Agenda Item No 9

North East Derbyshire District Council

Council

18 February 2019

Future Arrangements for Independent Persons

Report of the Councillor B Ridgway, Chair of the Standards Committee

This report is public

Purpose of the Report

- To consider future arrangements for Independent Persons.

1 Report Details

1.1 The Localism Act 2011 required the Council to appoint Independent Persons who must be consulted by the Authority before a decision is taken on a complaint against a member and who may be consulted by the member and at any other time by the Authority.

1.2 To be appointed, an Independent Person must go through a recruitment process and not have been a member, co-opted member or officer of the authority or a parish council in the District or be a relative or close friend of any such person. They also cannot have been a member or officer of the District or Parish Council in the last five years.

1.3 The Council appointed Mr Ian Daines and Mr Stuart Hooton in July 2012, their terms of appointment were later extended to the end of May 2019.

1.4 Mr Ian Daines has indicated that he does not wish to renew his term, Mr Stuart Hooton has confirmed he would like to extend his appointment. The Council will need to consider re-advertising the positon for one Independent Person taking account of the wishes Standards Committee and the wider Council membership, or whether to retain Mr Stuart Hooton and seek to call upon Bolsover's Independent Persons should the need arise.

1.5 The Council has enjoyed a constructive relationship with its Independent Persons when it has needed to call on them.

1.6 The Standard Committee considered reducing the number of Independent Persons employed by the Council to one. However having two allows the Council to use the Independent Persons at different stages of the complaints process. It also provides breadth of experience and ensures continuity in case of sickness, annual leave or other non-availability.

1.7 The Standards Committee decided to recommend to Council an extension of the terms of office of Mr Stuart Hooton as Independent Persons until the end of May 2023, and that we advertise for a further Independent Person to be appointed until the end of May 2023.

1.8 Standards committee has also asked that Council consider in whether an increase of the salary paid to the Independent Persons would be appropriate.

2 Conclusions and Reasons for Recommendation

2.1 To consider the arrangements for the Council's Independent Persons.

3 Consultation and Equality Impact

3.1 The Independent Persons have been consulted, Mr Hooton has expressed a wish to be reappointed, Mr Daines does not.

4 Alternative Options and Reasons for Rejection

4.1 The Council could go out to recruitment for two Independent Persons. It is not considered necessary since one Independent Persons has expressed a wish to stay on and is still, in the view of officers', of independent mind.

4.2 Officers also considered the option of reducing the number of Independent Persons employed by the Council to one. However having two allows the Council to use the Independent Persons at different stages of the complaints process. It also provides breadth of experience and ensures continuity in case of sickness, annual leave or other non-availability.

5 Implications

5.1 The cost of employing two Independent Persons is approximately £1,600 per annum and is budgeted for.

6 Recommendations

6.1 To grant an extension of the terms of office of Mr Stuart Hooton as Independent Persons until the end of May 2023.

6.2 To approve advertising for a further Independent Person to be appointed until the end of May 2023.

6.3 The suggested job description, person specification, job advert, attached as **Appendices 1 to 2** to this report be noted.

6.5 Authority be delegated to the Head of Corporate Governance and Monitoring Officer to carry out the recruitment process, with briefings with each of the Political Group Leaders to keep them abreast of developments.

6.5 An annual honorarium payment of £800 be made to each Independent Person.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: *BDC: Revenue - £75,000* ☐ *Capital - £150,000* ☐ *NEDDC: Revenue - £100,000* ☐ *Capital - £250,000* ☐ ☑ *Please indicate which threshold applies*	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	N/A
Links to Corporate Plan priorities or Policy Framework	N/A

8 Document Information

Appendix No	**Title**
1 2	Job Description and Person Specification Job Advert
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	

Report Author	**Contact Number**
V Dawson	2231

APPENDIX 1

North East Derbyshire District Council

Job Description

Job title and post number	*Independent Person*
Service Area and Directorate	*Governance - People Directorate*
Reports to	*Head of Governance and Monitoring Officer*
Direct reports	*Head of Governance and Monitoring Officer*
Grade	*N/A*
Salary range	*£800 per annum*

Job purpose

To undertake the statutory role of Independent Person appointed under Section 28(7) of the Localism Act 2011 and to help the Council discharge its duty to promote and maintain high standards of conduct amongst members and co-opted members.

Duties and responsibilities

1. Advising the Monitoring Officer in connection with the assessment and post-investigation stage of complaints against councillors and co-opted members.

2. Reading and digesting investigation reports into complaints against councillors and co-opted members.

3. Advising the Hearings Sub-Committee in connection with complaints and potential sanctions where a failure to comply with the code of conduct has been established.

4. Advising councillors and co-opted members of North East Derbyshire District Council and of parish and town councils within North East Derbyshire in connection with complaints made against them under the code of conduct.

5. Assisting North East Derbyshire District Council in discharging its duty to promote and maintain high standards of conduct by councillors and co-opted members of North East Derbyshire District Council and the parish and town councils in its area.

6. Ability to reach balanced and reasoned conclusions having considered complex material and applied an impartial and fair approach to all of the written and oral material provided.

