

CHESHIRE EAST COUNCIL

REPORT TO: Audit and Governance Committee

Date of meeting: 24 September 2015
Report of: Head of Legal Services and Monitoring Officer
Title: Appointment of Independent Persons under the Localism Act 2011
Portfolio Holder: Cllr Paul Findlow

1.0 Report Summary

1.1 To approve a procedure for the recruitment of three Independent Persons to Cheshire East Council.

2.0 Recommendation

2.1 That the proposed recruitment process outlined in the report for the appointment of Independent Persons to Cheshire East Council be approved; and

2.2 The Head of Legal Services and Monitoring Officer, submit a report to Council on 17 December 2015, setting out the names of the nominated candidates to the posts for approval.

3.0 Reasons for Recommendation

3.1 To comply with the provisions of the Localism Act 2011 (the Act) which prescribes the process to be followed in the recruitment and appointment of Independent Persons.

3.2 The Act specifically requires the Council to appoint at least one Independent Person to help it discharge its duty to promote and maintain high standards of conduct.

4.0 Wards Affected

4.1 All wards

5.0 Local Wards Affected

5.1 All wards

6.0 Policy Implications

6.1 The Act places a statutory duty upon the Council to promote and maintain high standards of conduct amongst its own elected Members and any co-opted members. Strong ethical governance is critical to the corporate governance of the authority and also supports the Council's decision making processes across the organisation.

7.0 Financial Implications

7.1 Independent Persons are entitled to claim reasonable travel and subsistence costs; together with a £30 meeting allowance.

8.0 Legal Implications

8.1 The Act requires that the Council not only adopts a Code of Conduct but also has in place effective procedures to enable the investigation of any complaints or allegations that a member has been in breach of the code of conduct. There is a specific requirement to appoint an Independent Person to have involvement in this process.

9.0 Risk Assessment

9.1 If the Council fails to adopt an effective code of conduct together with an appropriate process for the investigation of complaints which is not only fit for purpose but robust and transparent then there are risks to the Council, not only from a reputational management view point, but also to the integrity of the Council's corporate governance and decision making processes as a whole.

10.0 Background

10.1 The Localism Act requires that the authority appoints 1 or more Independent Persons to the Audit and Governance Committee:

- Whose views must be sought and taken into account by the authority before it makes a finding that any member has failed to comply with the Code of Conduct or impose any sanction
- Whose views may be sought on whether to investigate a complaint and how to deal with a particular allegation
- In addition any member against whom an allegation has been made (including a town and parish councillor) may consult him or her regarding the allegation.

10.2 The Council also need to make arrangements for Independent Persons to sit on any committee/panel that deals with the potential dismissal of the Head of Paid Service (i.e. Chief Executive), the Chief Financial Officer and Monitoring Officer. Therefore it is anticipated that the Council will need to appoint at least three individuals to the role.

11.0 Recruitment of Independent Persons

11.1 The term of office for the three Independent Persons (Roger Pomlett, Robert Fousert and Peter Bryant are the current Council appointees) will end on 31 December 2015. Accordingly, arrangements need to be put in place to recruit and appoint individuals to this position from January 2016 for a four year period.

11.2 The Act requires that the Council follows a robust recruitment process for the appointment of Independent Persons. The vacancy must be advertised, application forms must be submitted and the individual appointments must be approved at full Council by a majority of the members of the authority.

11.3 Individuals are not eligible to be appointed or re-appointed as Independent Persons if they are a relative or close friend of any member, co-opted member or officer of Cheshire East Council and/ or any town or parish council within the area. Although it was not the case in 2012 when the present incumbents were appointed, an individual cannot now be re-appointed if they were a co-opted member serving on any Council committee within 5 years of their re-appointment, including being an independent member of the Standards Committee. Accordingly, of the three current Independent Persons, one will be ineligible for re-appointment.

11.4 To comply with the Act, an application pack and application form has been prepared (attachments 1 and 2). To ensure that the Monitoring Officer can complete the process in order to submit her report to the December Council meeting, a proposed timeline has been drafted to help manage the recruitment process (attachment 3).

11.5 The Committee is invited to approve the arrangements proposed for the recruitment of three Independent Persons to Cheshire East Council.

12.0 Access to information

12.1 The background papers relating to this report can be inspected by contacting the report writer:

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