

CHESHIRE EAST COUNCIL

Council

Date of Meeting:	17 December 2015
Report:	Head of Legal Services and Monitoring Officer
Subject/Title:	Extension to the appointment of two Independent Persons

1.0 Report Summary

- 1.1 Council is invited to extend the term of office for those eligible Independent Persons currently appointed to work with the Monitoring Officer and the Audit and Governance Committee on standards matters in accordance with the Council's code of conduct procedure.

2.0 Recommendation

- 2.1 That the term of office for Mr Peter Bryant and Mr Robert Fousert be extended from 31 December 2015 for a period of six months until 30 June 2016.

3.0 Reason for Recommendation

- 3.1 To comply with the requirements of the Localism Act, the Council must have appointed at least one Independent Person to deal with standards matters. Extending the tenure of the eligible Independent Persons will ensure compliance with the Act during a period of recruitment to the post.

4.0 Implications for Rural Communities

- 4.1 Cheshire East Council is responsible for 107 Town and Parish Councils within its borough. Any delay in dealing with complaints due to the absence of an Independent Person could have a detrimental impact on the complaints process.

5.0 Legal Implications

- 5.1 To comply with the requirements of the Localism Act, the Council must appoint at least one Independent Person.

6.0 Risk Management

- 6.1 The absence of an Independent Person would prevent the Monitoring Officer from dealing with complaints in accordance with the Council's code of conduct complaints procedure.

7.0 Background

- 7.1 The Localism Act 2011 requires the Council to appoint one or more Independent Persons whose:

Views 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 impose any sanction;

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/or parish councillor) may consult him or her regarding the allegation

- 7.3 Individuals appointed as Independent Persons must be recruited via a formal procedure in line with the Localism Act i.e.

- (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 an application to fill the vacancy to the authority, and
- (iii) the person's appointment has to be approved by a majority of the members of the authority (i.e. full council).

8.0 Present position

- 8.1 On 19 July 2012, in accordance with Section 28 of the Localism Act 2011, Council appointed four individuals to the post of Independent Person for a period of three years until 31 December 2015. Accordingly, new appointments now need to be made.

- 8.2 Work has commenced on recruiting to the above posts which will not start in earnest until the New Year. This is to avoid the Christmas period with a view to drawing the vacancy to the attention of as wide a range of candidates as possible. As the process will commence after 31 December, arrangements need to be put in place to retain the services of at least one Independent Person during the recruitment process.

- 8.3 The Act prevents any person who has been a past Independent Member of a Council's Standards Committee from being appointed for a second term as an Independent Person, therefore one of the current Independent Persons is not eligible for re-appointment.
- 8.4 Of the other three, one resigned her post in September 2014. Therefore only Peter Bryant and Robert Fousert are eligible for re-appointment. It is proposed that their term of office be extended to enable the complaints process to continue to function.

9.0 Access to Information

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

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