions and to give views during any formal hearing.

We are looking for someone who wants to be involved in securing probity and integrity in public life. Applicants will need to be independently minded, impartial, objective, possess good communication skills and be able to work as part of a team. The role will entail contributing independent views and comments to draft reports on complaint matters, and the successful applicant will be able to demonstrate the ability to absorb information in a detailed fashion, and exhibit fair-mindedness, and sound judgement in a succinct manner.

The successful applicant will need to be available to attend meetings from time to time during the day, amounting perhaps to one day every two months on average. In view of the requirement for daytime meetings the council has three Independent Persons any one of whom may be called upon to give a view on any given matter.

This role pays an annual allowance, in addition to the recovery of relevant expenses. The appointment will be for a fixed term of two years with the option of a two-year extension.

For an informal discussion please contact **XXXXXXXX**, on **XXXXXXXX**.

For an application form and information pack, please contact the Monitoring Officer on email monitoringofficer@winchester.gov.uk

Applications will need to be returned to us by **XXXXXX**.

Appendix 2

Procedure for selection of Independent Persons**Introduction**

This procedure note covers the appointment of the role of Independent Person, as follows:

- 1.1 The Independent Person is appointed under section 28 (7) of the Localism Act 2011. Their view is sought and taken into consideration before any decision is taken on whether a Councillor has failed to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.
- 1.2 Independent Persons are not members of the authority and are not a member of a committee although they may be invited to attend certain committee meetings.

Independent Person

1. An advertisement will be placed in local newspapers that cover the district and on the council's website. Under section 28(8)(c) (i) of the Localism Act 2011, the vacancy for an Independent Person must be advertised in such a manner as the authority considers is likely to bring it to the attention of the public.
2. Interested persons will be sent an information pack in order that they may make an application. The information pack will consist of:
 - Role and Functions of Independent Person.
 - Person Specification.
 - An application form.
 - The eligibility and selection criteria that will be used by the appointments panel.
 - A copy of the Code of Conduct and Arrangements for dealing with complaints.
3. An appointments panel will be held to interview applicants. The panel will consist of a minimum of three members drawn from the Audit & Governance Committee and will include the Monitoring Officer and/or Deputy Monitoring Officer as adviser to the panel.
- 4 The appointments panel will make a recommendation as to appointments to Council. A majority of Councillors must approve the final decision to appoint.