



**Open Report on behalf of Andrew Crookham, Deputy Chief Executive and Executive Director for Resources**

Report to:	County Council
Date:	15 September 2023
Subject:	Appointment of Independent Persons

**Summary:**

This report seeks councillors' approval for the appointment of two Independent Persons.

**Recommendation:**

That the Council appoints Tracy Colman and Michael Barratt as Independent Persons.

## 1. Background

- 1.1 The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct for elected and co-opted members. This includes a requirement for the Council to have a code of conduct with which all members must comply and have arrangements in place to deal with complaints regarding breaches of the code.
- 1.2 The Act provides that the Council must appoint at least one Independent Person to help with any such complaints.
- 1.3 The Independent Person has the following functions:
  - They must be consulted by the Council before it makes a finding as to whether a member has failed to comply with the code of conduct following investigation or decides on action to be taken in respect of that member;
  - They may be consulted by the Council in respect of a standards complaint at any other stage; and
  - They may be consulted by a member or a co-opted member of the Council against whom a complaint has been made.
- 1.4 Regulations also require the Council to establish a panel of at least two Independent Persons appointed by itself or another authority under the Act to advise it in considering a decision relating to the dismissal of any of its statutory

officers – i.e. the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151 Officer).

- 1.5 In order to be independent for these purposes an appointee must not:-
- be or have been in the previous five years a member, co-opted member or officer of the Council; or
  - a relative or close friend of such a person
- 1.6 A person cannot be appointed as an Independent Person unless the vacancy has been advertised, the person submitted an application to fill the vacancy and the person's appointment has been approved by a majority of the members of the Council.
- 1.7 Following the resignations of Independent Persons Dr Christopher Riley and Mr Alan Pickering the Council needs to appoint to the position of Independent Person. A recruitment exercise in compliance with the 2011 Act has been carried out, two applications were received, and interviews were conducted by the Monitoring Officer and Head of Democratic Services in June 2023.
- 1.8 As a result, the Head of Democratic Services is in a position to recommend two people for the role of Independent Person and has put forward the names of Tracy Colman and Michael Barratt. Details of both are attached at Appendix A to this report.
- 1.9 The appointment of two Independent Persons will ensure that the Council is able to fulfil its responsibilities under both the Act and the Regulations and will provide resilience in the event of one of the Independent Persons being unavailable.
- 1.10 Although largely voluntary, in line with practice across the sector, the role of Independent Person carries with it an annual payment of £500 to reflect the need for appointees to maintain availability for ad hoc advice and to recognise the responsibilities of the role. This can be contained within current budgets. Under the 2011 Act the person's independence is not undermined by the fact that a payment is made.

## **2. Legal issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

There are no equality impacts arising out of the recommendations in this report.

Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

There are no implications for the JSNA or JHWS in relation to the appointment of two

Independent Persons.

### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There are no implications for the section 17 matters in relation to the appointment of two Independent Persons.

### **3. Conclusion**

3.1 Council must appoint Independent Persons to support its arrangements for dealing with standards matters. There are currently two vacancies for this role.

### **4. Legal Comments:**

The Council's statutory obligations in relation to the appointment of Independent Persons are set out in the Report.

The appointment of the two Independent Persons in accordance with the recommendation will ensure that the Council is compliant with its obligations

Appointment requires approval by a majority of the Council's members and therefore this is a decision for full Council.

### **5. Resource Comments:**

There is no financial impact to consider due to the minor change being contained within existing budgets.

### **6. Consultation**

#### **a) Has Local Member Been Consulted?**

n/a

#### **b) Has Executive Councillor Been Consulted?**

n/a

### c) Scrutiny Comments

This report has not been considered by scrutiny.

### d) Risks and Impact Analysis

Covered in the body of the report.

## 7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Brief details of those recommended for the position of Independent Person.

## 8. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Localism Act 2011	<a href="http://legislation.gov.uk">Localism Act 2011 (legislation.gov.uk)</a>
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015	<a href="http://legislation.gov.uk">The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (legislation.gov.uk)</a>

This report was written by Nigel West, who can be contacted on 01522 552840 or [nigel.west@lincolnshire.gov.uk](mailto:nigel.west@lincolnshire.gov.uk).

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