

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 1 December 2021

REPORT TO COUNCIL

Date of Meeting: 14 December 2021

Report of: Director Corporate Services (in the capacity as the Monitoring Officer)

Title: **Extension of the Appointment of the Council's two Independent Persons**

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 To invite Members to consider the extension of the current term of office of the Council's Independent Persons, Professor Brian Kirby and Mr Ian Brooking to comply with the principles set out in the Regulatory Framework of the Audit and Governance Committee.

2. Recommendations:

- 2.1 It is recommended that Council approve that the term of office for Professor Brian Kirby and Mr Ian Brooking as the Council's Independent Persons be extended for a further period of four years until the Meeting of Council on 24 February 2026, pursuant to section 28 of the Localism Act 2011.

3. Reasons for the recommendation:

- 3.1 S.28 of the Localism Act 2011 ("the Act") imposes a statutory duty upon the Council to ensure that high standards of conduct are maintained by its Members and Co-opted Members.
- 3.2 In order to comply with the provisions of S.28(7) of the Act there is a continuing obligation for the appointment of at least one 'Independent Person' whose views are to be sought in the event of an investigation pertaining to the Members' Code of Conduct.

4. What are the resource implications including non-financial resources.

- 4.1 An Independent Person is entitled to an annual allowance, currently set at the sum of £50 be paid to the Independent Persons affiliated to the Audit and Governance Committee for up to four hours work, and £100 for four hours and over, payable to each of the two Independent Persons (up to a maximum of £500 per person in any one year).

5 Section 151 Officer comments:

- 5.1 There are no additional financial implications for Council to consider contained within this report.

6 What are the legal aspects?

- 6.1 The Council is obliged to appoint at least one 'Independent Person'. Members should note that the Independent Person is also required to assist any Member who has received a complaint about them. Without them, the Council would be failing in its statutory obligations.

7. Monitoring Officer Comments:

- 7.1 Members should be clear that the Council must appoint at least one Independent Person as set out in paragraphs 3 above. The recommendation to extend the terms of both existing Independent Persons is because:
1. Both existing Independent Persons have received extensive training over the years and are now very seasoned and experienced in that role.
 2. When recruiting previously, the Monitoring Officer's experience was that there was a shortage of suitable candidates.

8. Report details:

- 8.1 Section 28(7) of the Localism Act 2011 requires a relevant local authority, which includes district councils, to appoint at least one Independent Person whose views are to be sought and taken into account before the Council makes any decision on an allegation under the Members' Code of Conduct that it has decided to investigate.
- 8.2 At the meeting of Council on 20 February 2018, Professor Kirby and Mr Ian Brooking were appointed to the office as an 'Independent Person', for a period of four years. They both have the experience to offer valuable support and advice, having the relevant knowledge and experience in this field.
- 8.3 The Audit and Governance Committee and Council is asked to consider this report, as Professor Kirby and Mr Brookings' current term of office runs until 20 February 2022, and Council sits on 22 February 2022. The resulting gap, albeit brief, may have a detrimental effect on the continuation and/or determination of any current investigation pertaining to the Members' Code of Conduct.
- 8.4 Professor Kirby and Mr Brooking have been contacted and are aware of the proposals and have both expressed their willingness to continue in office should Members of the Council wish to extend their period.
- 8.5 If the continuation of their appointments is deemed acceptable Audit and Governance Committee is asked to recommend to Council that the extension of their term of office in the roles of 'Independent Person' for the Audit and Governance Committee be confirmed with effect from 14 December 2021 to ensure continuity of their availability to the needs of the service.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 The need for an Independent Person ensures that the Council supports the democratic process helps to ensure the delivery of the council's purpose 'Well Run Council'.

10. What risks are there and how can they be reduced?

10.1 There are no risks with what is being proposed. The Council could operate with only one Independent Person, rather than two, but the Monitoring Officer finds it very useful to have two persons as this helps to strengthen and enrich the decision-making process.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs;
- and foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

There are no significant equality and diversity impacts with this decision.

12 Carbon Footprint (Environmental) Implications:

12.1 There are no direct carbon/environmental impacts arising from the recommendations.

13 Are there any other options?

13.1 To re-advertise the vacancy and seek applications from others wishing to fulfil this role, however the experience of the two current Independent Members is considered invaluable.

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Director of Corporate Services

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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