

To: Council

Date: 22 July 2019

Report of: Monitoring Officer

Title of Report: Extension of term for appointments of Independent Persons

Summary and Recommendations

Purpose of report: This report asks Council to authorise the Monitoring Officer to extend the terms of office of the council's independent persons for a further three months to 31 October 2019.

Policy Framework: N/A

Recommendation(s): Council is recommended to authorise the Monitoring Officer to extend the terms of office of the Council's Independent Persons for a further three months to 31 October 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.
2. 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 (the chief executive, the chief finance officer and the monitoring officer).
3. At its meeting on 16 July 2012, the Council appointed Chris Ballinger, Godfrey Cole, Jill McCleery and Ben Simpson as the Council's Independent Persons for five years. Those appointments were extended for a further two years by Council at its meeting on 20 July 2017.
4. Since their appointment, the current Independent Persons have carried out their roles diligently and dealt with complaints about members accused of breaching the Code of Conduct as required.

Recruitment of Independent Persons 2019

5. There is no prescribed time limit on the terms of office of independent persons and these are therefore within the discretion of the Council. At its meeting on 11 September 2018 the Standards Committee agreed to note and approve the Monitoring Officer's proposed arrangements for the appointment of independent persons in 2019.
6. The Monitoring Officer has commenced a formal recruitment exercise for the appointment of Independent Persons based on the following principles:
 - i. The recruitment exercise to include advertisement, application and interview (as required by the Act)
 - ii. The interview panel to consist of the Monitoring Officer, Chair of the Standards Committee and one opposition member from the Standards Committee
 - iii. The term of appointment to be for 5 years (to July 2024)
 - iv. 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
 - v. The statutory restrictions on eligibility shall apply¹
 - vi. Any application from an existing Independent Person to be considered on its merits
 - vii. The appointments to be confirmed at Full Council with a positive vote by a majority of councillors (as required by the Act)
7. The advert for the recruitment of the Independent Persons was published in the local press and on the Council's website in early June. The interview dates are to be confirmed but are now expected to take place in late summer.
8. The initial response rate has been disappointing and, despite some initial enquiries there have been no new applications which may in part be due to the statutory restrictions on eligibility. Three of the current Independent Persons have confirmed that they would wish to continue in the role and they have submitted formal applications.

¹ A person cannot be appointed as an Independent Person if they are, or have been, at any time in the preceding five years:

- a) A member, co-opted member or officer of Oxford City Council; or
- b) A member, co-opted member or officer of one of the four parish councils (Blackbird Leys, Littlemore, Old Marston and Risinghurst & Sandhills Parish Councils); or
- c) A relative or close friend of such persons

9. At its meeting on 24 June 2019 the Standards Committee emphasised the importance of reaching a wide range of potential applicants for the post of Independent Person to reflect the diversity of the city. The Committee recommended promoting the vacancies through established contacts with local communities and the Council's partner organisations. They also suggested that a press release might be a positive promotional tool.
10. The Monitoring Officer proposes to extend and expand the current recruitment exercise to address the points raised by the Standards Committee. However, any extension of the recruitment period beyond the expiry of the term of office of the current Independent Persons would mean that the Council was in breach of requirements of the Act to appoint one or more Independent Persons. This could be addressed by:
 - a. holding interviews now and appointing one or more Independent Person on the basis of the existing applications; or
 - b. agreeing a temporary extension to the current terms of office of the three Independent Persons and then including them with any future candidates in a single round of interviews
11. The recommended approach is Option b) as this would ensure a fair and transparent recruitment process based on merit.
12. The three Independent Persons have been asked to confirm their agreement to the proposed extension of their term of office and that they are willing to continue in the role until the conclusion of the recruitment exercise.

Legal implications

13. The Council is required by the Act to appoint at least one Independent Person.

Financial implications

14. The recruitment of Independent Persons in 2019 carries a modest financial burden which will be accommodated in the 2019/20 Member Support budget. The Council does not pay its Independent Persons

Risk management

15. 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 Regulations.

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