



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

THURSDAY 10 OCTOBER 2024

Report of the Director - Legal and Democratic Services

**Extension of the term of office of the Independent Person appointed
under the Localism Act 2011**

1. Purpose

- 1.1 To support an extension to the current term of office of the Independent Person, Ian Orford, and make recommendations to full Council.

2. Information and Analysis

- 2.1 Section 27 of the Localism Act 2011 requires that the arrangements under which decisions on allegations made that a Member has breached the Code of Conduct must include provision for the appointment of at least one independent person. The views of the independent person must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. The views of the independent person may also be sought by the Council in relation to any allegation made against a Member or by a Member against whom an allegation has been made.
- 2.2 Consequently, the Council must have at least one independent person. In considering independence, the Act specifies that a person is not considered to be independent if the person is –
- (a) a member, co-opted member or officer of the authority, or
 - (b) a relative or close friend of a person who is a member or coopted member or officer of the authority

A person may not be appointed as an independent person if at any time during the 5 years ending with the appointment, the person was a member, co-opted member or officer of the authority.

- 2.3 In addition, the Local Authorities (Standing Orders) (England) Regulations as amended in 2015, extended the remit of independent persons in that they are now also required to sit on the Panel which is convened as necessary to consider disciplinary allegations against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer to advise and make recommendations to the Council.
- 2.4 On 3 February 2021, Mr Ian Orford was appointed by Council as an Independent Person following a process of public advertisement and application. As Mr Orford was new to the role of independent person, the Council approved his appointment for a period of four years, but subject to a review after twelve months. The review was conducted by the Monitoring Officer in consultation with the Chair of the Governance, Ethics and Standards Committee, who both agreed the appointment should continue.
- 2.5 Mr Ian Orford, is approaching the end of his 4-year term of office which will expire on 2 February 2025 if not extended for a further period. During his tenure, Mr Orford has gained knowledge and experience of the procedure for dealing with Code of Complaints and has worked well with the Council's Monitoring Officer. It is therefore proposed that Governance, Ethics and Standards Committee recommend to Council that the term of office is extended for a further period of four years commencing on 3 February 2025.
- 2.6 The Committee and Council have previously supported the recruitment of a reserve Independent Person, who is able to act when the Independent Person is absent or unable to be involved in considering a Code of Conduct complaint, for example due to conflict. The reserve Independent Person position remains vacant and it is intended to proceed with recruitment.

3. Consultation

- 3.1 None required.

4. Alternative Options Considered

- 4.1 Not to extend Mr Orford's term of office for a further period. This is not recommended because it will result in not only the Council being without an Independent Person, but also the loss of knowledge and experience gained over the last four years.

5. Implications

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications

8. Recommendation

That Committee recommends to Council that the term of office for Mr Ian Orford as Independent Person under the Localism Act 2011 be extended for a further four years from 3 February 2025.

9. Reasons for Recommendation(s)

9.1 To ensure the Council complies with the Localism Act 2011.

9.2 To retain the current Independent Person's knowledge and experience of the procedure for dealing with Code of Complaints.

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Implications

Financial

- 1.1 The Independent Person is entitled to receive an allowance. Payment of the allowance can be accommodated within existing budgets.

Legal

- 2.1 Section 27 of the Localism Act 2011 requires that the arrangements under which decisions on allegations made that a Member has breached the Code of Conduct must include provision for the appointment of at least one independent person. The views of the independent person must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. The views of the independent person may also be sought by the Council in relation to any allegation made against a Member or by a Member against whom an allegation has been made.
- 2.2 The Committee for Standards in Public Life (CSPL) report recommended that to ensure that the Independent Person's judgement and independence is not compromised by a long period of involvement in a single authority, that Independent Persons should be appointed for a 2-year period only, renewable once. This Committee accepted that a 2-year appointment period for both the Independent and Reserve Independent was appropriate, in line with this recommendation, however, the number of applicants for the roles was limited. The government have responded to the CSPL recommendations (March 2022) in the following terms:

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities. In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or

previous association with the council, and no friends or family members associated with the council. When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

- 2.3 Governance, Ethics and Standards Committee has authority to make recommendations to Council on the appointment of Independent Person and reserve.

Human Resources

- 3.1 None.

Information Technology

- 4.1 None.

Equalities Impact

- 5.1 None.

Corporate objectives and priorities for change

- 6.1 None.

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 None.