
Meeting	Group Leaders Panel
Date	4 February 2014
Subject	Independent Person Protocol
Report of	Assurance Director
Summary	A protocol has been developed and proposed clarifying the role of the independent person and at what points they are consulted through-out the lifecycle of a complaint under the Member Code of Conduct

Officer Contributors	Maryellen Salter, Assurance Director
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – Independent Person Protocol
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1. RECOMMENDATIONS

- 1.1 That the Group Leaders Panel comment on the protocol developed capturing the role of the Independent Person and the points at which their views are sought.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 21 May 2013 – Item 10 – That Council confirm the appointment of Mr Stephen Ross and Mrs Tanya Ossack as Independent Persons within the provisions of the Localism Act 2011.
- 2.2 Council, 16th April, Item 4.3 - that the Independent Persons are paid on a case by case basis, whereby a fee of £100.00 could be paid for a simple case on which the Independent Person's views has been sought. For more complex cases, for example, where the complaint is referred to a Group Leaders Panel, a fee of £200.00 could be paid. Complexity of a case will be determined by the Council's Monitoring Officer

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 A protocol for the role of independent persons ensures a consistent approach to reviewing complaints under the Members Code of Conduct. Good governance is essential to delivery of all Council priorities.

4. RISK MANAGEMENT ISSUES

- 4.1 By having a protocol available outlining the functions of the independent person, and the timings of involvement throughout a complaint investigation, it mitigates the risk of ambiguity with the process.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 A protocol for independent persons is relevant to the two independent persons currently appointed by Full Council, both of whom have been consulted on the proposals.
- 5.2 The protocol also affects Members who may be a source of an allegation, and also residents who may want to make an allegation about a Member. The protocol follows the provisions of the Localism Act and merely refers to the time where consultation with an independent person may be appropriate. As a result of the creation of this protocol there will be no differential outcomes for different protected communities. The proposal does not compromise the Council in its compliance of the statutory equality duty.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 There is no use of resources implications as a result of this decision.

7. LEGAL ISSUES

- 7.1 The Localism Act 2011 section 28(7) require arrangements put in place by a relevant authority to include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and.
 - (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),.
 - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and.
 - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Council Constitution, Part 3, Section 3 – details the functions of the Group Leaders Panel “to investigate and determine allegations of a breach of the Code of Conduct for Members in the context of satisfying the Council's continuing duty to promote and maintain high standards of conduct for members.”
- 8.2 Whilst the approval of this protocol does not come within the remit of these functions, the comments of the Panel will be important in finalising a workable protocol.

9. BACKGROUND INFORMATION

- 9.1 Under the Localism Act 2011, at least one independent person is required to be appointed to by the authority for their views to be sought regarding allegations against a Member that falls within the Code of Conduct. Council has complied with this requirement of the law.
- 9.2 It is necessary to set a detailed protocol that makes clear the relationships between the Independent Person (IP) and the various parts of the local authority involved in the process of handling allegations against Members conduct and wider promotion of the Code of Conduct. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.
- 9.3 The Council has appointed two independent persons, one will act in relation to an allegation and the other will act as a reserve. The draft protocol as attached at Appendix A details the various times an independent person may be consulted in accordance with the procedures detailed in the Constitution:
- Considering written allegations;
 - Matters under investigation

- Relationship with the Group Leaders Panel

In addition the protocol details other matters relating to an independent person and their rights to address the Chief Executive for example if they have concerns about processes of the Council in relation to Code of Conduct issues.

- 9.4 The Independent Person will also need to register their interests and declare interests in relation to cases where appropriate. The Independent Person has no voting rights at meetings or when considering written allegations, decisions are either reserved to the Monitoring Officer or the Group Leaders Panel as detailed within the Constitution.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	CE