7. Ability to demonstrate and promote a commitment to the Council's equality and diversity policies.

8. Ability to attend day-time meetings at the Council Offices, sometimes at short notice.

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Corporate Duties and Responsibilities

To familiarise yourself with the principles of, and key Council documents and policies relating to:

- The Member Code of Conduct
- The Councillor Complaints Procedure
- Data Protection (Employees must at all times abide by the principles of the Data Protection Act 2018 and guidance provided by the Council in the form of policies and procedures).

This job description sets out a summary of the key features of the role. It is not intended to be exhaustive and will be subject to review (on an annual basis).

Any other duties commensurate with the grade as determined by management.

Any job description provided to you by the Council will not form part of your contract of employment.

Approved by:	*Sarah Sternberg*
Date approved:	*January 2019*
Reviewed:	

North East Derbyshire District Council

PERSON SPECIFICATION

Post Title: Governance and Civic Officer	**Section:** Governance		
Directorate: People			
Knowledge & Skills (Essential)	**AM**	**(Desirable)**	**AM**
• Ability to analyse information in a logical way and form a balanced opinion	a & i	• Ability to persuade and influence	a & i
• Ability to exercise sound judgement	a & i	• Knowledge of local government and the role of elected members	a & i
• Ability to take an objective view of sometimes emotive situations	a & i		
• Ability to communicate well orally and in writing	a & i		
• Ability to express ideas and points of view effectively whilst being an effective listener	a & i		
• Ability to analyse and solve complex problems	a & i		
Qualifications			
• A good general education, sufficient to deal with relevant paperwork and issues	a &c		
Experience			

		• Experience of dealing with complaints • Experience of interpreting codes of conduct	a a
Other Requirements:			
• High standards of personal integrity and a commitment to equal opportunities • Firm belief in the importance of high standards of probity and conduct in public life	a & i a & i		

Key to Assessment Methods (AM); (a) application form, (i) interview, (p) presentation, (c) certificate check (o) others

Equality Act 2010

The ways in which a disabled person meets the criteria for a post must be assessed as they would be after any reasonable adjustments required had been made. In accordance with the Equality Act, candidates will be asked if they have any specific requirements relating to the selections process.

Schedule 9 Part 1.1(1) of the Equality Act also permits targeted recruitment on grounds of Genuine Occupational Requirement.

Approved by:	*Sarah Sternberg*
Date approved:	*January 2019*
Reviewed:	

APPENDIX 2

Independent Person

Ref:
Salary details: £800 honorarium per annum
Job Term: Permanent
Hours: Estimated one to two days per month
Location: Occasional meetings at Council Offices, Mill Lane, Wingerworth, Chesterfield, S

Could you be one of our Independent Persons?

Local authorities have a duty to promote and maintain high standards of conduct amongst their councillors and co-opted members. The Councils Code of Conduct sets out what is expected of elected office. If a complaint is made that a councillor or co-opted member has failed to comply with the code, your views will be sought by ourselves and can be sought by the person subject to the complaint before a decision is made.

We are looking for an Independent Person who can interpret the code of conduct, balance differing views and bring an independent and informed perspective to the investigative process. This is a role created under the Localism Act 2011.

You will be expected to read and digest complaints and investigation reports, liaise with the Council's Monitoring Officer, councillors and co-opted members and attend some meetings of the standards committee. Knowledge of local government may be an advantage.

To ensure your voice is truly independent, the law rules you out for this role if within the last five years you have been a councillor or co-opted member of North East Derbyshire District Council or any of the parish or town councils within its area - or if you are a close friend or relative of any of those persons.

For an informal discussion please contact Sarah Sternberg, Head of Corporate Governance and Monitoring Officer on 01246 242414. To apply, please return your completed application form to HR and Payroll, North East Derbyshire District Council, Council, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG. Closing date is <to be completed>.

Additional Information for Independent Persons

The Localism Act 2011 introduced a new regime for promoting and maintaining high standards of conduct amongst councillors and co-opted members when acting in that capacity.

As part of these arrangements each local authority must adopt a code of conduct and have arrangements in place for dealing with complaints of breaches of that code by its councillors and co-opted members and by the parish and town councillors in that area.

The new role of the Independent Person is key to the complaints handling process. It is their job to be:

- Consulted by the District Council before it makes a finding as to whether a councillor or co-opted member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that councillor/co-opted member;

- Consulted by the District Council in respect of a standards complaint at any other stage; and

- Consulted by a councillor or co-opted member of the District Council or of a parish or town council against whom a complaint has been made.

A person cannot act as an Independent Person if they are:

(a) A councillor, co-opted member or officer of North East Derbyshire District Council;

(b) A councillor, co-opted member or officer of a parish or town council which falls within North East Derbyshire; or

(c) A relative or close friend of a person in (a) or (b) above.

A relative is defined as:

(a) The candidate's spouse or civil partner;

(b) Any person with whom the candidate is living as if they were spouses or civil partners;

(c) The candidate's grandparent;

(d) Any person who is a lineal descendent of the candidate's grandparent;

(e) A parent, brother, sister or child of anyone in paragraphs (a) or (b);

(f) The spouse or civil partner of anyone within paragraphs (c), (d) or (e); or

(g) Any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

In addition, a person may not become an Independent Person if, during the last five years ending with the appointment, they were:

- A councillor, co-opted member or officer of North East Derbyshire District Council; or

- A member, co-opted member or officer of a parish or town council within North East Derbyshire.