

BROMSGROVE DISTRICT COUNCIL

Council
2023

19th July

Role of the Independent Person (Standards)

Relevant Portfolio Holder	Councillor Charles Hotham
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton
Report Author	Job Title: Claire Felton Head of Legal, Democratic and Property Services Contact email: c.felton@bromsgroveandredditch.gov.uk Contact tel: (01527) 881429
Wards Affected	All
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	N/A
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

The Council RESOLVE that:-

- 1) For the purposes of the appointment of independent persons under section 28(7) of the Localism Act 2011, the Council join the group of Worcestershire local authorities who operate a joint pool of independent persons.**
- 2) Authority be delegated to the Monitoring Officer to appoint the named individual independent persons currently serving in the joint pool, and to make any future appointments to the role of independent person.**
- 3) The current Independent Person Mr Mel Nock continue to act as Independent Person for Bromsgrove District Council for another four-year term until July 2027.**
- 4) That any costs arising from the new arrangements for independent persons be met from the existing budget.**
- 5) That authority be delegated to the Monitoring Officer to make any consequential changes to the Constitution.**

2. BACKGROUND

- 2.1 In 2012 the Localism Act 2011 introduced changes to the rules governing how Councils uphold standards in public life. This resulted in the introduction of a new Code of Conduct for Members and changes to the way complaints were investigated and sanctioned. The changes brought in new rules relating to the disclosure of interests, including the possibility of police action in cases of non-disclosure of disclosable pecuniary interests.

- 2.2 Amongst the new measures brought in was the requirement that each council should appoint at least one “independent person” whose views should be sought and taken into account by the authority before it decides on an allegation that it has decided to investigate (section 27 (7)(a) Localism Act 2011). The Localism Act also provided that the independent person could be consulted by an elected member whose conduct had been complained about, this option being available to both District Council members and Parish Council members.
- 2.3 At Council on 19th June 2012 Members approved the details of how the relevant provisions of the Localism Act 2011 would be implemented at Bromsgrove and delegate authority to the Head of Legal Services to carry out a recruitment exercise to identify suitable independent persons. Following two rounds of recruitment, at its meeting on 26th September 2019 Council appointed two independent persons being Mr Mel Nock and a second independent person who subsequently dropped out and had only limited involvement in the post.
- 2.4 Mr Mel Nock has thus been acting as the Council’s Independent Person since 2012. During this time the more informal approach to resolving complaints, including the involvement of the independent person and use of consultation with group leaders, has proved to be very useful and has resulted in local settlement being reached in the majority of incidents reported. The Independent Person has attended Council meetings to observe and made himself available for consultation as required by the legislation. An allowance is paid to compensate the independent person for their time and this amount currently stands at £1632 per annum.
- 2.5 At the time of writing this report Mel Nock has been serving as Independent Person for 12 years. The Monitoring Officer has been looking into the future of the role and how additional independent persons could be added to give more resilience.

The options considered by the Monitoring Officer are as follows:-

- a. To advertise the post of Independent Person and carry out an inhouse recruitment process. This would involve interviewing prospective candidates as to suitability through the Appointments Committee and providing training for any successful appointees.
- b. For Bromsgrove District Council to join the existing group of Councils in Worcestershire who jointly retain a pool of Independent Persons that are made available to all the Councils in the group as and when required. The current member authorities are Worcestershire County Council, Wyre Forest District Council, Wychavon District Council, Malvern Hills

District Council, Worcester City Council and Hereford and Worcester Fire and Rescue Service. The host authority is Worcestershire County Council and the costs are shared by the participating councils.

