

COUNCIL APPOINTMENT OF INDEPENDENT PERSONS

1. Summary

- 1.1 The Localism Act 2011 places a statutory duty on the Authority to promote and maintain high standards of conduct by its elected and co-opted members. The Act requires the Authority to have local arrangements to handle any misconduct complaints including the appointment of Independent Persons.
- 1.2 The term of office of the current Independent Person is due to expire on 31 October 2024. The Council is required to appoint at least one Independent Person under section 28 of the Localism Act 2011. This report requests Council re-appoint the current holder of the role of Independent Person for a further four year term of office from November 2024 and to appoint one new Independent Person to the role for a period of four years.

2. Details

- 2.1 The Council is required by the Localism Act 2011 to put in place its own arrangements for dealing with complaints that members had failed to comply with the Code of Conduct. Section 28 of the Act requires these arrangements to include the appointment of at least one Independent Person.
- 2.2 The current Independent Person, Mr Kenneth Lee, was appointed by the Council on 12 July 2022 for a term of 2 years, effective from November 2022. This means that the term of office of the Independent Person is due to expire on 31 October 2024. It is recommended to extend his term of office and to make a further appointment of a second Independent Person.

The Role of Independent Person

- 2.3 The Council is required to appoint at least one Independent Person to discharge the functions ascribed by section 28 of the Localism Act 2011. The role of the Independent Person is, in summary, as follows:
- To assist the Council generally in discharging its duty to promote and maintain high standards of conduct by Elected Members and Co-opted Members of the Council and the Parish Councils in its area.
 - To advise the Monitoring Officer in connection with the assessment and post-investigation stage of complaints against elected and co-opted members.
 - To advise the Standards Panel in connection with complaints and potential sanctions where a failure to comply with a code of conduct has been established.
 - To advise their view, where sought, to an Elected or Co-Opted Member of the Council or a Town and Parish Council within its area who is the subject of an allegation that their behaviour has breached a Code of Conduct.
- 2.4 The Independent Person also now has functions in connection with the proposed dismissal of any of the Council's statutory officers, being the Head of Paid Service, Section 151 Officer (Director of Finance) and the Monitoring Officer.
- 2.5 The Independent Person must not be, or have been during the last 5 years, a member, co-opted member or officer of Three Rivers District Council or a Town,

Parish or Community Council within the district; or a relative or a close friend of a member, co-opted member or officer of Three Rivers District Council or a Town, Parish or Community Council within the district.

- 2.6 The role of an Independent Person is voluntary. They are neither officers of the Council nor members. The Independent Person does not receive a salary for their work however they are allowed to claim an allowance and expenses.

Current Position

- 2.7 The Authority's current Independent Person Mr Kenneth Lee has to date held the position of Independent Person for eighteen months in accordance with the decision taken by Council on 12 July 2022.
- 2.8 Throughout his appointment Mr Lee has provided advice to the Monitoring Officer in relation to the operation of the Authority's Code of Conduct for Members and in particular specific complaints received by the Authority. Mr Lee's appointment expires in November 2024 and it is considered that reappointing him, for a further four year term of office, will provide continuity of experience and knowledge.

Review of Arrangements for an Independent Person

- 2.9 The Council must appoint at least one Independent Person. For the period 2022-2024 the Council appointed a single Independent Person for a two year term of office.
- 2.10 It is accepted that having only one Independent Person leaves the Authority vulnerable and at risk of being unable to fulfil its obligations in respect of the Localism Act 2011 should the Independent Person be unavailable for any reason or in the event that a conflict of interest was identified. It is good practice to have between two to four Independent Persons. Two is the recommended minimum as the same Independent Person should not advise both the Monitoring Officer and Subject Member on the same complaint. It was therefore considered necessary to recruit additional independent Persons.
- 2.11 The law provides that a person may not be appointed as an Independent Person unless the position has been advertised, the person has submitted an application to fill the vacancy and the person's appointment has been approved by a majority of members of the Council (see section 28(8)(c) Localism Act 2011). This precludes the practical expedient of simply extending the term of the current Independent Person.
- 2.12 An advertisement advising of the position was placed on the Council's website during September 2023. Mr Lee submitted his interest in continuing in the role and it was not considered necessary to re-interview him. A shortlist of three applicants was subsequently drawn up one of which withdrew their application and another applicant asked for their interview to be put back to early in 2024. The remaining applicant was interviewed by a panel consisting of the Associate Director, Legal and Democratic Services (Monitoring Officer), the Committee and Election Services Manager and Principal Lawyer (Property).
- 2.13 Following this recruitment exercise it is recommended that Council appoint Mrs Tracy Heather to act as a second Independent Person for a four year term of office commencing once statutory training has been completed. Mrs Heather has

experience of dealing with complex legal case files and complaints during her many years of employment as a Chartered Legal Executive and through voluntary work as a mediator dealing with Housing Associations.

3 Options and Reasons for Recommendations

3.1 The following two options have been identified for consideration:

- i. Option 1: To appoint Tracy Heather and extend Kenneth Lee's term of office as Independent Persons for a period of 4 years.
- Option 2: One of the above.

3.2 Option 1 provides for a greater degree of resilience and prevents a conflict of interest arising by having two Independent Persons. For this reason Option 1 is the recommended option.

4 Policy/Budget Reference and Implications

4.1 This report does not align directly to any of the priorities in the Council Plan. In accordance with the Localism Act 2011 the Authority has a statutory duty to promote and maintain high standards of conduct by members of the authority.

5 Financial Implications

5.1 There are no additional resource requirements. Any claims for allowances and expenses would be covered by the Members' budget.

6 Legal Implications

6.1 Legal implications are contained in the body of the report.

7 Equal Opportunities Implications

None

8 Recommendations

8.1 That pursuant to the requirements of the Localism Act 2011 Council:

- i. Reappoint Mr Kenneth Lee to the position of Independent Person for a four year period to 31 October 2028.
- ii. Appoint Mrs Tracy Heather to the position of Independent Person for a four year period to 31 October 2028.

Background papers

The Localism Act 2011

The Local Authorities (Standing Orders) (England) Regulations 2001