

# North Tyneside Council

## Report to Council

### Date: 26 July 2018

#### ITEM 9

#### Appointment of Independent Persons

<b>Portfolio(s):</b> Elected Mayor	<b>Cabinet Member(s):</b> Mrs N Redfearn, the Elected Mayor
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<b>Report from Service Area:</b>	<b>Law and Governance</b>	
<b>Responsible Officer:</b>	<b>Vivienne M Geary Head of Law and Governance</b>	<b>Tel: (0191) 643 5339</b>
<b>Wards affected:</b>	<b>All</b>	

## **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 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 third Independent Person, from 1 August 2018, bringing the total to three.

### **1.2 Recommendation(s):**

It is recommended that Council:

- a) increase the number of Independent Persons to three;
- b) implement, as a matter of best practice, 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 2010 for a period of four years to 31 July 2022; and
- d) agree the consequential amendments to the Local Arrangements for dealing with Complaints under the Code of Conduct as set out in Appendix 1.

### **1.3 Forward Plan:**

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 15 June 2018.

### **1.4 Council Plan and Policy Framework**

This report does not align directly to any of the priorities in the Council Plan. In accordance with the Localism Act 2010 the Authority has a statutory duty to promote robust governance arrangements.

## **1.5 Information:**

### **1.5.1 Background**

1.5.2 The terms of office 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 and although their appointments have previously been extended their current appointments expire on 31 July 2018. 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, specific complaints received by the Authority.

1.5.3 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 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 its 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. .

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. Setting a maximum term of office of ten years provides a significant but definite period for an individual to be appointed an Independent Person. This allows the appointee to develop an understanding of the Authority but also ensures, by the fixed term, that the element of independence that is essential for the role is maintained. The implementation of a maximum term of office is also an approach that has been adopted in several authorities across the wider region.
- 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 May 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, the Authority's current Independent Persons, Mr Clark and Ms Gardner, and Dr Stuart Green.
- 1.5.9 Members will be aware of Mr Clark and Ms Gardner's previous experience. Dr Green has considerable experience of local government standards matters and is an Independent Person for two other local authorities and is an independent member of the Audit Committee of a third.
- 1.5.10 It is proposed that Mr Clark, Ms Gardner and Dr Green be appointed to the roles of Independent Person for an initial 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.

## **1.5 Decision options:**

The following decision options are available for consideration by Cabinet:

### Option 1

To approve the recommendation at paragraph 1.2 of the report.

### Option 2

To not approve the recommendation at 1.2 of the report and request officers to undertake further work with respect to the appointment of Independent Persons.

## **1.6 Reasons for recommended option:**

Option 1 is recommended as it supports the Authority statutory duty to promote ethical standards and provides the benefits as set out in the report.

## **1.7 Appendix:**

Appendix 1 – Local Arrangements for Dealing with breaches of the Code of Conduct for Members and Co-opted Members

## **1.8 Contact officers:**

Vivienne Geary- Monitoring Officer	Tel 0191 643 5339
Stephen Ballantyne – Legal Manager: Governance and Employment	Tel 0191 6435329
Alison Campbell – Senior Business Partner	Tel 0191 6437038

## **1.9 Background information:**

The following background information has been used in the compilation of this report and is available at the office of the author:

None

# **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 and currently stands at £1,020 per annum per Independent Person. The introduction of a third Independent Person will create a small additional pressure within the Law and Governance service.

## **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.

In addition, under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the Authority is 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 its Statutory Officers.

## **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. In addition the Standards Committee are to be

consulted about the proposed appointment and other changes referred to in this report at their meeting on 20 July. The outcome of that consultation will be presented at the meeting of Full Council.

### 2.3.2 External Consultation/Engagement

An advertisement seeking applications for the role was placed on the North East Jobs recruitment portal, the Authority's Website and a press release was also 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.

## PART 3 - SIGN OFF

- Deputy Chief Executive ☒
- Head(s) of Service ☒
- Mayor/Cabinet Member(s) ☒
- Chief Finance Officer ☒
- Monitoring Officer ☒
- Head of Corporate Strategy ☒