

**POLICY & FINANCE COMMITTEE**  
**29 NOVEMBER 2018**

**APPOINTMENT OF INDEPENDENT PERSONS TO THE COUNCIL**

**1.0 Purpose of Report**

1.1 To agree the recruitment process for the appointment of two Independent Persons to the Council.

**2.0 Background Information**

2.1 At the Council meeting on 8 March 2018 it was resolved to renew the appointments of the two Independent Persons to the Council for a further term to expire at the Annual Council Meeting on 21 May 2019.

2.2 At that time Members indicated that they would wish to look to appointing new Independent Persons with effect from that date.

2.3 This report therefore sets out a recommended process for the appointment of the new Independent Persons.

**3.0 Introduction**

3.1 Under the provisions of s28(7) of the Localism Act 2011 the Council must appoint at least one Independent Person:-

- (a) Whose views are to be sought and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate; and
- (b) Whose views may be sought –
  - (i) By the authority in relation to an allegation in circumstances not within paragraph (a)
  - (ii) By a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation; and
  - (iii) By a member, or co-opted member, of a Parish Council if that person's behaviour is the subject of an allegation and the authority is the Parish Council's principal authority.

3.2 Under the Council's approved procedures for dealing with standards complaints the Independent Person is consulted by the Monitoring Officer, acting under delegated authority, in dealing with the initial filtering of complaints and has provided a useful sounding board for determining if alternate actions may be a more appropriate remedy than a formal investigation.

3.3 There are restrictions on who is eligible to be an Independent Person. For example the person cannot, within the previous 5 years, have been a Member or officer of the authority or a relative or close friend of a Member or officer.

- 3.4 The Local Authorities (Standing Orders) England Regulations as amended by the Local Authorities (Standing Orders) (England) (Amendment) regulations 2015 removed the requirement to appoint a Designated Independent Person in the event of disciplinary action being taken against statutory officers (the Head of Paid Service, Monitoring Officer or Section 151 Officer).
- 3.5 Instead it replaced that provision with a requirement to appoint an Independent Panel and for the Council to take into account any advice, views or recommendations of the Panel before taking a vote at the Council meeting on whether or not to approve the dismissal of a statutory officer.
- 3.6 The Independent Panel must constitute at least two Independent Persons appointed under s28(7) of the Localism Act 2011. The role of the Panel is to offer the Council any advice, views or recommendations it may have on the proposal for dismissal (statutory officers may only be dismissed by the Council).
- 3.7 The Panel must meet at least 20 working days prior to the Council Meeting at which the decision regarding dismissal will be taken.
- 3.8 Whilst the Independent Panel may include Independent Persons appointed by another authority, it is considered prudent for the Council to appoint two Independent Persons as it has done previously.
- 3.9 This means that it will be in a position to constitute an Independent Panel should this be necessary, without the need to refer to other authorities. It is also advisable to have two individuals to whom the Monitoring Officer and the Council can refer on standards issues in the event of one being unable to act through sickness, holiday or potential conflict of interest.

#### **4.0 Proposed Timetable for Appointment**

- 4.1 In order to ensure that the new Independent Persons can take up their roles immediately following the confirmation of their appointment at the Annual General Meeting in May 2019 the following timetable for recruitment is proposed:-
- Post advertised in local press, NSDC website and social media 1 December 2018 – 31 January 2019 (advert attached as **Appendix 1**)
  - Shortlisting of applications by 28 February 2019.
  - Interviews March 2019.
  - Appointments confirmed at Annual Council Meeting on 21 May 2019.
- 4.2 Under s28(8) of the Localism Act 2011 a person may not be appointed as an Independent Person unless “the vacancy for an Independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public”, the person has submitted an application and the appointment has been approved by the Council.
- 4.3 It is therefore important that the Council adopts a robust and transparent recruitment process. The appointment of the two recommended candidates for the role will also need to be expressly approved by the Council.

- 4.4 Members will need to consider if they wish to have any involvement in the shortlisting stage or whether this can be delegated to officers using clear criteria against which applications will be assessed.
- 4.5 Members will also need to determine if they wish the whole of the Policy & Finance Committee to interview shortlisted candidates or whether they wish to constitute an interview panel which will then make recommendations directly to Council on the proposed appointments. In that event it is recommended that the Panel constitute the Chairman and Vice-Chairman of the Policy & Finance Committee together with a representative from the major opposition group.

