

Council

Date of Meeting: 21 October 2020

Report Title: Appointment of Independent Persons for Standards Matters

Senior Officer: Acting Director of Governance and Compliance and Monitoring Officer

1.0 Report Summary

- 1.1 This report invites Council to appoint two Independent Persons to work with the Monitoring Officer and the Audit and Governance Committee on standards matters in accordance with the Localism Act 2011 ('the Act') and the Council's code of conduct complaints procedure.
- 1.2 The Council currently has 2 Independent Persons who were appointed by Council on 28 July 2016 for a term of 4 years (until 27 July 2020).
- 1.3 A public advertisement and interview process for the recruitment of Independent Persons planned for Spring 2020 was put on hold due to the Covid-19 pandemic.
- 1.4 In June 2020, in consultation with Group Leaders and Chair of the Audit & Governance Committee, it was agreed to postpone the recruitment in the circumstances and recommend to the next meeting of Council to extend the appointment of the two existing Independent Persons for a further year until 26 July 2021. This is proposed as an interim arrangement to enable the Council to undertake a recruitment process at a more appropriate time.
- 1.5 The Localism Act 2011 requires the appointment of Independent Persons to be approved by 'a majority of the members of the authority'. It was therefore considered to be more appropriate for this matter to be considered at the next meeting of Council rather than using the Council's urgency provisions.

2.0 Recommendation

- 2.1 That Council appoint Patricia Rathbone and Peter Bryant to serve as Independent Persons for a 1-year term until 26 July 2021 pursuant to

section 28 of the Localism Act 2011.

3.0 Reason for Recommendation

3.1 To comply with the requirements of the Act, the Council must appoint at least one Independent Person to deal with standards matters. To ensure that an Independent Person is always available, allowing for possible conflicts of interest and absences, it is recommended that two Independent Persons are appointed.

4.0 Implications for Rural Communities

4.1 Cheshire East Council is also responsible for handling standards complaints relating to 107 town and parish councils within the borough.

5.0 Legal Implications

5.1 These are set out in the background to this report. To comply with the requirements of the Act, the Council must appoint at least one Independent Person.

6.0 Risk Management

6.1 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.

7.0 Background

7.1 Section 28 of the Act requires the Council to appoint one or more Independent Persons.

7.2 The Independent Person has three roles to perform:

- (a) The views of an Independent Person must be sought and taken into account by the Council before it makes a finding that any Member has failed to comply with its code of conduct or imposes any sanction;
- (b) The views of an Independent Person may be sought on whether to investigate a complaint and how to deal with a particular allegation; and
- (c) Any Member against whom an allegation has been made (including a town or parish councillor) may consult the Independent Person regarding that allegation.

7.3 Individuals appointed as Independent Persons must be recruited through a formal procedure in line with the Act. To be compliant:

- (i) The vacancy must be advertised in such manner as the authority considers is likely to bring it to the attention of the public;

- (ii) An applicant has to submit a formal application to be appointed as an Independent Person, and
- (iii) The Independent Person's appointment must be approved by 'a majority of the members of the authority.'

The last requirement means that the appointment must be made by a meeting of Council.

7.4 An Independent Person must **not** be:

- (i) A member, co-opted member, or officer of Cheshire East Council; or
- (ii) A member, co-opted member, or officer of a town or parish council within Cheshire East; or
- (iii) A relative or close friend of any of the above.

7.5 In addition to the restrictions in the preceding paragraph, an Independent Person must **not** have been, at any time in the 5 years preceding the date of their appointment:

- (i) A member, co-opted member, or officer of Cheshire East Council; or
- (ii) A member, co-opted member, or officer of a town or parish council within Cheshire East.

8.0 Present position

8.1 In accordance with the Act, a public advertisement campaign was undertaken in 2016 to attract suitable applicants for the role of Independent Person. This attracted a large number of well qualified applicants.

8.2 Following a structured selection process, shortlisted applicants were interviewed on 18 July 2016 by a panel. Following those interviews, references were taken up and Patricia Rathbone and Peter Bryant were appointed by Council at its meeting on 28 July 2016.

8.3 Both Patricia Rathbone and Peter Bryant have agreed to continue as Independent Persons for a further year in the circumstances.

9.0 Access to Information

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

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