

Arrangements for the appointment of Independent Person(s)

To: Constitution and Ethics Committee

Meeting Date: 26th April 2022

From: Director of Law and Governance & Monitoring Officer

Outcome: The Committee is asked to recommend the appointment of an Independent Person or Persons to Council for approval in preparation for the expiry of the current appointments on 15 October 2022.

Recommendation: That the Committee recommends that:

- (a) Council authorise the reappointment of Gillian Holmes and Grant Osbourn for a period of two years until 15 October 2024 or the Monitoring Officer, in consultation with the Chair of the Constitution and Ethics Committee, takes all necessary steps towards the selection of suitable candidates to be recommended to Full Council for appointment as an Independent Person; and
- (b) Council set the level of remuneration for Independent Person(s).

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1. Background

1.1 Legal framework

- 1.1.1 Chapter 7 of the Localism Act 2011 sets out the duty of a local authority to promote and maintain high standards of conduct by members and co-opted members of the authority.
- 1.1.2 Section 28 of the Act, on codes of conduct, requires an authority to provide for the appointment of at least one independent person whose views will be sought and taken into account in connection with the process for dealing with allegations that members have breached the code.
- 1.1.3 Section 28 sets out those persons who would not be considered to be independent, who include members, co-opted members and officers of the authority and their relatives and close friends. However, it provides that the person(s) appointed do not cease to be independent as a result of being paid allowances or expenses for performing the duties of the appointment.
- 1.1.4 Section 28 also sets out the conditions for the process of appointing such persons. These conditions are that
 - i. the vacancy has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
 - ii. the person has submitted an application to fill the vacancy to the authority, and
 - iii. the person's appointment has been approved by a majority of the members of the authority.
- 1.1.5 The requirements of the role of the independent person were added to by the Local Authorities (Standing Orders) (England) Regulations 2015, which changed the requirements relating to disciplinary action or dismissal of one of the specified chief officers and removes the requirement to procure a report from a designated independent person.
- 1.1.6 The Council is now required to have a procedure which instead provides:
 - (a) that the appointment of the Head of the Paid Service must be approved by a resolution of full council;
 - (b) a new process for dismissal of the Head of the Paid Service, Section 151 Officer or Monitoring Officer, who can now only be dismissed with the approval of a resolution of full Council;
 - (c) that when considering any such dismissal, full Council must consider the advice, view or recommendations of a panel;
 - (d) the panel must be an advisory committee (i.e. a committee without decision making powers) and the membership of the Panel must include at least two 'independent persons';
 - (e) the Council must appoint 'independent persons' to the panel. The only people who qualify are people who have been appointed by the Council (or another

council) for the purposes of advising in cases relating to the member code of conduct.

- (f) In selecting independent persons the Council is required to prioritise Cambridgeshire County Council appointed 'independent persons' who are local government electors in Cambridgeshire. If for any reason the Council's appointed 'independent persons' are unable to attend then it is entitled to use independent persons appointed by another local authority.

2. Local implementation

- 2.1 At an early stage of making arrangements to implement the Localism Act 2011, the Standards Committee concluded that it would be sensible to appoint two independent persons, in case one was not available, or already had prior knowledge of a complaint or the parties to the complaint. Full Council in July 2012 authorised 'the Monitoring Officer, in consultation with the Chairman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of a suitable candidate to be recommended to Full Council for appointment as an 'Independent Person'.
- 2.2 A panel composed of members of the Constitution and Ethics Committee conducted the recruitment exercise, advertising the posts in the local press and on the Council's website, shortlisting applications, and interviewing shortlisted candidates. The panel recommended to Constitution and Ethics Committee in September 2012 that Sean Brady and Gillian Holmes be appointed, and the Committee recommended their appointment to Council.
- 2.3 On 16 October 2012, Full Council agreed to appoint Sean Brady and Gillian Holmes to the role of Independent Person for Cambridgeshire County Council with immediate effect for a period of one year, and to delegate to the Constitution and Ethics Committee the power to extend these appointments for up to a further three years thereafter. The Committee exercised that power on 7 November 2013, extending the appointments to 15 October 2016, and on 19 April 2016 extending the appointments to 30 October 2019.
- 2.4 As independent persons are not members or co-opted members of Council, their remuneration falls outside the Members' Allowances Scheme, and can be determined without reference to an Independent Remuneration Panel. The current independent persons receive an annual allowance of £500 each.
- 2.5 Sean Brady resigned from the position of Independent Person on 11 October 2017.
- 2.6 On 4 April 2019, the Constitution and Ethics Committee considered the appointment of an Independent Person on Persons for recommendation to Council. It agreed to authorise the Monitoring Officer, in consultation with the Chairman/woman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of suitable candidates to be recommended to Full Council for appointment as an Independent Person. It also set the level of remuneration at £500 for each Independent Person so that it could be included in information supplied to applicants for the post of Independent Person.
- 2.7 It is important to note that when the Council advertised in 2019, it did not receive any applications for the position. On the advice of the Monitoring Officer, the Democratic Services Manager contacted Cambridge City Council, and East Cambridgeshire,

Fenland, Huntingdonshire and South Cambridgeshire District Councils to see whether their Independent Person(s) would be interested in the role. The Council received one expression of interest from the Independent Person for South Cambridgeshire District Council.

- 2.8 At its meeting on 1 October 2019, the Committee agreed to recommend to Council to extend the current appointment of Gillian Holmes as an Independent Person to 15 October 2022 and to appoint Grant Osbourn as the second Independent Person for the same period. Full Council approved the appointments at its meeting on 15 October 2019.

3. Current issues

- 3.1 Arrangements are needed for Full Council to appoint one or more independent persons beyond 15 October 2022. The remuneration of these appointees must also be agreed.
- 3.2 In addition to a flat annual fee of £500, the current independent persons have their travelling and other expenses reimbursed whenever they are required to conduct Council business.
- 3.3 Full Council meets on 10 May, 19 July and 18 October 2022. It is suggested, if appropriate, that the recommendations of this report be presented to Council in May.

4. Source documents

[Chapter 7 of the Localism Act 2011](#)

[The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015 \(legislation.gov.uk\)](#)

[Constitution and Ethics Committee Minutes - 4 April 2019](#)

[Council - 15 October 2019](#)