

19th May, 2017

**To the Chair and Members of the
COUNCIL**

**INDEPENDENT PERSON APPOINTED UNDER SECTION 28 OF THE LOCALISM
ACT 2011**

EXECUTIVE SUMMARY

1. This report seeks the Council's approval to re-appoint Mr Philip Beavers for a further 4 years as the Council's Independent Person appointed under Section 28 of the Localism Act 2011 to assist the Monitoring Officer in dealing with allegations of Member misconduct. It also recommends that the IP is, in future, paid an annual allowance of £1000 for carrying out this role, and seeks ratification by Council of IP sharing arrangements with the other South Yorkshire local authorities in cases of conflicts of interest or absences. The Audit Committee considered these proposals at its meeting held on 6th April 2017 and agreed to recommend to Full Council that they be approved.

RECOMMENDATIONS

2. That the Full Council:-
 - (i) re-appoints Mr Philip Beavers as the Independent Person to assist the Monitoring Officer in dealing with complaints of alleged Member misconduct for a further 4 year period to 31st May 2021;
 - (ii) approves the payment of an annual allowance of £1000 to the Independent Person for undertaking his role; and
 - (iii) ratifies the proposed arrangement outlined in paragraph 7 of the report to enable Doncaster MBC to participate in the sharing of reserve Independent Persons across the four South Yorkshire authorities.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. Having robust ethical governance policies and procedures in place helps to maintain openness, transparency and probity in the way that the Council conducts its business. This in turn should help increase public confidence in local governance through maintaining high standards of conduct by Members.

BACKGROUND

4. Under the Localism Act 2011, the arrangements adopted by the Council to deal with the consideration of Councillor Code of Conduct complaints must include provision of one or more Independent Persons. Under the Act, the functions of an Independent Person are as follows:-
 - They **must** be consulted by the Council before it makes a finding as to whether a Councillor has failed to comply with the Code of Conduct or

decides on action to be taken in respect of that Councillor (this means on a decision to take no action where the investigation finds no evidence of a breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

- They **may** be consulted by the Council in respect of a Code of Conduct complaint at any other stage of the process; and
- They **may** be consulted by a Councillor or Co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.

Under this Council's locally agreed process for the consideration of Councillor Code of Conduct complaints, provision was made for consultation by the Monitoring Officer with an Independent Person at each stage of the complaints process.

5. At its meeting in July 2012, the Council appointed Messrs Philip Beavers and Ian Daines as the Independent Person and reserve Independent Person respectively, for an initial one year term, to be reviewed in May 2013. Their terms of office were subsequently extended by the Full Council in May 2013 for a further 4 year period to 23rd May 2017.

Re-appointment of Mr Philip Beavers

6. Since the resignation of Ian Daines as reserve Independent Person in June 2015, the role of Independent Person has been undertaken solely by Philip Beavers. The Localism Act does not prescribe a time limit on the term of office of the Independent Person and this is therefore within the discretion of the Council. The Council can either carry out another recruitment process for a new Independent Person, or it can re-appoint Mr Beavers for a further term. Mr Beavers has a wealth of experience and knowledge on Standards and ethical governance matters, and has performed the role of Independent Person diligently. Mr Beavers has also confirmed that he is happy to continue undertaking this role. It is therefore proposed that he be re-appointed for a further 4 years, to 31st May 2021. A short biography of Mr Beavers is attached at Appendix A of this report for Members' information.

South Yorkshire Independent Person Sharing Arrangement

7. Since the new local Standards arrangements were introduced in 2012, there has been an informal understanding within the four South Yorkshire local authorities that each can use each other's Independent Person(s) if and when required. While this facility to borrow another authority's Independent Person has never been called upon to date by Doncaster Council, it is nevertheless a useful standby arrangement, in the event that Philip Beavers is ever unable to assist the Monitoring Officer with a complaint case, due to a conflict of interest or being unavailable for any other reason. It is therefore considered appropriate that Full Council takes this opportunity to formally ratify this sharing arrangement between Doncaster Council and the other South Yorkshire authorities.

