

## **Independent Person Protocol**

### **Introduction**

1. The Localism Act 2011 requires the Council to promote and maintain high standards of conduct by its members and co-opted members. To this end the Council has adopted a Councillors' Code of Conduct and has agreed arrangements for dealing with allegations that a member or co-opted member has breached the Code. In accordance with the requirements of the Act these arrangements include provision for the appointment of at least one Independent Person to undertake the duties described in the arrangements.
2. Disciplinary proceedings against the Council's Head of Paid Service, Monitoring Officer or Chief Finance Officer requires the undertaking of a statutory procedure and as part of that an Independent Panel must be established, the views, advice or recommendations of which must be considered by Full Council prior to any decision being made. The Independent Panel must include at least two Independent Persons.

### **Appointment**

3. To be eligible for appointment as Independent Person a person must not be or have been within the previous five years a member, co-opted member or officer of the Council or of a Parish Council of which the Council is the principal authority, nor a relative or close friend of such member or officer.
4. The person should not be involved actively in party politics and should be independent of local government. It is essential that the Independent Person demonstrates a keen interest in promoting high ethical standards in local government, have a general understanding of the principles behind the members' Code of Conduct and must be a person of good standing in whose impartiality and integrity elected members and the general public can have confidence. The Independent Person must also have good communication and interpersonal skills, be able to operate with tact and diplomacy, must be able to use logical reasoning and bring qualities of open-mindedness and impartiality and it is vital that the Independent Person understands and complies with confidentiality requirements.
5. An Independent Person may only be appointed pursuant to a formal recruitment process requiring a public advertisement, submission of applications and selection by interview. A person's appointment must be approved by Full Council. The term of office for each Independent Person will be 5 years and re-appointment will be for no more than 2 consecutive terms. An Independent Person is the holder of a statutory office and not an employee of the Council. No salary is payable but the Council may pay the independent Person's expenses by way of an allowance or expenses in connection with the duties of the appointment.

**Role of the Independent Person**

6. The primary role of the Independent person is to be available for consultation at various points in the arrangements for dealing with breach of code of conduct complaints as follows:
  - a. The Monitoring Officer will review every complaint received and once accepted will consult the Independent Person before taking a decision as to whether or not the complaint merits investigation. The Independent Person should provide an objective and impartial opinion which the Monitoring Officer will take into account in making the decision.
  - b. Where an investigation has been undertaken, a draft report will be submitted by the Investigating Officer to the Monitoring Officer. The Monitoring Officer will ask the Independent Person for a view upon whether the report is satisfactory, whether further investigation is necessary and whether or not the report should be submitted to the Standards Committee. The Monitoring Officer will take the Independent Person's view into account when deciding the next step to take. The Monitoring Officer may consider that the matter can reasonably be resolved without a hearing and may consult the Independent person for their view on this.
  - c. Where a complaint is the subject of a Standards Committee hearing, at least 1 Independent Person must attend. After all the evidence has been presented the panel will seek the views of the Independent Person before determining whether or not the member breached the Code of Conduct and if so, what action should be taken. The Independent Person does not take part in the final decision made nor vote upon the decision.
  - d. The Independent Person may be consulted by the Monitoring Officer or other authorised representative of the Council at any stage in the arrangements for dealing with Code of Conduct complaints. In such instances, the Independent Person does not represent the Council or any other party to a complaint and is an impartial point of reference and source of advice. Consultations with the Independent Person are confidential between the parties and the content or outcome of such consultation may only be disclosed, if both parties agree to such disclosure.
  - e. Occasionally the Council may need to use the services of a neighbouring Local Authority, for example, where there is a conflict of interest involving the Independent Person(s).
7. When the Council has more than one Independent Person, the Monitoring Officer shall ensure that the workload is shared out between those persons as the Monitoring Officer considers appropriate.

8. The Independent Person is also invited to attend meetings of the Standards Committee and may participate in all aspects of the Committee's work in a non-voting capacity. The Independent Person will be consulted in respect of changes to the Council's ethical framework.
9. A further role of the Independent Person arises from the Local Authorities (Standing Orders (England) Regulations 2001 (as amended). There is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or Chief Finance Officer. A decision to discipline or dismiss must be taken by Full Council which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least 2 Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority.

#### **Declaration of Interests**

10. The Independent Person shall promptly disclose in writing where possible, any actual or potential declaration of interest that they have in a matter at any stage, including instances where the Monitoring Officer asks the advice of the Independent Person at any stage. The Independent Person shall also disclose any actual or potential declaration of interest they have at the beginning of any Hearing Panel.

#### **Right of Access to Documentation**

11. The Independent Persons shall have a right of access of such files and other documents as are necessary to fulfill their duties and obligations as set out in this protocol and the arrangements adopted by the Council for dealing with standards complaints. Access to files will be through the Monitoring Officer or their Deputy, or other officer appointed on their behalf.

#### **Training**

12. Training for the roles of the Independent Person with particular reference to local government governance and practice will be provided in-house by the Monitoring Officer and other senior officers and where appropriate through external courses. Training for disciplinary and/or dismissal proceedings against a statutory officer will be provided externally.