

CHELTENHAM BOROUGH COUNCIL

INDEPENDENT PERSON UNDER SECTION 28 OF THE LOCALISM ACT 2011

ROLE DESCRIPTION

1. Up to three Independent Persons will be appointed by the Council under Section 28 of the Act.
2. The Independent Persons will be responsible to the Council.
3. Under the Act, where an allegation has been made that one of the Council's Members, or one of the Members of the Parish Councils ("the Parish Councils") in the Council's administrative area, has breached the relevant Council's Code of Conduct and it has been decided to investigate the matter, the Independent Person will be consulted, and their views will be taken into account, before a decision is made on the allegation.
4. Where a Member of the Council, or of one of the Parish Councils, is the subject of an allegation of a breach of a Code of Conduct, the Member may seek the views of the Independent Person.
5. The Council may also seek the views of the Independent Person about any other aspect of an allegation, whether or not it is decided to investigate. In that respect, the views of the Independent Person may be sought as follows where:
 - (i) the Monitoring Officer (or authorised representative) wishes to decide whether or not to take any action on an allegation of a breach of a Code of Conduct, including taking no action; seeking to resolve a matter informally and arranging an investigation; and where the Monitoring Officer wishes to exercise the discretion to refer a decision on whether or not to investigate a complaint to the Committee of the Council responsible for dealing with conduct complaints (hereinafter called the "Committee").
 - (ii) an investigation finds no evidence of failure to comply with a Code, and the Monitoring Officer (or authorised representative) wishes to close the matter, but with discretion to refer such a decision to the Committee.
 - (iii) an investigation finds evidence of a failure to comply with a Code, and the Monitoring Officer (or authorised representative), wishes to seek a local resolution of the matter to the complainant's satisfaction, where appropriate, and where not appropriate or possible, to refer the investigation findings to the Committee.
 - (iv) the Committee wishes to take decisions in cases where a Member is found, as a result of a hearing, to have failed to comply with a Code of Conduct.

6. Where the Monitoring Officer wishes to grant dispensations (to Members with disclosable pecuniary interests) there is the discretion to refer any such request for determination by the Committee, and again this will be in consultation with the Independent Person, and also where the Committee is considering appeals against a refusal to grant a dispensation.
7. In addition, the Monitoring Officer (or authorised representative) may wish to consult the Independent Person about any other aspect of standards of conduct affecting Members of the Council and of the Parish Councils.
8. It is envisaged that the views of the Independent Person will normally be sought by the Council (through the Monitoring Officer or authorised representative) in writing, either by letter or email, and that the Independent Person's response will usually be provided in the same way. However, advice may be sought by telephone or at a meeting.
9. Without prejudice to the preceding Paragraph 7, Independent Persons should not give advice to Members of the Council, or of the Parish Councils, in circumstances where no complaint about a Member's conduct has been received. Where such advice is required, it should be sought by the Members of the Council, or of the Parish Councils, from, or via, the Monitoring Officer or his/her authorised representative.
10. Independent Persons are encouraged to familiarise themselves with the work of the Council, and of its Parish Councils, and with the procedures which they operate, and to attend meetings where this would be helpful in that regard. Independent Persons will be kept informed of key developments in relation to the Council and the Parish Councils, and will be invited to any Council or Committee meetings concerned with the general duty on the Council to promote and maintain high standards of conduct. Independent Persons have a freestanding remit to offer comment to the Council on its performance of this general duty.
11. Independent Persons will be supported by the Council's Monitoring Officer, who will arrange any necessary training, and the provision of all information which may be necessary, to enable the Independent Persons to perform their role effectively.