

Report for: Standards Committee 25 January 2022

Title: **Appointment of Independent Person - Standards Committee
from 30 June 2022 – 29 June 2023**

**Report
authorised by :** Head of Legal and Governance – Fiona Alderman

Lead Officer: Ayshe Simsek Democratic Services and Scrutiny Manager

Ward(s) affected: All

**Report for Key/
Non-Key Decision:** Non-Key Decisions

1. Describe the issue under consideration

- 1.1 This report considers the continued appointment of the Independent Persons under section 28(7) of the Localism Act 2011 to support the Standards Committee in relation to allegations that members or co-opted members have failed to comply with the Member's Code of Conduct, and to be considered for appointment to the Staffing and Remuneration Committee when considering the dismissal of either the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
- 1.2 The report asks Committee members to consider the following: the Localism Act has not been updated following the report on 'Standards in Public Life', resource intensive recruitment process for appointing new independent persons and current experienced contribution of the current Independent persons and recommend to full Council to extend the appointment of the current independent persons from the 30th of June 2022 to 29th of June 2023.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 To recommend that Full Council extend the appointment of the current independent persons[IP] from the 30th of June 2022 to 29th of June 2023

4. BACKGROUND

- 4.1 The Council must appoint at least one Independent Person (IP) whose views are to be sought and taken into account by the Council before it makes its decisions on allegations about breaches of the Code of Conduct. The views of the Independent Person may also be sought by the Council's Monitoring Officer where an investigation has not yet been commenced, and by a member who is the subject of a complaint.
- 4.2 The Independent Person is someone whose views are sought and taken into account by the Council before it makes a decision following an investigation into a breach of the Code of Conduct by a member. Their views can also be sought by the Council in circumstances other than these, and by a member or co-opted member who is the subject of a complaint of breach of the Code.
- 4.3 The Council appointed two Independent Persons in March 2020 (a primary and a secondary/deputy IP) and although only the primary IP has been engaged in respect of these duties, it is considered good practice to have a secondary IP as a reserve, not least because of the additional duties for which the IPS may now be used.
- 4.4 The law provides that a person may not be an IP if he or she is a Member, a co-opted Member or an officer of the Council, or a relative of close friend thereof. It also provides that a person may not be appointed if they were a Member or co-opted Member at any time during the 2 years ending 30 June 2022. However, the law does not place any restriction in relation to the length of appointment of an IP.
- 4.5 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 provide that where a decision to dismiss any statutory officer is to be taken by full Council, before that decision is taken the Council must invite at least 2 IPS to be members of a panel to consider the matter and take any recommendations from that panel into account before taking their final decision. The Staffing and Remuneration Committee has been given the role of being the panel for these purposes in the Constitution, IPS appointed to support the standards regime must be invited to sit on this panel. If there are none, or they are unable to participate, any independent persons appointed by another authority may be invited to participate. It is considered most appropriate to utilise the Council's own IPS appointed to support the standards regime for this purpose, and this role is included in their job description (Appendix 1)
- 4.6 The current primary IP is remunerated at a rate of £1,200 per year and the secondary IP at a rate of £250 per annum. Councils can also remunerate IPS that are invited to participate in recommendations relating to the dismissal of the statutory officers, however the remuneration must not exceed that paid to the IPS under the standards regime. Whilst the views of the IP are regularly sought and her attendance required at hearings relating to breaches of the Code, is it not clear whether the attendance of IPS will be required in relation to the dismissal of a statutory officer.
- 4.7 It had been the practice of the Council to appoint IPS for a term of four years. However, in October 2019, the Standards Committee put forward a two-year appointment rather than a 4-year appointment. This was further to considering The Local Government Report on Standards in Public Life and in particular

Recommendation 8 of the report which advised that the Localism Act 2011 should be amended to require that Independent Persons were appointed for a fixed term of two years, renewable once. To provide context for this recommendation, the external report included a comment, made in the investigations and safeguards chapter, which indicated ensuring that an Independent Person's judgment and independence was not compromised by a long period of involvement in a single authority. This was picked up by the Standards Committee as a sensible safeguard at the time and hence decision made to make the appointments for a two-year period, providing a time for considering overview of advice provided to ensure consistent and uncompromised.

- 4.8 Further to considering the latest version of the Localism Act 2011, Recommendation 8 has not been taken forward by the government and no changes made to the 2011 legislation in this relation to this . There is, as yet, no prescribed appointment term for Independent Persons.
- 4.9 The Monitoring Officer and Deputy Monitoring Officers views are that the incumbent IP continues to provide excellent advice and the secondary IP is also experienced and a reliable advisor.
- 4.10 Taking forward a new recruitment process would be resource intensive and there is not the current capacity in legal and governance services to take this forward.

5. Statutory Officers comments

Financial Implications

- 5.1 There are no financial implications - the remuneration of independent persons is factored in the Democratic Services budget.

Comments of the Assistant Director of Corporate Governance and Legal Implications

- 5.2 These are contained within the report.

6. Use of Appendices

N/A

7. Local Government (Access to Information) Act 1985

7.1 Background documents:

Recruitment of Independent Person – Standards Cttee – 14/10/19

The background papers are located at River Park House, 225 High Road, Wood Green, London N22 8HQ.

To inspect them or to discuss this report further, please contact Ayshe Simsek on 0208 489 2929.