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## **Report of Corporate Management Team**

**Paul Darby, Corporate Director of Resources and Helen Lynch,  
Head of Legal & Democratic Services**

### **Electoral division(s) affected:**

None.

### **Purpose of the Report**

- 1 To invite Council to appoint two new Independent Persons to the Standards Committee.

### **Executive summary**

- 2 Durham County Council has two Independent Persons who are appointed in accordance with the Localism Act 2011. The Independent Persons were appointed in 2012 and their term was extended in November 2016 for a further four years.
- 3 The recruitment exercise for the appointment of Independent Persons was due to take place in advance of the expiry of the term of office with appointments to be approved by full Council. Following the cancellation of Council meetings in March 2020 due to the Covid-19 pandemic neither the Standards Committee or Council had the opportunity to consider or approve the recruitment of two Independent Persons in advance of the expiry of their term of office.
- 4 The Corporate Director of Resources, exercising delegated powers extended the term of office of the Independent Persons until 21 September 2021. This decision was taken in consultation with the Chair and Vice Chair of the Standards Committee as well as the Head of Legal & Democratic Services. The decision was reported at the full Council meeting on 21 October 2020.
- 5 At its meeting on 20 January 2021, Council approved a recruitment exercise with a view to appointing two new Independent Persons. Council also agreed to amend the term of office for the Independent Persons to a fixed term of two years with the option of extending for a

maximum of a further two years. This change is in line with good practice identified by the Committee for Standards in Public Life.

- 6 This report summarises the recruitment exercise undertaken and recommends that two new independent persons to the Standards Committee are appointed with effect from 22 September 2021.

## **Recommendation**

- 7 Council is recommended:
  - (a) To formally record its thanks to John Dixon Dawson and Peter Jackson for their service as Independent Persons to the Standards Committee since their appointment in 2016.
  - (b) To appoint Alan Fletcher and Kayleigh Louise Wilkinson as Independent Persons to the Standards Committee with effect from 22 September 2021 for a term of two years.
  - (c) Delegate authority to the Standards Committee to consider whether to extend the appointment of the Independent Persons for a further two years in 2023 and that any such extension will be reported to Council as part of the annual report of the Standards Committee.

## Background

- 8 The Localism Act 2011 sets out the requirements in relation to Local Government Standards and it requires the appointment by the authority of at least one Independent Person.
- 9 The functions of the Independent Person in relation to Standards are:
- They must be consulted by the authority and their views taken into account before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect to that member.
  - They may be consulted by the authority in respect of a Standards complaint at any other stage and;
  - They may be consulted by a member or co-opted member of the Council or a parish council against whom the complaint has been made.
- 10 The role of the Independent Person was widened under the Local Authority's (Standing Orders) England (Amendment) Regulations 2015. In the case of proposed disciplinary action against a statutory officer, the Council is required to invite the Independent Persons who have been appointed for the purposes of the Members Code of Conduct regime to form an independent panel and take into account any recommendation of that panel before taking a decision to discipline or dismiss.
- 11 On 20 January 2021, Council considered a report, which set out proposals to recruit two new Independent Persons to the Standards Committee. The report also sought to amend the term of office of Independent Persons to two years, with the option to extend up to a maximum of a further two years in accordance with best practice as identified by the Committee in Standards in Public Life.

## Recruitment Process

- 12 In January 2021, Council approved the following indicative recruitment timetable:

Advert for the appointment of Independent Persons placed in the local press and on the Council website.	1 February 2021
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Closing date for applications and shortlisting	26 March 2021
Interviews conducted by the Head of Legal and Democratic Services (Monitoring Officer), the Deputy Monitoring Officer and the Chair of the Standards Committee	21 April 2021
Report to Council seeking approval of proposed appointments	July 2021
Report to Standards Committee confirming appointment	September 2021

- 13 The roles were advertised in the Northern Echo on 3 February 2021 and on the Council's website on 18 February 2021. The roles were also promoted on the Council's social media pages on 18 and 19 February 2021. Seven applications were received and the Panel decided to shortlist all seven candidates. Interviews took place on 21 and 23 April 2021. A copy of the role profile and person specification are attached at Appendix 2 for information.
- 14 The candidates were asked a series of questions to test their suitability for the role against the criteria set out in the person specification and each had a general discussion about local government ethical standards.
- 15 The Panel decided to recommend Alan Foster and Kayleigh Louise Wilkinson for appointment as Independent Persons to the Standards Committee. Both candidates demonstrated that they met the criteria for the role, had a good understanding of the role and an enthusiasm to support the Standards Committee in upholding high ethical standards.
- 16 Subject to Council approving their appointment, the Independent Persons will be appointed for a two-year term commencing on 22 September 2021. It is proposed that Council delegates authority to the Standards Committee to consider whether to extend the appointments for a further two years in 2023. If the Committee decides to extend the appointments, this could be reported to Council as part of the Committee's annual report. In the event that the Committee decide not to extend the term, Council will be asked to approve a fresh recruitment exercise.
- 17 Once appointed, the Independent Persons will be invited to induction training with the Monitoring Officer and also the Standards Committee. There will be an expectation that the Independent Persons attend at least two meetings of the Standards Committee a year.

**Background papers**

- None

**Other useful documents**

- None

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## **Appendix 1: Implications**

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### **Legal Implications**

Section 28 of the Localism Act 2011 requires the Council to appoint at least one Independent Person.

