

# North Tyneside Council

## Report to Standards Committee

### Date: 19 July 2018

**ITEM 8**  
Title: **Appointment of  
Independent Persons**

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#### Report from Service

Area: Law and Governance

Responsible Officer: Vivienne Geary, Head of Law and Governance (Tel: (0191) 643 5339)

Wards affected: All

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### PART 1

#### 1.1 Executive Summary:

The Localism Act 2011 ("the Act") places a statutory duty on the Authority to promote and maintain high standards of conduct by its elected and co-opted members. The Act requires the Authority to have local arrangements to handle any misconduct complaints including the appointment of Independent Persons. This report requests the Committee to recommend to Full Council to renew the existing appointments of the current holders of these roles, to set a maximum term of office and to appoint an additional Independent Person, from 1 August 2018, bringing the total to three.

#### 1.2 Recommendation(s):

It is recommended that the Committee note and endorse the proposal to the Council meeting on 26 July 2018 to:

- a) increase the number of Independent Persons to three;
- b) implement a maximum ten year term of office for an Independent Person;
- c) appoint Mr George Clark, Ms Stella Gardner and Dr Stuart Green as the Authority's Independent Persons pursuant to the requirements of the Localism Act 2011 for a period of four years to 31 July 2022; and
- d) agree to the consequential amendments to the Local Arrangements for dealing with Complaints under the Code of Conduct as set out in Appendix 1.

#### 1.3 Information:

##### 1.3.1 Background

1.3.2 The terms of appointment of both of the Authority's two current Independent Persons, Mr George Clark and Ms Stella Gardner end in July 2018. Mr Clark and Ms Gardner were initially appointed to their roles in 2012 for a period of two years. In 2014 their appointments were extended to July 2016. Throughout their appointments Mr Clark and Ms Gardner have provided advice to both the Standards Committee and Standards Sub-Committee in relation to the operation of the Authority's Code of Conduct for Members and, in particular, actual complaints received by the Authority.

### 1.3.3 The functions of the Independent Person(s) are that he or she:

- must be consulted and their views taken into account before the Authority takes a decision on any allegation made against an elected member which has been investigated;
- may be consulted about any other aspect of a councillor's alleged breach of the Authority's Code of Conduct for Members; or
- may be consulted by a councillor against whom such an allegation has been made.

1.5.2 In addition, under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the Authority is also required to appoint its Independent Persons to its Dismissal Advisory Committee to assist the Authority to carry out its duties under the 2015 Regulations in relation to the Authority's procedures for the discipline and (where necessary) the dismissal of Statutory Officers.

1.5.3 Candidates are expected to have high standards of personal conduct, tact and discretion and ideally some knowledge of local government at principal authority level. Training is given and a modest allowance paid. Initial appointments are for a two year period with a possible minimum extension of a further two years.

1.5.4 The law prevents a close friend or relative of any member, co-opted member or officer of the Authority concerned from applying.

#### Increasing the number of Independent Persons

1.5.5 Following consultation with the Elected Mayor and the Chair of the Standards Committee it is proposed that the number of Independent Persons be increased from two to three. This will allow for greater flexibility and will minimise the potential for any conflict of interest where:

- a) an Independent Person has, for example, been involved in an initial assessment decision and the complainant seeks a review of that decision; or
- b) a member who is the subject of a complaint has contacted an Independent Person for support and that matter proceeds to a final hearing at which the Independent Persons are requested to give advice and support to the Standards Sub-Committee.

#### Setting a maximum term of office

1.5.6 In addition to the above it is also proposed that the term of office of an Independent Person be no more than a maximum of ten years.

1.5.7 The appointment of a third Independent Person will therefore also assist in succession planning when the two current Independent Persons reach the ten year threshold of their appointments in 2022.

#### The recruitment process

1.5.8 A full recruitment exercise to the roles of Independent Person was commenced in early May/June 2018. Eleven applications were received as a result of the formal recruitment process. Following a shortlisting process, four candidates including the current holders of the roles of Independent Person were interviewed as a part of the selection process. The interviews were conducted by the Elected Mayor, the Chair of the Standards

Committee and Councillor Paul Mason, supported by the Head of Law and Governance. The selection panel identified three suitable candidates.

1.5.9 The Committee will be aware of Mr Clark and Ms Gardner's experience. Dr Green has considerable experience of local government standards and has been appointed to the role of Independent Person in two other local authorities.

1.5.10 It is proposed that Mr Clark, Ms Gardner and Dr Green be appointed to the roles of Independent Person for a period of four years until 31 July 2022.

### Conclusions

1.5.11 If the proposals to appoint i) a third Independent Person; and ii) introduce a maximum term of office of ten years for an Independent Person are agreed, consequential amendments to the Authority's Local Arrangements for dealing with complaints under the Code of Conduct will be required. Attached at Appendix 1 is a track changed version of the Local Arrangements setting out those proposed amendments which are minor in nature.

## **1.6 Appendices:**

Appendix 1 – Consequential Amendments to the Local Arrangements for dealing with complaints under the Code of Conduct.

## **1.7 Contact officers:**

Stephen Ballantyne – Legal Manager: Governance and Employment tel. (0191) 643 5329  
Alison Campbell – Senior Business Partner. Tel (0191) 643 7038

## **1.8 Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

The Localism Act 2011

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

The allowance to be paid to the Independent Persons has been determined by Council. The allowance will be contained within the budget which covers the allowances payable to the Independent Persons and currently stands at £1,020 per annum per Independent Person.

### **2.2 Legal**

The Localism Act 2011 places a statutory duty on the Authority to promote and maintain high standards of conduct by its elected and co-opted members and to appoint Independent Persons. Section 28 of the 2011 Act also requires the Authority to appoint at least one Independent Person to provide advice and support to the Authority in relation to the operation of the Code of Conduct for Members and ethical governance.

### **2.3 Consultation/community engagement**

#### **2.3.1 Internal Consultation**

Consultation has been undertaken with the Chair of the Standards Committee, the Elected Mayor and other Group Leader representatives.

#### 2.3.2 External Consultation/Engagement

An advert was placed on the Authority's Website and a press release made.

### **2.4 Human rights**

There are no direct human rights issues arising from this report.

### **2.5 Equalities and diversity**

There are no direct equalities and diversity implications arising from this report.

### **2.6 Risk management**

There are no risk management issues arising from this report.

### **2.7 Crime and disorder**

There are no direct crime and disorder issues arising from this report.

### **2.8 Environment and sustainability**

There are no direct environment and sustainability issues arising from this report.