

CANNOCK CHASE COUNCIL

COUNCIL

23 MAY 2012

REPORT OF THE MONITORING OFFICER

**AUTHORISATION TO ADVERTISE FOR INDEPENDENT PERSON(S) UNDER THE NEW
STANDARDS REGIME**

KEY DECISION – NO

1. Purpose of Report

- 1.1 To seek approval to advertise for independent persons to meet the requirements of the Localism Act 2012.

2. Recommendation

2.1 That:

- (a) The Monitoring Officer be authorised to advertise for two Independent Persons to meet the requirements of the Localism Act 2012.
- (b) A panel of four members plus the Independent Chairman of the Standards Committee be appointed to conduct the interviews for the Independent Persons and make a recommendation to Council.

3. Summary (inc. brief overview of relevant background history)

- 3.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted members. The date for implementation of these changes is likely to be 1 July 2012. The relevant commencement order, transitional provisions and other regulations are yet to be made by the government. The Standards Committee have been considering the implications of the changes but one requirement needs the approval of Council at this meeting if implementation is required for July.
- 3.2 Under the Localism Act the Council will be required to have a Code of Conduct and to put in place arrangements to investigate complaints of failure to comply with the code. The Act repeals the requirement for a statutory Standards Committee and with it the requirement for Co-opted independent members. There will be a requirement as part of the arrangements, to appoint at least one "Independent Person" who must be consulted before the Council takes any action following an investigation.

4. Key Issues and Implications

4.1 The Council's arrangements for dealing with complaints of failure to comply with the Code of Conduct must include provision for the appointment of at least one Independent Person. The appointment must be made through a process of public advertisement, application and appointment by a positive vote of a majority of the Council. A person is not eligible to be an Independent Person if; he / she is, or has been within the last five years, an elected or co-opted member or an officer of the Council; he / she is, or has been within the last five years, an elected or co-opted member of any committee or sub-committee (this precludes any of the current co-opted independent members of the Standards Committee from being appointed as an Independent Person); or he / she is a relative or close friend of a current elected or co-opted member or officer of the Council, or of any elected or co-opted member of any committee or sub-committee of the Council.

4.2 The functions of the Independent Person(s) are:-

- They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action;
- They may be consulted by the authority in respect of a standards complaint at any other stage; and
- They may be consulted by a member or co-opted member of the council against whom a complaint has been made.

4.3 This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint. It would, therefore, seem appropriate to appoint at least two Independent Persons.

4.4 Currently our independent members of the Standards Committee are paid an allowance of £220 pa set by the Independent Remuneration Panel. As the Independent Person is not a member of the authority or of its committees or sub-committees, their remuneration no longer comes within the scheme of members' allowances and can, therefore, be determined without reference to the Independent Remuneration Panel. In comparison to the current independent members of the Standards Committee, the role of Independent Person is quite different. He / she is likely to be invited to attend meetings of the Standards Committee and hearings panels, but not to be a formal member of the committee or panel. He / she will need to be available to be consulted by Members against whom a complaint has been made and will therefore need some training. Some authorities have decided to pay an allowance to their Independent Person(s); others have decided only to pay expenses. Council is asked to consider whether to continue to pay the current allowance for independent members to the Independent Persons or just to pay expenses.

5. Conclusion(s) and Reason(s) for the Recommendation(s)

5.1 The Localism Act requires the appointment of at least one Independent Person for the purpose of the new standards regime. Unless the transitional provisions allow the Council to continue

with its current independent members as Independent Persons, it will be necessary to appoint new people.

6. Other Options Considered

6.1 The appointment of at least one Independent Person is necessary to comply with the law.

7. Report Author Details

Alistair Welch, Monitoring Officer and Solicitor, 01785 619204

SCHEDULE OF ADDITIONAL INFORMATION

INDEX

Contribution to Council Priorities	Section 1
Contribution to Promoting Community Engagement	Section 2
Financial Implications	Section 3
Legal Implications	Section 4
Human Resource Implications	Section 5
Section 17 (Crime Prevention)	Section 6
Human Rights Act Implications	Section 7
Data Protection Act Implications	Section 8
Risk Management Implications	Section 9
Equality and Diversity Implications	Section 10
List of Background Papers	Section 11
Report History	Section 12
Annexes to the Report i.e. copies of correspondence, plans etc.	Annex 1, 2, 3 etc.

Section 1

Contribution to Council Priorities

The maintenance of high standards of conduct increases public confidence in the Council and contributes to all priorities.

Section 2

Contribution to Promoting Community Engagement

None.

Section 3

Financial Implications

The only additional expenditure will be the cost of advertising which can be contained within existing resources.

Section 4

Legal Implications

The legal implications are set out throughout the report.

Section 5

Human Resource Implications

There are no human resource implications arising from this report.

Section 6

Section 17 (Crime Prevention) Implications

There are no identified Section 17 (Crime Prevention) implications arising from this report.

Section 7

Human Rights Act Implications

There are no identified implications in respect of the Human Rights Act 1988 arising from this report.

Section 8

Data Protection Act Implications

There are no identified implications in respect of the Data Protection Act arising from this report.

Section 9

Risk Management Implications

There are no identified implications in respect of the risk management arising from this report.

Section 10

Equality and Diversity Implications

. There are no identified implications in respect of equality and diversity arising from this report.

Section 11

List of Background Papers

None.

Section 12

Report History

None

Annexes

None