

CONSTITUTION PRACTICE NOTE

PROTOCOL FOR INDEPENDENT PERSON(S) AT GOVERNANCE COMMITTEE

1. The Localism Act 2011 requires the Council to promote and maintain high standards of conduct by its members and co-opted members. To this end the Council has adopted a Councillors' Code of Conduct and has agreed arrangements for dealing with an allegation that a member or co-opted member has breached the Code. In accordance with the requirements of the Act these arrangements include provision for the appointment of at least one Independent Person to undertake the duties described in the arrangements.
2. To discipline or dismiss the Council's Head of Paid Service, Monitoring Officer or Chief Finance Officer requires the undertaking of a statutory procedure and as part of that an Independent Panel must be established, the views, advice or recommendations of which must be considered by the Full Council prior to any decision being made. The Independent Panel must include at least two Independent Persons appointed under the Localism Act 2011 by the Council or by another local authority. The Council aims to have at least two serving Independent Persons.

Appointment

3. To be eligible for appointment as an Independent Person a person must not be or have been within the previous 5 years a member, co-opted member or officer of the Council or of a Parish Council of which the Council is the principal authority, nor a relative or close friend of such member or officer.
4. A candidate should not be involved actively in party politics and should be independent of Chelmsford City Council. It is essential that a candidate can demonstrate personal integrity and honesty, a keen interest and commitment to maintaining high standards in public life, experience of exercising sound judgment in relation to complex matters and strong oral and written communication skills. It would be beneficial for a candidate to demonstrate experience of managing or advising upon misconduct issues in another context, understanding the pressures and constraints of serving as a member of an accountable public body and knowledge of public sector governance issues.
5. An Independent Person may only be appointed pursuant to a formal recruitment process requiring a public advertisement, submission of applications and selection, usually by interview. A person's appointment must be approved by the full Council. An Independent Person is the holder of a

statutory office and not an employee of the Council. Under the Council's Allowance scheme an allowance and expenses may be paid to an Independent Person.

Role of the Independent Person

6. The primary role of the Independent Person is to be available for consultation at various points in the arrangements for dealing with misconduct complaints upon various issues as follows:
 - (i) The Monitoring Officer will review every complaint received and may consult the Independent Person before taking a decision as to whether or not the complaint merits investigation. The Independent Person should provide an objective and impartial opinion which the Monitoring Officer will take into account in making the decision.
 - (ii) Where an investigation has been undertaken, a draft report will be submitted by the Investigator to the Monitoring Officer or be prepared by the Monitoring Officer. The Monitoring Officer may ask the Independent Person for a view upon whether the report is satisfactory or whether further investigation is necessary, and whether or not the report should be submitted to the Governance Committee.
 - (iii) The Monitoring Officer may consider that the matter can reasonably be resolved without a hearing and may consult both the Independent Person and the Complainant and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future.
 - (iv) Where a complaint is the subject of a Governance Committee hearing, at least one Independent Person must attend. After all the evidence has been presented the Committee will seek the views of the Independent Person before determining whether or not the member breached the Code of Conduct. The Independent Person does not vote upon whether or not the complaint is upheld.
 - (v) Where the Governance Committee determines that a member has breached the Code, it will seek the views of the Independent Person upon any sanction to be imposed.
 - (vi) The Independent Person may be consulted by the Monitoring Officer or other authorised representative of the Council at any stage in the arrangements for dealing with misconduct complaints.

- (vii) The Independent Person may be consulted by a member or co-opted member of the Council or of a Parish Tier Council for which the Council is the principal authority if that person's behaviour is the subject of an allegation.
 - (viii) Where the Independent Person is consulted by the Monitoring Officer or other authorised representative of the Council or a member or co-opted member pursuant to paragraphs (vi) or (vii) above, the Independent Person does not represent the Council or any other party to a complaint whilst being an impartial point of reference and source of advice for both. Consultations with the Independent Person are confidential between the parties and the content or outcome of such consultation may only be disclosed by either, if both parties agree to such disclosure.
7. A further role of the Independent Person arises from the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). By virtue of amending regulations in 2015, there is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or Chief Finance Officer. A decision to discipline or dismiss must be taken by Full Council which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least two Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority.
 8. In addition to the statutory duties, the Independent Person is invited to attend meetings of the Governance Committee and may participate in all aspects of the Committee's work in a non-voting capacity. The Independent Person will be consulted in respect of changes to the Council's ethical framework.
 9. When the Council has more than one Independent Person, the Monitoring Officer shall ensure that the workload is dealt with jointly and/or shared out between those persons as the Monitoring Officer considers appropriate.

Training

10. Training for the roles of the independent person with particular reference to local government governance and practice will be provided in-house by the Monitoring Officer and other senior officers and where appropriate through external courses. Training for disciplinary and/or dismissal proceedings against a statutory officer will be provided externally.
11. Independent persons are persons of experience from a context other than that of local government within Chelmsford, but which can be valuable in bringing a fresh perspective to public sector governance and ethical framework issues.