

ANNUAL COUNCIL - 9 JUNE 2020

26. REAPPOINTMENT OF INDEPENDENT PERSON UNDER THE LOCALISM ACT 2011 (CED)

1. Summary

1.1 To approve the reappointment of Mr Nigel Gates as an Independent Person under the Localism Act 2011 ("the Act") for a period of 2 years from June 2020 subject to changes in legislation around this role.

2. Details

2.1 Following the abolition of the former standards regime on the 30 June 2012 and the adoption of a new code of conduct and procedure for dealing with Member complaints, this Authority appointed Mr Nigel Gates as an Independent Person (IP) under the Act.

2.2 The appointment was extended in May 2017 to May 2020.

2.3 The Independent Person, under the Council's procedures, is required to:

- To give his/her views on compliance with the District and Parish Councillors Codes of Conduct.
- To give his/her views to any Hearing Panel, before a decision is taken, following investigation into alleged breaches of the Code of Conduct.
- To give his/her views to any Hearing Panel or the Monitoring Officer about any other aspect of their consideration of, or decision on, an alleged breach of the Code where required.
- To give his/her views where sought to Councillors if their behaviour is the subject of an allegation. To advise other co-opted Councillors if their behaviour forms part of an allegation against another Council Member.
- Be Involved in any disciplinary proceedings/action taken against Statutory Officers (Head of Paid Service, S151 officer, Monitoring Officer)

2.4 Mr Nigel Gates has served as an Independent Person since June 2012. The appointment was renewed unanimously by Full Council in 2017 for a further 3 year period.

2.5 This report recommends that his appointment be renewed for up to 2 years while we wait for any changes in legislation following the Committee of Standards in Public Life's reports and the proposed changes to the Code of Conduct for elected members. Mr Gates has dealt (mostly informally and in a consultative role) with some 10 complaints (including complaints against Parish Councillors) only 2 of which went to a full hearing the most recent being one involving a former Community Councillor.

He is able and willing to continue to act. He is not paid for the role and chooses not to claim expenses.

2.6 The Monitoring Officer took soundings from the then 3 Group Leaders in January 2020 about the best process for our approach to the role. Group leaders were given the pros and cons of a further extension and all recommended that Council be asked to consider a further term of office whilst we await legislative changes. Low levels of complaints, high standards of

behaviour and the perceived independence and ability of Mr Gates were instrumental in that recommendation

3. **Financial Implications**

3.1 The Independent Person does not receive an annual allowance but is entitled to claim travel and other expenses and to receive training on the role. These costs are met from the Democratic Representation budget. No claims have been made other than one claim related to training for the IP.

4. **Legal Implications**

4.1 The Act made major changes to the arrangements for securing high standards of conduct amongst Local Authority elected members.

4.2 The requirement for each Local Authority to have a standards committee with an independent chairman and members ceased on 1 July 2012. Authorities are required to continue to promote high standards of conduct by elected members and to investigate and determine allegations of misconduct but the arrangements for doing this are a matter for local determination.

4.3 The Council was required to appoint one or more persons as an Independent Person by the 1 July 2012 by virtue of the Localism Act 2011. The purpose of the role is to include an independent element in the consideration and determination of complaints.

4.4 Detailed arrangements for handling complaints are for each Local Authority to determine. However, it is a requirement of the Act that each Local Authority should appoint one or more persons whose views must be considered when

- An allegation of misconduct by a member has been received and
- The Council has decided it should be investigated and the investigation has been completed but
- Before the Council has decided what finding to come to and what sanction, if any, to impose.

4.5 The appointment has to be approved by a majority of Full Council.

4.6 The Act is silent as to the length of term of the appointment of Independent Person and appointments will be for a period to be determined by this Authority but may be determined by us as appointing authority at any time. There is nothing to stop the Independent Person being re-appointed at the end of this further term of office.

4.7 As Councillors are aware from item in the Member Information Bulletin last year The Committee for Standards in Public Life (CSPL) reported on standards in public office and made some recommendations about the role of the IP and about the code of conduct. The Government has yet to respond to the recommendation about the tenure of the IP let alone bring any legislation into effect. The code of conduct has been redrafted by the LGA and will be out to consultation shortly.

4.8 The 3 Group Leaders consulted in January were satisfied with the suggestion that Mr Gates be re-appointed subject to any recommendations from the CSPL being taken up by the Government and enshrined in legislation.

4.9 Independent Persons will be holders of a statutory office and will not be employees or contractors of the appointing authority. No salary, fee or honorarium will be payable but expenses will be met.

5. **Staffing Implications, Environmental and Community Safety Implications, Customer Services Centre Implications**

5.1 None specific.

6. **Website Implications**

6.1 None specific. The website will be updated when the appointment is known.

7. **Risk Management**

7.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

7.2 The subject of this report is covered by the Legal and Committee service plans. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
A majority of the Council does not approve the appointment of the independent person	No IP appointment made	Agree the appointment	Treat	Low - 2

The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
Impact Low -----> Unacceptable				

Impact Score

- 4 (Catastrophic)
- 3 (Critical)
- 2 (Significant)
- 1 (Marginal)

Likelihood Score

- 4 (Very Likely (≥80%))
- 3 (Likely (21-79%))
- 2 (Unlikely (6-20%))
- 1 (Remote (≤5%))

7.3 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Corporate Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

8. **Recommendation**

That Council is asked to approve the recommendation for the reappointment of Mr Nigel Gates as Independent Person for a period of 2 years up to June 2022 subject to any legislative changes

Background Papers

Localism Act 2011

Report to Council in May 2012 *Appointment of Independent Person under the Localism Act 2011*

Report to Council in May 2017 *Appointment of Independent Person under the Localism Act 2011*

Report of the Committee of Standards in Public Life

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