

Cheltenham Borough Council
Council – 14th May 2012
Localism Act 2011 – New Standards Regime

Accountable members	Cabinet Member Corporate Services
Accountable officers	Borough Solicitor & Monitoring Officer
Ward(s) affected	None directly
Significant Decision	No
Executive summary	To provide an overview of the new Regime for the maintenance of high standards of conduct by Members as set out in the Localism Act 2011 and to consider and approve arrangements for the appointment of one or more Independent Persons in accordance with Section 28 of the Act. The current arrangements in relation to Standards, under the Local Government Act 2000, are expected, subject to Regulations yet to be made, to cease on 30 June and new arrangements, under the Localism Act 2011, need to be in place to commence on 1 July 2012. One aspect of the new Regime is the appointment of at least one Independent Person and therefore arrangements need to be put in place to enable the Council to make such appointment(s) at its meeting on 25 June 2012.
Recommendations	<p>Recommendation:</p> <ol style="list-style-type: none"> 1. That up to three Independent Persons be appointed under Section 28 of the Localism Act 2011. 2. That an allowance of £300pa, plus travel expenses, be paid to each Independent Person. 3. That the opportunity to apply be advertised on the Council's website and the Person Specification and Job Description, as attached at Appendices 2 & 3, be APPROVED. 4. That an Interviewing Panel, comprising the Group Leaders (or their nominated representatives) and the Monitoring Officer, make recommendations to Council at its meeting on 25 June on the appointment of up to 3 Independent Persons.

Financial implications	<p>The appointment of independent persons could cost the council £300 per person each year.</p> <p>The existing standards committee, which includes 5 independent members at a cost of £1,500, is likely to be replaced by a future Standards Committee made up of borough councillors once new regulations are in force resulting in a potential saving of up to £1,500.</p> <p>As such the cost of the independent person can be met from within the existing member's allowances budget.</p> <p>Contact officer: Mark Sheldon, mark.sheldon@cheltenham.gov.uk, 01242 264123</p>
Legal implications	<p>Contained within the report.</p> <p>Contact officer: Sara Freckleton , sara.freckleton@tewkesbury.gov.uk, 01684 272011</p>
HR implications (including learning and organisational development)	<p>No direct HR implications arising from this report.</p> <p>Contact officer: Amanda Attfield , amanda.attfield@cheltenham.gov.uk, 01242 264186</p>
Key risks	

1. Background

1. In his Annual Report to the Council in March, the Chairman of the Standards Committee drew Members' attention to the fact that the current Standards/Code of Conduct arrangements based on the Local Government Act 2000 are due to cease to have effect on 30 June 2012. The new arrangements, as defined in the Localism Act 2011, are likely to apply from 1 July 2012 with the exception of the abolition of Standards for England which took effect from 1 April 2012.

2. The Standards Regime & The Localism Act 2011

- 2.1 The new arrangements include a requirement to promote and maintain high standards of conduct, the adoption of a local Code of Conduct, a requirement to register pecuniary and other interests, the creation of a new criminal offence of failing to register relevant interests and a process for dealing with complaints of non-compliance with the new Code in respect of Borough Councillors and Parish and Co-opted Councillors within the Borough Council's area. Regulations are still awaited which will set the implementation date (anticipated to be 1 July 2012) and will provide detail on interests. Therefore it is the intention to bring a report on the full implications, together with proposals as to how the new requirements should be met, to the Council meeting on 25 June. Prior to this, it is suggested that the Constitution Working Group looks in more detail at the requirements and engages with all Members in order to make a recommendation to the Council.

3. Independent Person

- 3.1 The arrangements to be made under the new Standards Regime must also include provision for the appointment of at least one Independent Person whose views are to be sought, and taken into account, before a decision is made on an allegation which has been investigated by the

Authority. The views of that person may also be sought by the Authority in other circumstances or by a Member whose behaviour is the subject of an allegation. The likely extent of involvement by the Authority will depend on the detailed process for handling allegations, but it might be useful for the Monitoring Officer to be able to consult the Independent Person as and when deemed to be appropriate.

- 3.2** The Act states that the Independent Person cannot be, or have been within the five years prior to their appointment, a Member, Co-opted Member or Officer of the Council or any of the Parish Councils in the Borough, or a relative or close friend of any such person. One effect of this provision is to exclude anyone who is, or has been during the last five years, an Independent member of the Standards Committee from being appointed as the Independent Person. However, following representations from various Local Government sources, it is anticipated that transitional measures will be put in place which will permit the appointment of such individuals.
- 3.3** The appointment of the Independent Person must follow public advertisement in such manner as the Authority considers likely to bring it to the attention of the public. An application by the person and the approval of the appointment by the Council are required.

4. The Next Steps

- 4.1** In order to comply with the Legislation (assuming the implementation date to be 1 July 2012), the appointment of the Independent Person/Persons will need to be made at Council on 25 June. Therefore approval is sought for the arrangements and process for this to be achieved.
- 4.2** The current Standards Committee has five Independent members. It is suggested that the Council should appoint up to three Independent Persons under the new regime. This number would provide the necessary flexibility to cover for unavailability. Any appointments made by the Council would, it is suggested, be subject to review after one year of operation of the new regime.
- 4.3** The Act does not prescribe the method of advertising and therefore it would be the intention for an advertisement for Independent Persons to be placed on the Council's website and supported by media releases. An application form would be available together with a person specification and role description, the suggested form of which is as attached at Appendices 2, 3 & 4. The suggested forms provide sufficient scope to allow the Council full flexibility as to the arrangements which it puts in place to meet the legislative requirements.
- 4.4** As the Independent Person/Persons are not Members or Co-opted Members of a Council Committee they are not covered by the Allowances Scheme or the statutory requirements of that Scheme. It is therefore for the Council to decide what, if any, allowance should be paid. The 5 Independent Co-opted Members of the Standards Committee receive an allowance of £302pa plus travel expenses. It is suggested that, as the level and extent of involvement of the Independent Person is unknown, an allowance of £300pa plus travelling expenses be offered and that this be reviewed as part of the overall review of the new regime after one year of operation.
- 4.5** In terms of arrangements for selecting applicants for consideration by the Council, it is proposed to set up a small Panel which would make recommendations to the Council. It is suggested that the Panel comprise the three Group Leaders (or their nominated representative), a Parish Council representative, to be nominated by the Monitoring Officer from the three Parish Council Members on the existing Standards Committee, and the Monitoring Officer.

5. Alternative options considered

- 5.1** Consideration was given to only appointing one Independent Person but it was felt that this would give rise to a number of problems in respect of availability and the ability of the Council to operate under this regime.

6. Consultation and feedback

- 6.1 The wider Standards Regime will be subject to consultation with the Constitution Working Group, Members and Parish Councils. The post of Independent Person will be subject to advertisement on the Council's website.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Application Form3. Person Specification4. Role Description
Background information	The Localism Act 2011

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	No suitable applicants come forward for the position of Independent Member	Borough Solicitor & Monitoring Officer	09/05/12	3	3	9	Reduce	Issue press release and Local Advertisement (website). Ensure that job description and person specification are as comprehensive as possible.	30/06/12	Borough Solicitor & Monitoring Officer	