

DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON

1. Purpose

The purpose of this protocol is to make clear the relationships between the Independent Person and the various parts of the local authority involved in the process of handling standards complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process and to set out the expectations and rights of the Independent Person.

2. Background

The Independent Person (IP) is a statutory appointment under Section 28 of the Localism Act 2011. The purpose of the IP role is to enable the public to have confidence in how the City Council deals with allegations of misconduct and to promote and maintain high ethical standards of conduct for Members, ensuring they are adequately trained and understand the Code of Conduct.

3. IP Overarching Responsibilities

The IP will discharge their responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In particular, by:

- 1) Instilling public confidence in the process and how complaints are considered by the Audit and Governance Committee and Officers in support;
- 2) Complying with:
 - a. the law, including any relevant Code of Conduct;
 - b. any general guidance issued;
 - c. procedures adopted by the Audit and Governance Committee;
 - d. the Council's Constitution;
- 3) Preserving confidentiality at all times; and
- 4) Acting impartially and in the interests of fair and natural justice, without prejudice or political bias.

4. Contact with the IP by Councillors subject to complaint

A Member of the City Council or of Quedgeley Parish Council who is the subject of a complaint should only contact the Independent Person if a formal complaint has been made in writing to the Council. The Monitoring Officer will notify the IP of all formal complaints. If a Member contacts the IP prior to a formal complaint being lodged, the IP will refer them to the Monitoring Officer.

The IP should not discuss a potential or actual complaint directly with a potential or actual complainant and shall refer the complainant to the Monitoring Officer.

5. Considering written allegations

The Monitoring Officer will seek the views of the IP in accordance with the Council's standards arrangements. While the Monitoring Officer will have regard to the views expressed by the IP, they are not bound to accept his/her views on the matter.

When issuing the decision letter in respect of any written allegation, the Monitoring Officer will record that the IP has been consulted and that their views have been taken into account. Where the view of the Monitoring Officer and IP differ, the Monitoring Officer will record the reasons for following a particular course. The letter will make clear that it is the Monitoring Officer and not the IP who is the decision-maker.

6. Matters under investigation

The Monitoring Officer may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.

Where a matter has been referred to a Hearings Panel of the Audit and Governance Committee for determination, the Panel must seek the views of the IP before reaching its conclusions. The IP's role is to provide an independent view on the substance of the complaint and/or the quality of the evidence in order to help the Panel to make an informed decision.

The IP may attend the Hearings Panel in person to convey their view or may submit their views in writing to the Hearings Panel.

The IP's views should be recorded in any decision notice and, where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the Hearings Panel and not the IP who is the decision-maker.

7. Relationship with the Audit and Governance Committee

The IP is not a member of the Council's Audit and Governance Committee but is able to attend all meetings and can be asked to give their views to the Committee.

The IP shall receive agendas and minutes of all meetings of the Audit and Governance Committee and shall be entitled to request that items be added to the agenda, with the agreement of the Chair, and to speak at the Committee.

The IP does not have any voting rights when attending a meeting of the Audit and Governance Committee or a Hearings Panel.

8. Access to documentation

The IP has the right of access to any confidential information required to carry out their role. The IP shall respect the confidentiality of any documents provided to them and shall be responsible for their safe custody.

The IP has the right of access to Council buildings in order to carry out their role. This includes making meeting rooms available for use by the IP. Access should be agreed in advance with the Monitoring Officer.

The Monitoring Officer will meet at least quarterly with the IP review relevant matters.

The IP will agree to sign up to the Council's Code of Conduct, including a register of interests to be held by the Monitoring Officer and will declare any relevant interests in any matter to the Monitoring Officer, who will decide whether the interest conflicts them out of involvement in the matter.

9. Confidentiality

The IP must not discuss with any third party the substance of any past or present complaint or other matter raised with them by the Monitoring Officer.

The IP shall not make any comments to the media on any matter without prior agreement of the Monitoring Officer or Council Communications Team. Any requests for comments from media shall be referred in the first instance to the Monitoring Officer who may refer these to the Chair of the Audit and Governance Committee as appropriate.

10. Other matters

The Council, through its Audit and Governance Committee and Monitoring Officer, is responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.

The IP has the right to raise any concerns about standards issues or implementation of the process with the Council's Chief Executive and has the right to address a meeting of the full Council about any concerns.

The Monitoring Officer may ask the IP to support their efforts to try to resolve complaints informally where the basis of the complaint appears unsubstantial or otherwise does not appear to warrant a formal investigation or where an alternative route to formal investigation would appear to offer a better means of resolving the matter.

11. Role of reserve IP

Where the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by the reserve IP.

If both the IP and the reserve IP are conflicted out from dealing with a matter, the Monitoring Officer will consider making a request to use the services of an IP from another principal authority.