

Annual Council

14 May 2020

Report of: Monitoring Officer

Independent Person Appointment

Corporate Priority:	Service excellence in all we do Ensuring the right conditions to support delivery
Relevant Ward Member(s):	Not applicable
Date of consultation with Ward Member(s):	Not applicable
Exempt Information:	No

1 Summary

- 1.1** It is a requirement of the Localism Act 2011 that the Council appoints at least one Independent Person who must be consulted before decisions in respect of complaints are taken and who may be consulted by councillors who are complained about.
- 1.2** This report seeks authority to appoint named individuals as Independent Persons who form a pool of Independent Persons that have been through a recruitment exercise by Leicestershire District Authorities.

2 Recommendations

- 2.1** That Council appoint the following people as Independent Persons to perform the roles set out in section 28(7) of the Localism Act 2011 with effect from 15th May 2020 until the end of the 2020/21 Council Year:
- i) **Mrs Christine Howell**
 - ii) **Mr Michael Pearson**
 - iii) **Mr Richard Gough**
 - iv) **Mr Mark Shaw**
- 2.2** That Council note that the appointment for Gordon Grimes will remain in place.

3 Reason for Recommendations

- 3.1** To comply with the requirements of section 28 of the Localism Act 2011.

4 Background

- 4.1** The Localism Act 2011 received Royal Assent on 15th November 2011. The Act required the Council to put in place arrangements for investigating and taking decisions on

complaints relating to borough councillors and parish councillors in the Borough. Those arrangements must include the appointment of one or more Independent Persons who must be consulted before decisions in respect of complaints are taken and who may be consulted by councillors who are complained about.

- 4.2** The Independent Person can only be appointed following the submission of an application following advertisement and approval by a majority of the members of the Authority. In order to be eligible the Independent Person must not be or have been in the previous 5 years a member, co-opted member or officer of the Council (or a relative, partner or close friend of that member).
- 4.3** The Council appointed two Independent Persons in 2012 however it currently only has one (Mr Gordon Grimes) who has been appointed until 2022 which does not represent best practice.
- 4.4** In 2012, a joint recruitment exercise was undertaken with some Leicestershire Authorities and each Authority were asked to formally appoint the successful applicants to a pool of Independent Persons who would be available to be called upon by both Members and the Monitoring Officer during any standards investigations. This process was repeated in 2016 and six applicants were successful in being appointed to the pool for the period ending May 2019. One has since resigned which leaves 5 Independent Persons making up the current pool (one of which is the Council's appointed Independent Person). In 2012 and subsequently Melton decided not to join this pool with other Leicestershire Authorities.

5 Main Considerations

- 5.1** The Monitoring Officer has previously informed the Audit and Standards Committee that she considered there to be a risk in only having one Independent Person able to be consulted. The risk is because there is a lack of resilience, independency could be questioned due to the amount of time being designated by the Authority and the Independent Person may deal with multiple complaints about a particular member or Council which would not reflect best practice. In addition, the Monitoring Officer cannot offer the facility of consulting with an Independent Person for councillors who are complained about as the Independent Person will need to be consulted on a decision on how to progress a complaint and to undertake both roles would constitute a conflict.
- 5.2** The Monitoring Officer explored the option of joining other Leicestershire Authorities in using a pool of Independent Persons to secure a wider selection of individuals. The other Leicestershire Authorities were agreeable to the Council joining particularly as the current pool were coming to the end of their four year term in May 2020.
- 5.3** A recruitment campaign was launched by all Authorities in March 2020 led by Hinckley and Bosworth Borough Council. Monitoring Officers at three Districts including Melton Borough Council were due to undertake the interview process in April 2020. This process was communicated to the Chair of the Audit and Standards Committee and the Portfolio Holder for Corporate Governance, Access and Engagement.
- 5.4** Unfortunately during the recruitment exercise, the World Health Organisation declared a pandemic due to Covid-19. The Monitoring Officers reached a consensus that the recruitment would be stopped and those Authorities who were already part of the pool would seek authority to extend appointments and those joining the pool would seek to appoint the identified Independent Persons for one year only.

5.5 As an interim measure, and in order to facilitate an effective recruitment exercise, it is proposed that the term of appointment of this Council's Independent Persons is extended to the end of the 2020/21 Municipal Year.

5.6 It is recommended that the Council therefore appoints the 4 Independent Persons, continues with the appointment of Mr Grimes and then participates in the joint recruitment exercise to appoint Independent Persons with effect from 2021/22. All the current Independent Persons have been contacted and have agreed to remain part of the pool, with Council approval, until the end of the 2020/21 municipal year.

6 Options Considered

6.1 To take no action and continue with the current appointment to one Independent Person. This is not considered the best option as identified within the report.

6.2 There is also the option to recruit another Independent Person however, it is more time and cost effective to join the pool of Independent Person with the other Leicestershire Authorities and the Council will likely get a wider selection of candidates.

7 Consultation

7.1 The Audit and Standards Committee would usually have received this report and recommended to Council. This is not possible however in the current circumstances and the report has therefore been sent to the Chair of the Audit and Standards Committee for her comment and endorsement.

8 Next Steps – Implementation and Communication

8.1 The current pool of Independent Persons will be notified that Melton Borough Council has joined the pool.

8.2 The Monitoring Officer will work with other Monitoring Officers to recruit a new pool of Independent Persons by 2021.

9 Financial Implications

9.1 Independent Persons have previously been appointed on the basis that they receive basic allowance of £491 per year and may also claim basic expenses. For the newly appointed Independent Persons under the new arrangements and in line with other Leicestershire Authorities, they may only claim expenses, as per the Members' Allowances Scheme 2020/21 recommended for approval.

Financial Implications reviewed by: Director for Corporate Services 05.05.20

10 Legal and Governance Implications

10.1 Implications are contained within the report.

Legal Implications reviewed by: Monitoring Officer 05.05.20

11 Equality and Safeguarding Implications

11.1 The recruitment process was undertaken in accordance with equalities legislation and advertisements were listed in local newspapers and online to reach a range of audiences.

12 Community Safety Implications

12.1 There are no community safety implications

13 Environmental and Climate Change Implications

13.1 There are no environmental and climate change implications

14 Other Implications (where significant)

14.1 There are no other implications.

15 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Non compliance with legislation if the Councils only Independent Person is unavailable	Significant	Marginal	
2	Lack of independence due to only one Independent Person	Low	Marginal	

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant		1		
	3 Low		2		
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	A wider pool as recommended would eliminate this risk.
2	A wider pool as recommended would eliminate this risk.

16 Background Papers

None

17 Appendices

17.1 None

Report Author:	Adele Wylie , Director for Governance and Regulatory Services
Report Author Contact Details:	01664 504205 awylie@melton.gov.uk
Chief Officer Responsible:	Adele Wylie , Director for Governance and Regulatory Services
Chief Officer Contact Details:	01664 504205 awylie@melton.gov.uk