

COUNCIL – 8 DECEMBER 2015

APPOINTMENT OF INDEPENDENT PERSON

Report by the Chief Legal Officer and Monitoring Officer

Introduction

1. In law the County Council must appoint one or more Independent Persons whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that a councillor has breached the Members' Code of Conduct.
2. As such, Independent Persons perform a key role in the Council's procedures for investigating any such complaints. Their role also includes forming part of a Panel of persons, established under statutory procedures, to advise or make recommendations to Council on the potential dismissal of a senior officer.
3. The Council currently has one such Independent Person but it is prudent for more than one to be appointed. This report therefore recommends Council to make an appointment to this role.

Role of independent person

4. An Independent Person appointed by the Council performs several important roles, under law.

Members' Code of Conduct & Councillor Complaints Procedure

5. Independent persons' views must be sought, and taken into account, by the Council before the Council makes any decision on an allegation it has decided to investigate that a councillor or co-opted member has allegedly breached the Members' Code of Conduct.
6. The Independent Person may be consulted by:
 - The Council – normally through its Monitoring Officer – as part of the established complaints procedures for elected and co-opted members
 - The member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation

Senior Officer – Dismissal Procedures

7. Recently, new statutory procedures have been adopted regarding the dismissal of the three key statutory officers, namely the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. While it is for Full

Council to decide on any such dismissal, it must, before doing so, consult a Panel which should, at the least, contain the Independent Persons appointed by it under Section 28 of the Localism Act 2011, or those appointed by another authority. There is an expectation that such Independent Persons will, if possible, be those appointed by the Council.

8. The role of the Independent Person in this context is, again, advisory as a Panel will be responsible for giving Full Council any advice, views or recommendations as regards a proposed dismissal.

Appointment

9. The person that Full Council is being recommended to appoint is Dr Sadie Reynolds. The law requires that, prior to the appointment of any Independent Person under the Localism Act 2011, any such position must have been advertised publicly; and that the person whose appointment the Council is considering has submitted formal application for it.
10. I can confirm that these requirements have been fulfilled in this instance. In addition, the former Monitoring Officer, Peter Clark, undertook an interview with Dr Reynolds who is fulfilling, with effectiveness, the same role for Cherwell District Council. Mr Clark was satisfied that Dr Reynolds would be an appropriate person to fulfill this role.

Legal and procedural implications

11. For the reasons outlined above, the Council is required to appoint Independent Persons to fulfil key aspects of the Council's governance as regards the complaints procedures for elected and co-opted members; and key aspects of the statutory procedures to be followed for the dismissal of a senior officer.
12. As such, it is very prudent that the Council appoints more than one such person so that the Council has access to more than one independent perspective; and also, of course, to ensure that there is continuity of procedure should one Independent Person not be available.
13. The legal requirements for the recruitment of a further Independent Person have been followed in this instance but it remains with Full Council to determine any such appointment.

Conclusion

14. Full Council is asked to appoint Dr Sadie Reynolds to the role of Independent Person for the Council under Section 28 of the Localism Act 2011, to fulfil the purposes outlined in paragraphs 5-8 above.

RECOMMENDATION

15. **Council is RECOMMENDED to appoint Dr Sadie Reynolds to the role of Independent Person under Section 28 of the Localism Act 2011.**

NICK GRAHAM

Chief Legal Officer and Monitoring Officer

November 2015