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**Council**

20th March 2012

**Name of Cabinet Member:**

Not applicable

**Director Approving Submission of the report:**

Director of Finance and Legal Services

**Ward(s) affected:** All

**Title:**

**Appoint of Independent Persons under the Localism Act 2011**

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**Is this a key decision?** No

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**Executive Summary:**

Section 28 of the Localism Act 2011 requires the Council to appoint at least one independent person whose views will be sought when making decisions about allegations that councillors have breached the code of conduct. Vacancies must be advertised and independent person(s) need to be in place by July 2012 when the new standards regime is expected to take effect.

**Recommendations:**

(1) The Assistant Director (Legal Services) be authorised to advertise for up to three independent persons under section 28 of the Localism Act 2012 and, in consultation with the Leader of the Council, to agree the final number of persons to be appointed and the amount of any allowances and expenses to be paid to them; and

(2) A report be brought to a meeting of the Council before 1 July 2012 on the outcome of the advertisement for independent persons so that Council can appoint suitable candidates.

**List of Appendices included:**

None

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Report title:**  
**Appointment of Independent Persons under the Localism Act 2011**

**1. Context**

- 1.1 The Localism Act 2011 became law on 15<sup>th</sup> November 2011. It contains provisions relating to ethical standards which will replace the existing system introduced under the Local Government Act 2000. These provisions are expected to come into force on 1<sup>st</sup> July 2012.
- 1.2 The Act requires councils, among other things, to have arrangements in place to investigate and make decisions on allegations that a councillor has breached the code of conduct. Any arrangements to make decisions on allegations must include provision for the appointment of one or more 'independent persons' through a transparent process, by advertisement and application. Such a person cannot (amongst other things) be a Member, Co-opted Member or Officer of the authority or a relative or close friend of such person. In addition, a person cannot be appointed as an "independent person" if at any time during the 5 years before the appointment, the person was a Member, Co-opted Member or Officer of the authority. This means that an existing or past (within 5 years) Independent Member of the City Council's Standards Committee would not be eligible for appointment as an independent person.
- 1.3 The Council must seek and take into account the independent person's views before reaching a decision about an allegation which it has decided to investigate. The Member against whom a complaint is made may also seek the views of the independent person. Whilst the independent person must be consulted, he/she has no vote or binding authority in any determination process with regard to a complaint.

**2. Options considered and recommended proposal**

- 2.1 Council is therefore requested to authorise the Assistant Director (Legal Services) to take steps to advertise for up to three independent persons (in order to ensure availability in the event of sickness or absence) within the meaning of Section 28 of the Localism Act 2011.
- 2.2 Council is also asked to authorise the Assistant Director (Legal Services) to agree, in consultation with the Leader of the Council, the final number of persons to be appointed and the amount of any allowances and expenses to be paid to them. Expenses paid to independent persons do not form part of the Members' allowances scheme, as the independent person is not a co-opted member of a committee. Once the outcome of the advertisement is known, a further report will be made to Council before 1 July so that Council can appoint suitable candidates as independent persons.
- 2.3 Section 28 of the Localism Act 2011 places a duty on councils to appoint at least one independent person. This is therefore the only option available to the Council. No person can be appointed unless the vacancy is first advertised.

**3. Results of consultation undertaken**

- 3.1 Given the nature of the report there has been no prior consultation.

**4. Timetable for implementing this decision**

- 4.1 The requirement to have independent persons in place is expected to take effect on 1<sup>st</sup> July 2012 so the appointment process needs to be implemented as soon as possible after this meeting.

## 5. Comments from Director of Finance and Legal Services

### 5.1 Financial implications

There will be a modest cost of advertising these vacancies. There will also be some ongoing costs associated with the allowances and expenses of the persons appointed as referred to in paragraph 1.3. These costs will be met from current budgetary provision.

### 5.2 Legal implications

The Council must take steps to appoint at least one independent person by Section 28 of the Localism Act 2011.

## 6. Other implications

None

### 6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The appointment of the independent person(s) will contribute to the openness and transparency of the new ethical standards arrangements by providing external views on complaints against councillors.

### 6.2 How is risk being managed?

The key risk in relation to this report is that suitable persons may not come forward to undertake this role.

### 6.3 What is the impact on the organisation?

Arrangements for dealing with allegations of breaches of the code of conduct will comply with the Localism Act 2011.

### 6.4 Equalities / EIA

None

### 6.5 Implications for (or impact on) the environment

None

### 6.6 Implications for partner organisations?

None

## Report author(s):

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Director: Chris West	Director Finance & Legal Services	Finance & Legal	07/03/12	07/03/12
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