

Cherwell District Council

Council

17 May 2016

<p>Standards Arrangements - Appointment of Independent Person</p>
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Report of Head of Law and Governance

This report is public

Purpose of report

To appoint a statutory independent person following the expiry of the fixed term of Mr Tom Edwards.

1.0 Recommendations

The meeting is recommended:

- 1.1 To appoint Mr Tom Edwards 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 2020.

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 in 2012 expires with effect from the date this meeting. It is therefore necessary to re-appoint the existing independent person for a further term, or to appoint a replacement independent person as appropriate.

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 provide for the appointment of two independent persons.

3.2 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.

3.3 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.

3.4 In 2012 Mr Tom Edwards was appointed as one of the Council's independent persons with his term expiring on the date of today's meeting. The Council has publicised the vacancy in accordance with the above requirements and Mr Edwards has applied for re-appointment for a further four year term. Two other persons also applied to fill the role.

- 3.5 Mr Edwards 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 2020.

4.0 Conclusion and Reasons for Recommendations

- 4.1 In accordance with statutory requirements it is recommended that Mr Tom Edwards be re-appointed as one of the Council's statutory independent persons for a further 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 recommendation.

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 an alternative applicant. This is rejected because, although both other applicants submitted strong CVs, Mr Edwards is a proven, high quality, independent person and it would be in the Council's interests to maintain continuity in the role.

7.0 Implications

Financial and Resource Implications

- 7.1 Each independent person receives an annual allowance of approximately £700 and receives travel/mileage allowance. The allowances are met from existing revenue budgets in Law and Governance.

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

Councillor Barry Wood, Leader of the Council.

Document Information

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