### **Finance**

The role of Independent Person is not remunerated. However, the Council will reimburse reasonably incurred travel and subsistence expenses. Where appropriate, the Council will pay for the Independent Persons to attend training. These costs are met from the Legal and Democratic Services budget.

### **Consultation**

The Chair of the Standards Committee participated in the shortlisting and interview of the recruitment process.

### **Equality and Diversity / Public Sector Equality Duty**

The recruitment exercise was conducted in accordance with the Council's recruitment arrangements in relation to equality and diversity to ensure fairness.

### **Climate Change**

None.

### **Human Rights**

The role of Independent Person helps to ensure that complaints against Members and disciplinary proceedings against Statutory Officers are dealt with fairly.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

None.

### **Risk**

There is a legal requirement to have a minimum of one Independent Person. Should no Independent Person be appointed the Council is at risk of legal challenge for not complying with the requirements of the Localism Act 2011.

### **Procurement**

None.

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## **Appendix 2: Role Profile and Person Specification**

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### **APPOINTMENT OF INDEPENDENT PERSONS UNDER THE LOCALISM ACT 2011**

#### **BACKGROUND INFORMATION**

Durham County Council is a democratically elected assembly of 126 Members, known as Councillors. They are accountable to the people of County Durham for the efficient and effective provisions of a wide range of public services.

The County Council represents and promotes the interests of the people of County Durham at local, regional and national level.

Elections to the County Council are normally held every four years and the next elections are scheduled for May 2021.

The Council's powers and responsibilities are determined by Parliament.

#### **The Council's Structure**

The Council's decision making structure includes:

- A Cabinet of ten Councillors, which meets on a monthly basis to make decisions to implement the Council's policies and budgets;
- The full Council of 126 Councillors is responsible for approving the budget and policy framework, adopting and changing the Council's Constitution, appointing the Leader of the Council, appointing Chairs and Vice-Chairs, Committees and members to outside bodies. It is also a forum for general debate and recognising achievements and outstanding service
- A Corporate Overview & Scrutiny Management Board and its Committees, which can scrutinise and monitor decisions taken by Cabinet;
- Regulatory Committees responsible for functions such as planning, highways, licensing and standards.

## **Ethical Framework - The Standards Committee**

The Localism Act 2011 provides the framework intended to secure high standards of conduct in public office. It requires the County Council to appoint at least one Independent Person who will be consulted on alleged breaches of the Members Code of Conduct for Members of the Council as well as Members of Town and Parish Councils within County Durham.

The Independent Person may also be consulted on allegations referred to the Monitoring Officer in deciding whether to investigate. Members who are the subject of complaints are also entitled to seek the views of the Independent Person. The Independent Person is not however a member of the Council or its Committees. The Standards Committee has delegated to the Monitoring Officer the initial handling of complaints which can then be referred to the Standards Hearing Panel where appropriate.

The role of the Independent person will be important to the public's perception of the effectiveness of the Standards Committee and the maintenance of high standards of conduct, and it is very important that such members are seen to be genuinely independent of the County Council and any of its Town and Parish Councils.

The functions of the Independent Person in relation to Standards are:

- They must be consulted by the Monitoring Officer and/or the Standards Committee and their views considered before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect to that member.
- They may be consulted by the Monitoring Officer and/or the Standards Committee in respect of a Standards complaint at any other stage.
- They may be consulted by a member or co-opted member of the Council or a parish council against whom the complaint has been made.

The Council is also required to consider the recommendations of the Independent Person before taking a decision to discipline or dismiss one of the Council's Statutory Officers.

Helen Lynch

Head of Legal and Democratic Services and Monitoring Officer to Durham County Council



**INDEPENDENT PERSON**  
**PERSONAL REQUIREMENTS**

In view of the nature of the role the law restricts eligibility to certain persons. Please take into account the restrictions set out below.

<b>CATEGORY</b>	<b>ESSENTIAL</b>	<b>DESIRABLE</b>
<b>Education</b>	<ul style="list-style-type: none"> <li>• A good general level of education, sufficient to enable the member to deal with relevant paperwork and discussions.</li> </ul>	
<b>Work Experience</b>		<ul style="list-style-type: none"> <li>• Experience within a similar role that has involved the promotion of high ethical standards.</li> </ul>
<b>Skills, Knowledge and Aptitude</b>	<ul style="list-style-type: none"> <li>• Ability to analyse complex issues in a logical way, and to arrive at practical ethical solutions.</li> </ul>	<ul style="list-style-type: none"> <li>• Knowledge of relevant public services.</li> </ul>
<b>Personal attributes</b>	<ul style="list-style-type: none"> <li>• Must display the highest standards of integrity and conduct.</li> </ul>	
<b>Motivation</b>	<ul style="list-style-type: none"> <li>• Must have a firm belief in the importance of public services to the community.</li> <li>• Must have a firm belief in the importance of high standards of conduct to the successful achievement of the Council's objectives.</li> </ul>	
<b>Restrictions</b>	<ul style="list-style-type: none"> <li>• Must not be a member, co-opted member or officer of Durham County Council or of a Town or Parish Council within County Durham and must not have held such a position within the previous five years.</li> <li>• Must not be related to, or a close friend of, a member, co-opted member or officer of Durham County Council or of a Town or Parish Council within Durham.</li> </ul>	

The Independent Person will be required to attend at least two meetings of the Standards Committee a year and be available by telephone and email for consultation on complaints. There is also a requirement to attend training periodically to ensure continuing competence for the role.