

# North Tyneside Council

## Report to Council

Date: 15 March 2012

### ITEM 12

Title: Localism Act 2011 –  
Appointment of  
Independent Person

Portfolio(s): Elected Mayor

Cabinet Member(s): Mrs L Arkley

Report from Directorate: Chief Executive's Office

Report Author: Vivienne Geary, Head of Legal, Governance and Commercial Services (Tel: 643 5339)  
Stephen Ballantyne, Manager – Monitoring Officer Support and Employment (Tel: 643 5329)

Wards affected: All

#### **PART 1**

##### **1.1 Purpose:**

The purpose of this report is to seek delegated authority for the Head of Legal, Governance and Commercial Services, in consultation with the Working Group established in accordance with Council's decision on 26 January 2012, to commence the process of the selection of Independent Persons in accordance with the requirements of the Localism Act 2011.

##### **1.2 Recommendation(s):**

It is recommended to Council that the Monitoring Officer:

- (a) be requested, in consultation with the Working Group and the Standards Committee, to produce a Job Outline and Person Specification for the role of Independent Person;
- (b) be authorised, in consultation with the Working Group, to:
  - i. take all appropriate steps including advertising in local publications and on the Council's website, to secure applicants for the role of Independent Persons(s); and
  - ii. shortlist and interview candidates and recommend to Council for appointment suitable candidates for the role of Independent Person(s) at the Annual Council Meeting on 17 May 2012; and
- (c) in consultation with the Working Group, recommend to Council at the Annual Council Meeting on 17 May 2012, the level of allowance to be paid to Independent Person(s).

##### **1.3 Forward plan:**

This report does appear on the current Forward Plan.

## **1.4 Council plan and policy framework**

This report relates to the following themes/programmes/projects in the 2010/2011 Council Delivery Plan:

## **1.5 Background**

- 1.5.1 The Localism Act 2011 provides that the Council is under a statutory duty to promote and maintain high standards of conduct by its elected and co-opted members. The Act requires the Council must adopt a code of conduct dealing with the conduct of its elected and co-opted members when acting in that capacity.
- 1.5.2 It is expected that the new code and local arrangements necessary to support the code must be in place by 1 July 2012.
- 1.5.3 Council at its meeting on 26 January 2012 considered a detailed report in respect of the requirements of the Act and requested the Monitoring Officer in consultation with a Working Group comprising the Chief Executive, the Elected Mayor and the Leader and Deputy Leader of each Political Group (the "Working Group") and the Standards Committee to produce for the consideration and adoption by Council:
- a) A draft Code of Conduct to reflect the requirements of the Localism Act 2011 and regulations enacted in respect of Disclosable Pecuniary Interests;
  - b) Draft arrangements for handling of Misconduct Complaints; and
  - c) A draft Standing Order requiring a Member to withdraw from a meeting room during the consideration of any item of business in which the Member has a Disclosable Interest.
- 1.5.4 The Working Group met on 20 February 2012. The Working Group reviewed in general the matters that required consideration and recommendations to Council. In particular, the Working Group noted that in relation to the appointment of Independent Persons, which are required by the Localism Act 2011, the process to identify those individual(s) needed to commence soon in order to have such persons in place for 1 July 2012.
- 1.5.5 The purpose of this report is to seek delegated authority for the Head of Legal, Governance and Commercial Services, in consultation with the Working Group established in accordance with Council's decision on 26 January 2012, to commence the process of the selection of Independent Persons in accordance with the requirements of the Localism Act 2011. The actual appointment of Independent Person(s) is a matter for Council and it is anticipated that a report will be submitted to the Annual Council meeting on 17 May 2012 seeking the approval of Council for the appointment of the Independent Person(s) selected.
- 1.5.6 The Localism Act 2011 requires the Council to appoint at least one Independent Person, to perform the following functions:
- a) Their views must be sought and taken into account by the Council before it makes its decision on an allegation which it has decided to investigate;
  - b) Their views may be sought by the Council in relation to an allegation in other circumstances (e.g. before a decision to investigate is taken, and/or in relation to issues other than the final decision on an allegation);

- c) Their views may be sought by a Council member whose behaviour is the subject of an alleged breach of the code of conduct.

1.5.7 A person does not qualify as “independent” if they are (or at any time in the last 5 years have been) a member, co-opted member or officer of the Council, or if they are a relative or close friend of such a member, co-opted member or officer. “Co-opted” member is defined so as to include current independent members of Standards Committee.

## **1.6 Decision options:**

1.6.1 The following decision options are available for consideration by Council:

### Option 1

The Council may accept the recommendations set out at 1.2 above.

### Option 2

The Council may not accept the recommendations set out at 1.2 above and require alternative action. Any delay however may result in a material risk that the Council would not have appropriate arrangements in place to deal with the appointment of a Independent Person(s).

## **1.7 Reasons for recommended option:**

1.7.1 Option 1 is recommended for the following reasons:

The provisions of the Localism Act 2011 relating to the revised arrangements for Member conduct are expected to come into force on 1 July 2012. The acceptance by the Council of this option will enable the recruitment process of an Independent Person(s) to commence.

## **1.8 Appendices:**

None

## **1.9 Contact officers:**

Vivienne Geary: Head of Legal, Governance and Commercial Services and Monitoring Officer. (tel: 0191 6435339)

Stephen Ballantyne: Manager Legal Services – Monitoring Officer Support and Employment (tel 0191 6435329)

Alison Campbell: Finance Business Manger (tel 0191 6437038)

## **1.10 Background information:**

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) The Localism Act 2011

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

2.1.1 The allowance to be paid to any Independent Person(s) will be determined by Council but the costs of recruitment, advertising and remuneration of the Independent Person(s) are expected to be contained within the budget which currently covers the allowances paid to the Independent Chair and five independent members of the Standards Committee.

### **2.2 Legal**

2.2.1 The legal implications are set out in the body of the report.

### **2.3 Consultation/community engagement**

2.3.1 Internal Consultation

Internal Consultation has taken place with the Working Group.

2.3.2 External Consultation/Engagement

Not applicable.

### **2.4 Human rights**

2.4.2 There are no human rights implications directly arising from these proposals.

### **2.5 Equalities and diversity**

2.5.1 There are no equality and diversity implications directly arising from these proposals.

### **2.6 Risk management**

2.6.1 The risks associated with any delay in progressing the necessary steps are set out in the report.

### **2.7 Crime and disorder**

2.7.1 The proposals in this report do not relate to crime and disorder.

### **2.8 Environment and sustainability**

2.8.1 The proposals in this report have no impact on the environment.

### **PART 3 - SIGN OFF**

- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Strategic Director with responsibility for Community Engagement

**Report author:** Stephen Ballantyne