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| To: | **Standards Committee** |
| Date: | **11 September 2018** |
| Report of: | **Monitoring Officer**  |
| Title of Report:  | **Appointment of Independent Persons in 2019**  |

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| Summary and recommendations |
| Purpose of report: | **This report informs the Committee of the proposed arrangements for the appointment of Independent Persons in 2019.** |
| Key decision: | No |
| Recommendation: That the Standards Committee notes and approves the Monitoring Officer’s proposals for the **proposed arrangements for the appointment of Independent Persons in 2019.**  |

# Introduction and background

1. The Localism Act 2011 (“The Act”) (Section 28, subsections (7) and (8)) requires the Council to appoint one or more Independent Persons and 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 head of the authority’s paid service, the chief finance officer or the monitoring officer.
2. The Independent Person has four roles to perform:

Standards

1. 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;
2. The views of an Independent Person may be sought on whether to investigate a complaint and how to deal with a particular allegation; and
3. Any Member against whom an allegation has been made (including a parish councillor) may consult the Independent Person regarding that allegation.

Dismissal of Relevant Officers

1. The Independent Persons may be appointed to a Panel which would provide advice, views or recommendations to the Council before a vote was taken at a meeting on whether or not to approve the dismissal of a relevant officer
2. Individuals appointed as Independent Persons must be recruited through a

formal procedure. To be compliant:

1. The vacancy must be advertised in such manner as the authority considers is likely to bring it to the attention of the public;
2. An applicant has to submit a formal application to be appointed as an Independent Person, and
3. The Independent Person’s appointment must be approved by ‘a majority of the members of the authority.’

The last requirement (c) means that the appointment must be made by the Full

Council.

1. An Independent Person must not be:
2. A member, co-opted member, or officer of Oxford City Council; or
3. A member, co-opted member, or officer of a parish council that falls within the City Council’s area; or
4. A relative or close friend of any of the above.
5. In addition to the restrictions in the preceding paragraph, an Independent Person must not have been, at any time in the five years preceding the date of their appointment:
6. A member, co-opted member, or officer of Oxford City Council; or
7. A member, co-opted member, or officer of a parish council parish council that falls within the City Council’s area.

**Present position**

1. To comply with the requirements of the Act, the Council undertook a recruitment exercise in the summer of 2012. At that time an exemption was granted for an Independent Member who had sat on the Council’s previous Standards Committee to re-apply for the position. On 16 July 2012 Council resolved to appoint the following persons, each for a five year term to July 2017, as the Council’s Independent Persons for Standards/Members Code of Conduct matters under Section 28 of the Localism Act 2011:
* Chris Ballinger (re-appointed)
* Godfrey Cole
* Jill McLeery
* Ben Simpson
1. In July 2015 Council agreed that the role of the Independent Persons should be expanded such that they should be invited to advise the Disciplinary Committee whenever there is the prospect of dismissal of a statutory officer. This revision to the Constitution relating to changes to arrangements for the dismissal of statutory officers following new statutory provisions set out in the Regulations came into effect on 11 May 2015.
2. In July 2017 Council resolved to authorise the Monitoring Officer to extend the terms of office of the Council’s four Independent Persons for code of conduct matters for a further two years to July 2019.
3. Council determined to extend the appointments without a fresh recruitment process for the following reasons:
4. The original appointments were made following an advertisement, application and interview process and with a positive vote by a majority of councillors as required by the Act.
5. The Act does not prescribe a time limit on the terms of office of independent persons and these are therefore within the discretion of the Council.
6. Since their appointment, the current Independent Persons have attended training, carried out their roles diligently, and gained experience from which the Council can benefit for a further period.

**Proposals for 2019**

1. It is proposed that Council should undertake a formal recruitment exercise in the spring of 2019 for the appointment of Independent Persons based on the following principles:
* The recruitment exercise to include advertisement, application and interview process
* The interview panel to consist of the Monitoring Officer, Chair of the Standards Committee and one opposition member from the Standards Committee
* The appointments to be confirmed at Full Council in July 2019 with a positive vote by a majority of councillors
* The appointments to be for 5 years (to July 2024)
* The Independent Person “job description” to be approved by the Monitoring Officer to be expanded to include considering evidence and advising Council on the course of action for the Disciplinary Committee to follow whenever there is the prospect of dismissal of a statutory officer
* The statutory restrictions detailed at paragraph 5 above shall apply
* Any application from an existing Independent Person to be considered on its merits

**Legal implications**

1. To comply with the combined requirements of the Act and the Regulations, the Council should appoint at least two Independent Persons.

**Financial implications**

1. A decision to proceed with a recruitment exercise for the appointment of Independent Persons in 2019 will carry a modest financial burden which will be accommodated in the 2019/20 Member Support budget.

**Risk management**

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. 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 in accordance with Regulation 6 paragraph 5 of the Act.

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