

Cherwell District Council

Standards Committee

17 March 2022

Standards Arrangements – Appointment of Independent Person

Report of Interim Monitoring Officer

This report is public

Purpose of report

To consider the arrangements for the appointment of an Independent Person in light of the resignation of a current Independent Person.

1.0 Recommendations

The meeting is recommended:

- 1.1 to delegate authority to the Interim Monitoring Officer, in consultation with the Chairman of the Standards Committee, to liaise with the candidates who applied for the Independent Person vacancy in the autumn 2021 and agree a preferred candidate to recommend to Council to be appointed for a term expiring on the date of the December Council meeting in 2025.
- 1.2 to thank Mr Graham Matthews for his service and diligence as an Independent Person for Cherwell District Council.

2.0 Introduction

- 2.1 The Localism Act 2011 (“the Act”) (Section 28, subsections (7) and (8)) requires the standards arrangements adopted by the Council to include provision for the appointment of at least one independent person to assist the Monitoring Officer in dealing with complaints about councillors’ standards of behaviour and alleged breaches of the Members’ Code of Conduct.
- 2.2 The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 (“The Regulations”) require the Council to invite relevant Independent Persons to a Panel (being a committee appointed by the authority under section 102(4) of the Local Government Act 1972) for the purposes of advising the authority on matters relating to dismissal of relevant officers of the authority. Such invitation must be issued to all relevant Independent Persons with a view to appointing at least two

Independent Persons to the Panel. The relevant officers to which these provisions apply by legislation are the council's Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

- 2.3 Following a robust recruitment process, at the 13 December 2021 Council meeting, Mr Graham Matthews and Mr Tom Edwards were appointed Independent Persons for a term of four years expiring on the date of the December meeting of Council in 2025.
- 2.4 Due to personal reasons, Mr Graham Matthews has tendered his resignation as an Independent Person with immediate effect.
- 2.5 it is therefore necessary to consider the approach to appointing a second Independent Person.

3.0 Report Details

- 3.1 In light of the resignation of Mr Graham Matthews, the Council currently has one Independent Person. Whilst the Council is still complying with the requirements of the Localism Act 2011 (section 28(7)), to have at least one Independent Person, the Standards Committee and Council agreed that two Independent Persons should it be necessary to set up a Panel in compliance with The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015. Having two Independent Persons also provides for resilience and
- 3.2 The report to the 13 December 2021 Council meeting ([Minute 55 refers](#)) sets out the robust recruitment process for the two Independent Persons appointed at that meeting, which had regard to the Act:
 - The recruitment exercise to include advertisement, application and interview.
 - The interview panel to consist of the Monitoring Officer, the Chairman of the Standards Committee and two members of the Standards Committee, one of whom to be an opposition member.
 - Interviews will be carried out virtually via video conference in November 2021 (exact date(s) to be agreed by the interview panel)
 - The appointments to be confirmed at the 13 December 2021 Council meeting with a positive vote by a majority of councillors
 - The appointments to be for 4 years (to December 2025)
 - The Independent Person "job description" and "role profile" to be approved by the Monitoring Officer, in consultation with the Chairman of the Standards Committee
 - The statutory restrictions whereby an Independent Person must not be a Member, co-opted Member or officer of Cherwell District Council or a Member, co-opted Member or officer of a parish council that falls within the area of Cherwell District Council

- Any application from an existing Independent Person to be considered on its merits

- 3.3 As part of the recruitment process, six applications were received and all candidates interviewed. The Panel had been extremely impressed with all candidates and considered all were appointable.
- 3.4 Given the robustness of the recent recruitment process, it is considered that it would be appropriate to delegate authority to the Interim Monitoring Officer to approach the candidates who were not appointed in the first instance to ascertain if they are still interested in the role.
- 3.5 The Interim Monitoring Officer would consult with the Chairman of the Standards Committee with a view to recommending an appointment to the 18 May 2022 Council meeting.
- 3.6 There is no prescribed time limit on the terms of office of Independent Persons and these are therefore within the discretion of the Council. To ensure consistency with the term of the current remaining Independent Person, it is recommended the appointment also be until the date of the December meeting of Council in 2025.
- 3.7 Mr Graham Matthews has been a diligent and valued Independent Person since he was first appointed as an Independent Person in 2013. The Chairman of the Standards Committee has written to Mr Matthews on behalf of the Council thanking him for his service to the Council and support to the Monitoring Officer.

4.0 Conclusion and Reasons for Recommendations

- 4.1 To comply with the statutory requirements the Council must appoint at least one Independent Person. Due to the resignation of one Independent Person, the Committee

5.0 Consultation

None in the preparation of this report

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: Not to recommend to Council the appointment of a second Independent Person.

Option 2: To undertake a full recruitment process. This is considered unnecessary as a full recruitment process was undertaken in autumn 2021 and all candidates were considered suitable for appointment.

7.0 Implications

Financial and Resource Implications

- 7.1 Each independent person receives an annual allowance of £768 and can claim travel expenses for attending meetings in person. This is provided for in the Members' Allowances budget. The law is clear that the payment of an allowance does not negate independence.

Comments checked by:

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Legal Implications

- 7.2 To comply with the requirements of the Localism Act 2011 (section 28(7)), the Council should appoint at least one Independent Person. However, should it be necessary to set up a Panel in compliance with The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 referred to in paragraph 2.2 above it is recommended that the Council appoints two Independent Persons.

Comments checked by:

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Risk Implications

- 7.3 Failing to appoint an Independent Person would place the Council in breach of its statutory duty under the Act and prevent the Monitoring Officer from dealing with complaints in accordance with the Council's code of conduct complaints procedure.
- 7.4 In addition in the event of there being a need to consider dismissal of a relevant officer and the Council not having appointed at least two Independent Persons the Council would be required to approach another local authority to seek to invite their appointed Independent Persons to form part of a Panel.

Comments checked by:

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Equalities and Inclusion Implications

- 7.5 The recent recruitment process was fair and open therefore this approach to reach out to previous applicants will enable the Independent Persons to be appointed on merit.

Comments checked by:

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8.0 Decision Information

Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N.A

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 number and title

- None

Background papers

None

Report Author and contact details

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