

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS

1.	Meeting:	Standards Committee
2.	Date:	8 March 2012
3.	Title:	Role Description of Independent Person
4.	Directorate:	Resources Directorate

5. Summary

ACSeS has drawn up a description of the role of the independent person (see Appendix 1), who is to be appointed by the Council to advise the Standards Committee in relation to allegations that a member or co-opted member has breached the Council's code of conduct.

It is suggested that there are at least two independent persons appointed by the Council to deal with conflicts of interest.

6. Recommendations

IT IS RECOMMENDED THAT members' note ACSeS' interpretation of the role of the independent person.

7. Proposals and details

Background

Please see paragraph 5.

8. Finance

There will be some relatively low costs involved in the recruitment of independent persons

9 Risks and Uncertainties

It is expected that the new arrangements will take effect from 1 July 2012. Consequently, in order to comply with the Council's obligations under the 2011 Act, it will be necessary to have appointed the requisite number of independent persons before then.

10 Policy and Performance Agenda Implications

Having a standards committee and code of conduct for members and co-opted members supports the objective of being an effective council and is a component of good governance.

11 Background Papers and Consultation

Localism Act 2012

ACSeS paper

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APPENDIX 1

Role Description for Independent Persons appointed by Newcastle City Council for Standards of Conduct Issues affecting Council and Parish Council Members

1. The City Council is to appoint two individuals to carry out the role of "Independent Person" which is a new role created under Section 28(7) of the Localism Act 2011. The Council has a duty under that Act to promote and maintain high standards of conduct for its elected and co-opted members. The Council has delegated these responsibilities to its Standards Committee comprising five (*or seven*) elected members of the Council.
1. The statutory role of the Independent Person arises where the Council has received an allegation that one of its members (or a member of one of the parish councils in the city) has breached the Council's Code of Conduct for Members (or the relevant parish council's code of conduct).

In those circumstances:

- (a) if the Council decides to investigate the allegation, the Council **must** consult the Independent Person, and take their views into account, before making a decision on that allegation; and
 - (b) the Council **may** seek the views of the Independent Person about any other aspect of the allegation, whether or not it decides to investigate; and
 - (c) the member of the Council (or Parish Council) who is the subject of the allegation **may** also seek the views of the Independent Person at any time.
3. In practice when the Council receives a written allegation of a breach of the Code of Conduct, its Monitoring Officer will decide whether the complaint merits formal investigation or should be dealt with in some other way. If the Monitoring Officer considers it appropriate, s/he may well consult the Independent Person at that stage, and will take into account any view the Independent Person may have before deciding how to proceed.
 4. When a complaint has been investigated, the Independent Person will receive a copy of the investigation report from the Council and asked for his or her view on it and any views s/he may have upon how the Council should determine the allegation. These views will then be taken into account in the final decision making process. The final decision may be made by the Monitoring Officer where the investigation has concluded that there has been no breach of the Code, but otherwise is likely to be made by the Standards Committee after a hearing.
 5. The views of the Independent Person may be sought by the Council at other stages in the process, for instance by the Monitoring Officer to assist in deciding how an allegation should be dealt with or resolved.
 6. It is envisaged the views of the Independent Person will usually be sought by the Council (through its Monitoring Officer) in writing, either by letter or e mail, and that

the response of the Independent Person will usually be conveyed in the same way. On occasions however advice may be sought by telephone or at a meeting.

Any Independent Person is likely to be expected to attend any hearing which is held by the Standards Committee to decide whether there has been a breach of the code of conduct. If it is decided at that hearing that there has been a breach, the Independent Person will be asked for his or her view as to what action, if any, should be taken as a result.

7. As part of the statutory role, Independent Person will also be available for consultation by any Council (and Parish Council) member who is the subject of an alleged breach of the Code of Conduct. Such consultation may be sought at any time during the process and may be carried out by telephone, written correspondence (e mail or letter) or at a meeting (including at a final hearing before the Standards Committee).

(This advisory role to an individual Council member will only arise where the member is subject to an alleged breach of the relevant code of conduct. An Independent Person will not be expected – and should decline - to give advice to Council or Parish Council members in any other circumstances. Where such advice is required, Council members will be expected to seek it from the Monitoring Officer, or some other appropriate Council officer).

8. In addition to this statutory role, the Independent Person may from time to time be asked by the Standards Committee or the Council's Monitoring Officer for his or her views about other aspects of its work, for instance the suitability of the Council's Code of Conduct or the procedures which the Committee adopts for the handling of any allegations of member misconduct. The Independent Person may be invited to attend meetings of the Standards Committee for this purpose.

9. An Independent Person will be encouraged to acquire some understanding of the work of the Council and how it operates. Support will be provided by the Council's Monitoring Officer, who will arrange any necessary training and the provision of such information which is considered necessary to enable the Independent Person to perform the role properly.