

EXEMPT REPORT – NOT FOR PUBLICATION

This report is exempt from publication under para 1 of Part 1 of schedule 12A of the Local Government Act 1972

Para 1 relates to information that could identify or give information pertaining to an individual

Report for: Standards Committee – 18 July 2024
Item number:

Title: **Appointment of Independent Persons under section 28(7) of the Localism Act 2011 (to support the operation of the Code of Conduct by the Standards Committee) from 31 July 2024 to 30 June 2028**

Report authorised by: Fiona Alderman Assistant Director Legal and Governance & Monitoring Officer

Lead Officer: Ayshe Simsek Democratic Services and Scrutiny Manager

Ward(s) affected: None

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

1. Describe the issue under consideration

- 1.1 This report seeks the Committee's approval to recommend to full Council the appointment of Person A as Independent Person and Person B as Secondary Independent Person under section 28(7) of the Localism Act 2011, to support the operation of the Code of Conduct by the Standards Committee and to be considered for appointment to the Disciplinary, Grievance and Dismissal Panel when considering the dismissal of either the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

2. Cabinet Member Introduction

N/A

3. Recommendations

That this Committee recommends:

- 3.1 That Full Council appoint Person A (name to be added on the rise of the Standards Committee Interview Panel) as Independent Person, and Person B

(name to be added on the rise of the Standards Interview Panel) as secondary Independent Person under s28(7) of the Localism Act 2011 for a period of 4 years commencing 31 July 2024 and ending on 30 June 2028;

- 3.2 That Full Council be recommended to approve the allowance paid per annum to the Independent Person, and Secondary Independent person be £1250.00 and £250.00 respectively.

4. Reasons for decision

- 4.1 The Council has a legal duty to put in place arrangements for having an Independent Person in relation to allegations of breaches of the Code of Conduct. It must also have in place arrangements for at least two Independent Persons to participate in recommendations in relation to the dismissal of statutory officers. The law requires that IPS appointed in relation to the Standards regime to be invited to participate in this process.
- 4.2 There has been a delay in the recruitment of the independent persons following internal changes in advertising and recruitment processes. There has also been staff shortages in Democratic services which facilitate and organise the process together and a need to take account the pre- election period and member's availability.

5. Alternative options considered

- 5.1 Under section 28(7) of the Localism Act 2011 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 by Members or co-opted Members of the Council.
- 5.2 Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the Council must also have in place arrangements for inviting IPS to be involved in making recommendations to Council before any decision to dismiss a statutory officer is made. Authorities must invite any IPS supporting the Standards Committee for this purpose although it is also possible to use IPS from other authorities for this purpose where the authority considers it appropriate.

6. Background

- 6.1 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.
- 6.2 An IP must be appointed following an advertisement and application process and confirmation by full Council.

- 6.3 The Council has re- appointed the two existing Independent Persons in March 2023 and in March 2022. They were originally appointed in March 2020 and it is good practice to carry out a recruitment process every four years. The Council has 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.
- 6.4 The law provides that a person may not be an IP if they are 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 5 years ending 30 June 2024. However, the law does not place any restriction in relation to the length of appointment of an IP. It has been the practice of the Council to appoint IPS for a term of four years.
- 6.5 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 Disciplinary, Grievance and Dismissal Panel 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.
- 6.6 The current primary IP is remunerated at a rate of £1,250 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.
- 6.7 The advert for the independent person was issued in late May and closed on the 30th of June. There were 3 applicants that met the Job description criteria and the Monitoring officer and Chair of the Committee agreed to offer an interview to all 3 applicants on the 18th of July 2024 and allow the Committee to make a decision on the appointments.
- 6.8 In accordance with section 28(7) of the Localism Act 2011 any appointment of Independent Persons is required to be agreed by Full Council, and so Full Council will be asked to confirm these appointments at its meeting on 22 July 2024

5. Statutory Officers comments

5.1 Comments of the Chief Finance Officer and Financial Implications

The cost of these posts is £1,500 and can be met from within existing budgets.

5.2 Comments of the Assistant Director of legal and Governance

These are included within the main body of this report.

5.3 **Equalities Comments**

Although Independent Persons are not employees or officers of the Council, and are statutory appointees, the recruitment process for them followed the recruitment process for employees/officers, including a person specification and appointment criteria against which the relevant skills and abilities were assessed. The advert for these positions was advertised widely in a number of local newspapers (as required in law) including in their online presence, as well as on the Council's own website.

6. **Use of Appendices**

None

7. **Local Government (Access to Information) Act 1985**

7.1 Background documents:

Recruitment of Independent Person – Standards Cttee – 31 October 2023
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 2920.