

DERBYSHIRE COUNTY COUNCIL

COUNCIL

INDEPENDENT PERSONS

3 February 2021

Report of the Director of Legal Services and Monitoring Officer

1. Purpose of the Report

1.1 To consider proposals for the recruitment of Independent Persons.

2. Information and Analysis

2.1 S27 Localism Act requires that the arrangements under which decisions on allegations made that a Councillor 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 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.

2.3 Until recently, the Council had three independent persons. However, two have resigned during the course of their second term of office and the third, Mr Lloyd Newby, is approaching the end of his second 4-year term of office.

2.4 Consequently, the Council must now appoint 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 co-opted member or officer of the authority

2.5 In addition, 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.

2.6 Independent persons must be appointed through a process of public advertisement and application. Therefore, a recruitment process was commenced at the end of November 2020. An advertisement was placed on the Council's website and also within the local press. Potential applicants were required to submit an application form detailing their suitability for the role. An appointment to the role of independent person must also be approved by a majority of the members of the authority.

2.7 One applicant, Mr Ian Orford, was shortlisted and was successfully interviewed by the Director of Legal and Democratic Services, the Director of Finance and ICT and the Director of Organisational Development and Policy on 8 January 2021. Following that interview it is proposed that Mr Orford be recommended for appointment as an Independent Person, subject to the Interview Panel obtaining satisfactory references. Mr Orford's appointment has been considered by the Governance, Ethics and Standards Committee who agreed to recommend his appointment to full Council.

2.8 As Mr Orford is new to the role of independent person, the Interview Panel recommended that the appointment should be subject to a review after twelve months. It is proposed that the review would be conducted by the Monitoring Officer in consultation with the Chair of the Governance, Ethics and Standards Committee.

2.9 Additionally, as Mr Orford is a new appointment, it is proposed that Mr Newby's term of office be extended for a further 12 months in order to retain the knowledge and experience he has gained. Again, the Governance, Ethics and Standards Committee has considered this proposal and has recommended approval by full Council. The current Code of Conduct for Elected Members will be reviewed, and these appointments will provide the Governance, Ethics and Standards Committee with the opportunity to review the current arrangements for independent persons and consider whether further recruitment is required.

2.10 It is proposed that each Independent Person should be paid an allowance of £125 per session for attendance at meetings, hearings or events.

3. Legal Considerations

3.1 As set out in the report with regard to the requirements for the appointment of at least one independent person.

3.2 Section 27 (8) (c) (iii) Localism Act requires that the appointment of an independent person must be approved by the majority of the members of the authority.

Under its terms of reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required *“to design, implement, monitor, approve and review the standards of ethics and probity of the Council, both for Elected Members and officers. The Committee’s powers shall include responding to consultation documents and the promulgation of Codes of Conduct.....”* Therefore, the Committee’s view was sought with regard to recommending the proposed appointments to Council, prior to the matter being considered by full Council.

4. Other Considerations

4.1 In preparing this report, the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Background Papers

5.1 The Constitution and the file held by the Director of Legal and Democratic Services.

6. Officer Recommendation

6.1 That Council approves:

(a) the appointment of Ian Orford as an Independent Person under the Localism Act for a term of office of four years, but subject to a review after 12 months; and

(b) the extension of the term of office for Mr Lloyd Newby for a further 12 months.

Helen Barrington
Director of Legal and Democratic Services and Monitoring
Officer