## **5.0 Terms of Appointment**

- 5.1 It is suggested that the Independent Persons should be appointed for a four year term commencing from the May 2019 Annual Meeting of the Council.
- 5.2 Members may wish to review the remuneration attached to the role when the terms of office of the current Independent Persons come to an end.
- 5.3 The current level of remuneration is £2,160 per annum together with reimbursement of travel and subsistence expenses.
- 5.4 This could potentially be reduced as many other authorities offer a lower level of remuneration but Members need to bear in mind that the duties and responsibilities could potentially be onerous particularly in the event of an Independent Panel being convened to deal with a disciplinary matter.
- 5.5 It is accordingly recommended that the remuneration be reduced to £1,500 per annum, that this be fixed for the four year term of appointment and that each Independent Person be remunerated in addition for their reasonable travel and subsistence expenses in accordance with the Council's approved policies.

## **6.0 Financial Implications (FIN18-19/8532)**

- 6.1 There will be a cost in relation to the advertising within the local press for the appointments. This cost can be contained within existing budgets.
- 6.2 A budget currently exists for the remuneration in relation to the Independent Persons for the current financial year. A budget for this cost has also been included within the draft budget for 2019/20. This budget in 2019/20 will be reduced to reflect the reduction in remuneration of £660 per Independent Person reflecting a saving of £1,320.

## **7.0 RECOMMENDATIONS that:**

- (a) the Council look to appoint two Independent Persons for a four year term commencing immediately following the May 2019 Annual Meeting of the Council at a fixed remuneration of £1,500 per annum for the four year term together with reimbursement of reasonable travel and subsistence expenses in accordance with the Council's approved policies, the recruitment process to follow the indicative timetable set out in the body of the report;**

- (b) the Monitoring Officer and Deputy Monitoring Officer be given delegated authority to draw up a shortlist of potential candidates;**
- (c) an Interview Panel be constituted to interview shortlisted candidates to comprise the Chairman and Vice-Chairman of the Policy & Finance Committee (or their nominees) together with a representative from the major opposition group, together with the Monitoring Officer and Deputy Monitoring Officer to select their two preferred candidates;**
- (d) the recommendations of the Interview Panel as to the appointment of two Independent Persons to the Council be submitted to the Council Meeting at the May 2019 Annual Meeting of the Council for formal approval; and**
- (e) an indicative date be identified in March 2019 for the Interview Panel to meet to interview shortlisted candidates and that this date be included in the advertisement for the role.**

### **Reasons for Recommendations**

**To agree a recruitment process for the appointment of two Independent Persons to the Council from May 2019.**

### **Background Papers**

Nil

For further information please contact Kirsty Cole on Ext 5210.

Kirstin H Cole  
Deputy Chief Executive and Monitoring Officer

**ADVERTISEMENT FOR THE ROLE OF INDEPENDENT PERSONS TO THE COUNCIL**

**APPOINTMENT OF INDEPENDENT PERSONS TO THE COUNCIL**

The Council is looking to appoint two Independent Persons to the Council under the provisions of s28(7) of the Localism Act 2011.

The primary role of the Independent Persons is to assist the Monitoring Officer in assessing complaints of alleged misconduct by Members of the Council and Town and Parish Councils within the district. The Independent Persons will also be consulted before a decision is made on a complaint which has been investigated and may be consulted on other standards matters, including by the Member who is subject to an allegation.

Independent Persons may also be required to form an Independent Panel to offer the Council advice, views or recommendations on any proposal for the dismissal of a Statutory Officer.

Independent Persons will be appointed for a four year term of office commencing in May 2019. A fixed allowance of £1,500 per annum is payable together with reimbursement of reasonable travel and subsistence expenses in accordance with the Council's approved travel and subsistence policies.

For further details, including an information pack and eligibility criteria, please visit the Council's website or contact:

Catharine Saxton  
Democratic Services Officer  
Newark & Sherwood District Council  
Castle House  
Great North Road  
Newark  
NG24 1BY

The closing date for applications is 31 January 2019

Interviews will be held on \*\*\*\*\* 2019