

Cherwell District Council

Council

16 October 2017

<p>Standards Arrangements – Appointment of Independent Persons</p>

Report of Monitoring Officer

This report is public

Purpose of report

To appoint statutory independent persons as part of the standards arrangements.

1.0 Recommendations

The meeting is recommended:

- 1.1 To re-appoint Mr Graham Matthews as an independent person pursuant to section 28(7) of the Localism Act 2011 for a term of four years expiring on the date of the annual meeting of Council in 2021.
- 1.2 To agree to appoint a third independent person pursuant to section 28(7) of the Localism Act 2011.
- 1.3 Subject to the agreement of recommendation 1.2, to appoint Mr Stuart Green as an independent person pursuant to section 28(7) of the Localism Act 2011 for a term of four years expiring on the date of the annual meeting of Council in 2021.

2.0 Introduction

- 2.1 The Localism Act 2011 requires the standards arrangements adopted by the Council to include provision for the appointment of at least one independent person.
- 2.2 The terms of office of one of the two independent persons appointed by the Council has expired. It is therefore necessary to re-appoint the existing independent person for a further term, or to appoint a replacement independent person as appropriate.
- 2.3 It is also proposed to appoint a third independent person to assist with the high volume of parish related standards work and ensure continuity in light of any potential conflicts of interest or unavailability of an independent person.

3.0 Report Details

- 3.1 Section 28(7) of the Localism Act 2011 requires the standards arrangements adopted by the Council to include provision for the appointment of at least one independent person. This Council's arrangements currently provide for the appointment of two independent persons.
- 3.2 The Council currently has one standing independent person, Mr Tom Edwards, whose term expires on the date of the annual meeting of Council in 2020.
- 3.3 The views of the independent person must be sought and taken into account by the Council before it makes any decision on any allegation of councillor misconduct that it has decided to investigate. The views of the independent person may also be sought by the Council in any other circumstances provided for in the adopted arrangements, and also by the councillor who is the subject of a complaint. This Council's arrangements provide for the Monitoring Officer to seek the views of the independent persons at other stages of the complaints process e.g. on first receipt in deciding whether there is a potential breach of the code of conduct at all and, if there is, whether it is in the public interest to carry out an investigation/seek an informal resolution/take no further action.
- 3.4 Section 28(8) of the Localism Act 2011 sets out the test of independence in the following terms:-

(a) a person is not independent if the person is—

(i) a member, co-opted member or officer of the authority,

(ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or

(iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);

(b) a person may not be appointed under the provision required by subsection (7) if at 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;

(c) a person may not be appointed under the provision required by subsection (7) unless—

(i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it 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;

(d) a person appointed under the provision required by subsection (7) 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.

- 3.5 In 2013 Mr Graham Matthews was appointed as one of the Council's independent persons with his term expiring in 2017. The Council has publicised the vacancy in accordance with the above requirements and Mr Matthews has applied for re-appointment for a further four year term.
- 3.6 Mr Matthews has proved to be an excellent independent person who has provided full support to the Monitoring Officer when required on the receipt of complaints. Following consultation with the Chairman of the Standards Committee it is recommended that he be re-appointed for a further term expiring with the date of the annual meeting of Council in 2021.
- 3.7 Whilst the Council's arrangements currently provide for the appointment of two independent persons, it is proposed that a third independent person be appointed. The volume of parish complaints is relatively high and the work of the existing independent persons has supported the Monitoring Officer in reaching satisfactory resolutions to the complaints.
- 3.8 By appointing a third independent person, the risk of a conflict of interest arising is significantly mitigated. Additionally, it is highly unlikely that all three independent persons would be unavailable at the same time so the Monitoring Officer would always be able to consult with at least one independent person.
- 3.9 Following the advertisement of the vacancy as detailed in paragraph 3.4, seven applications were received. The applications have been reviewed by the Chairman of the Standards Committee, the Monitoring Officer and the Interim Democratic and Elections Manager. It is recommended that Mr Stuart Green be appointed as an independent person for a four year term expiring with the date of the annual meeting of Council in 2021.
- 3.10 Mr Green is an Independent Member (Standards) at Derby City Council, an Independent Member (Audit) at Newcastle City Council and an External Governor (Audit and Risk) at Middlesbrough College. Given his extensive experience, it is anticipated that his professional experience will provide the basis for successful service to the council and the wider district. It should be noted that the work of the independent persons takes place via email and telephone.

4.0 Conclusion and Reasons for Recommendations

- 4.1 In accordance with statutory requirements it is recommended that Mr Graham Matthews be re-appointed as one of the Council's statutory independent persons for a further period of four years and Mr Stuart Green be appointed as a third independent person for a period of four years.

5.0 Consultation

- 5.1 The Chairman of the Standards Committee was consulted by the Monitoring Officer and is supportive of the recommendations.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To appoint one rather than two further independent persons. This is rejected as the appointment of two further independent persons will mitigate the risk on conflicts of interest and provide ongoing support to the Monitoring Officer in considering complaints.

Option 2: To appoint alternative applicants. This is rejected because, Mr Matthews is a proven, high quality, independent person and it would be in the Council's interests to maintain continuity in the role and Mr Green is an experienced independent person serving other local authorities.

7.0 Implications

Financial and Resource Implications

- 7.1 Each independent person receives an annual allowance of £720 and receives travel/mileage allowance. This is provided for in the Members' Allowances budget. The allowance payable to an additional independent person can be met from existing budgets.

Comments checked by:

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Legal Implications

- 7.2 These are set out in the body of the report. It is necessary for full council to approve the appointment of an independent person.

Comments checked by:

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8.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

Not applicable – this report is made pursuant to a statutory requirement.

Lead Councillor

None

Document Information

Appendix No	Title
N/A	N/A
Background Papers	
N/A	
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