Payment of Allowance

8. When the Council first appointed the Independent Persons in 2012, it was agreed that they would be paid expenses only. The majority of local authorities elsewhere now pay their Independent Persons an annual allowance of between £500 - £2000 as recompense towards the time and expenses incurred in performing their duty. In terms of his usual role as the Independent Person, Mr Beavers regularly assists the Monitoring Officer on Code of Conduct matters, including assessing complaints, face to face meetings with the Monitoring Officer, accompanying the Monitoring Officer on visits to Parish/Town Councils where there have been Code of Conduct issues, and attending relevant networking events/workshops.
9. Furthermore, there is now a legal requirement for two Independent Persons to be involved in any Panel which is formed to consider the dismissal of one of the Council's statutory officers. In Doncaster Council's case, this would be Mr Beavers plus one other Independent Person drawn from the South Yorkshire pool of Independent Persons.
10. In light of this additional requirement on the Independent Person, and given that Mr Beavers is frequently called upon to assist the Monitoring Officer in dealing with Code of Conduct complaints, it is felt appropriate that Mr Beavers receives an allowance of £1000 p.a. for serving as the Council's Independent Person.

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

11. Under the Localism Act, the Council has a duty to 'promote and maintain high standards of conduct by its Members and Co-opted Members of the Authority' and must implement those provisions detailed in the Act, including having in place a process for the consideration and determination of complaints alleging breaches of the Code of Conduct, and appointing an Independent Person.
12. The payment of an allowance to the Council's Independent Person is felt appropriate given the significant and valuable contribution made by Mr Beavers in supporting the Council's Monitoring Officer on Code of Conduct matters.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

13.

Outcomes	Implications
Working with our partners we will provide strong leadership and governance.	<p>The role of the Independent Person in supporting the Council's Monitoring Officer and Chief Officers Investigatory Sub-Committee contributes towards:</p> <ul style="list-style-type: none">• ensuring that Council arrangements are open, accountable and ethically strong;• the promotion of high standards of conduct;• building a 'bond of trust' between the Council and its communities.

RISKS & ASSUMPTIONS

14. There are no identified risks associated with this report.

LEGAL IMPLICATIONS

15. Section 28 of the Localism Act 2011 requires Principal Authorities to have in place arrangements for investigating allegations of Member misconduct and taking decisions on those allegations. It also requires Councils to appoint at least one Independent Person who is to be consulted as part of the complaint handling process. The Authority must seek the views of the Independent Person and take them into account before making a decision on an allegation which it has decided to investigate. Section 28(8) provides that a person appointed does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment. An Independent Person is not a Member or Co-opted Member of the authority, and therefore is not covered by the Members' Allowances Scheme.
16. Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, Independent Persons now have an additional formal statutory role serving on a Panel, when required, to advise the Council prior to any vote on whether to dismiss the Council's Head of Paid Service, Monitoring Officer and Chief Finance Officer ('Protected Officers'). Under these regulations, the Panel must contain at least two Independent Persons (these would comprise Doncaster's IP and one other IP drawn from the South Yorkshire pool).

FINANCIAL IMPLICATIONS

17. The cost of the proposed allowance of £1000 p.a. to be paid to the Independent Person will be met from existing provision within the Monitoring Officer's budget.

TECHNOLOGY IMPLICATIONS

18. There are no specific technology implications arising from this report.

EQUALITY IMPLICATIONS

19. There are no specific equality implications associated with this report.

REPORT AUTHOR AND CONTRIBUTORS

Jonathan Goodrum
Senior Governance Officer
Tel: (01302) 736709
Email: jonathan.goodrum@doncaster.gov.uk

Scott Fawcus
Assistant Director Legal & Democratic Services and Monitoring Officer
Tel. (01302) 734640
Email: scott.fawcus@doncaster.gov.uk

Simon Wiles
Director of Finance and Corporate Services

Mr Philip Beavers

Philip Beavers previously served as an Independent Member of Doncaster Council's Standards Committee from May 2008 until the Committee's disbandment in 2012. During that time, he Chaired meetings of the Standards Assessment, Review, Consideration and Determinations Sub-Committees in dealing with complaints against Members.

Philip retired as a Director of a company within the Financial Services sector and Company Secretary of a firm of solicitors. His public/voluntary work includes being the Independent Person for both North Yorkshire Fire and Rescue Service and Rotherham MBC. He has Chaired the Family Court in Doncaster and latterly was Chairman of the Doncaster bench until 2015, when the usual three year term of office came to an end. He has also Chaired the Lord Chancellor's Advisory Committee, advising the Lord Chancellor on the appointment and conduct of justices within the town. He is currently a member of the PCC at St Mary's Parish Church, Tickhill, having served as a Churchwarden for a period of six years.

Since the new local Standards arrangements were introduced in 2012, Philip has served as this Council's primary Independent Person appointed under the Localism Act to assist the Monitoring Officer in dealing with allegations of Member misconduct.