- 2.7 Having considered the two options, the Monitoring Officer is of the view that the second option of joining the existing county wide joint pool has a number of advantages.
- The County Council who administers the group has indicated that in principle the Council may join. This will provide instant access to the existing joint pool of independent persons and will thus avoid the time and expense involved in carrying out inhouse recruitment.
 - The current independent persons from the joint pool will already have relevant experience of having dealt with member complaints for other councils.
 - Bromsgrove District Council would be required to contribute a percentage of the support costs for the Independent Persons in the joint pool but as all the costs would be shared between the participating councils it is not anticipated that this cost would exceed £500 per annum.
 - A further advantage of using the joint pool would be to provide greater resilience based on the number of independent persons in the pool which currently stands at six.
- 2.8 The outcome of the recent Corporate Peer Challenge, emphasised the importance of improving governance generally across the Council. The recommendations in this report will support that approach with particular regard to adding resilience, achieving efficiencies, and enabling the Council to involve a greater number of independent people with relevant experience in the standards process.
- 2.9 Members of the Audit, Standards and Governance Committee considered a report from the Monitoring Officer summarising the proposals set out above at its meeting on 1st June 2023 and indicated their support for the option of using the county wide joint pool.
- 2.10 In addition, at that meeting of the Audit, Standards and Governance Committee Members were advised that it was also proposed that, alongside entering the countywide pool, Mel Nock should be retained for a further term to support the Monitoring Officer in the management of Member-to-Member complaints.

- 2.11 Members are therefore asked to approve in principle the change to using the County wide joint pool of independent persons. The relevant legislation (as set out at paragraphs 5.1 and 5.2 below) requires the named individuals in the pool to be “appointed” by the Council. Historically this has been performed by Council but given that the new system is going to be more fluid and there may be occasions when changes are needed to be made more frequently, it is proposed that appointment of the named independent persons be delegated to the Monitoring Officer.
- 2.12 At the time of writing this report, the final arrangements for the Council to join the county wide group are being progressed with colleagues at the County Council. Mr Mel Nock’s continuing availability to act as Independent Person during this time and beyond will provide some continuity as well as a fall back position in case there is any delay in completing those arrangements.

OPERATIONAL ISSUES

- 3.1 The reasons for the decisions sought are set out in section 2 above. From an operational point of view, the process for the investigation of standards will be no different, save that rather than calling on Mr Mel Nock to fulfil the independent person role this will be undertaken by one of the independent persons from the joint pool.

4. FINANCIAL IMPLICATIONS

- 4.1 The annual cost for the honorarium currently paid to Mr Mel Nock for his services as Independent Person is £1632. On the basis that he is retained for a further four years these costs will continue to apply but will be shared equally with Redditch Borough Council. In addition, the Council will be required to contribute a percentage of the fees of the independent persons in the joint pool. It is anticipated that the Bromsgrove Council contribution towards the shared fees would not exceed £500 and would therefore be met from the existing budget.
- 4.2 Other than details set out above, there are no financial implications of this report.

5. LEGAL IMPLICATIONS

- 5.1 Section 27 (1) of the Localism Act 2011 states that “a relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.”

5.2 Under section 28(6) and (7) of the Localism Act 2011, the Council must have in place arrangements under which allegations that a members or co-opted member of the authority (or parish council within the authority's area), or a committee or sub-committee of the authority has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.

5.3 Such arrangements must provide for the authority to appoint at least one independent person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member (or a member, or co-opted member of a parish council) against whom an allegation has been made.

6. OTHER - IMPLICATIONS

Relevant Strategic Purpose

6.1 Effective corporate governance including meeting the duty to promote and maintain high standards in public life and enabling conduct issues regarding councillors to be investigated are essential components for the Council's operation and the achievement of strategic purposes.

Climate Change Implications

6.2 None

Equalities and Diversity Implications

6.3 None

7. RISK MANAGEMENT

7.1 By approving the recommendations in this report the Council will be fulfilling its statutory obligations under Chapter 7 of the Localism Act 2011.

8. APPENDICES and BACKGROUND PAPERS

Report to Council "Standards Regime" 19th June 2012

BROMSGRVOE DISTRICT COUNCIL

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9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Cllr Charles Hotham	11 th July 2023
Lead Director / Head of Service	Claire Felton - Head of Legal, Democratic and Property Services	10th July 2023
Financial Services	Peter Carpenter – Interim S151 Officer	10 th July 2023
Legal Services	Claire Felton - Head of Legal, Democratic and Property Services	10th July 2023
Policy Team (if equalities implications apply)	N/A	N/A
Climate Change Team (if climate change implications apply)	N/A	N/A