



AGENDA ITEM: 6

**STANDARDS COMMITTEE:
14 June 2012**

COUNCIL: 19 June 2012

Report of: Managing Director (People and Places) and Borough Solicitor

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**SUBJECT: APPOINTMENT OF INDEPENDENT PERSON AND RESERVE
INDEPENDENT PERSON**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To appoint an Independent Person and Reserve Independent Person as required by the Localism Act 2011 (the Act).

2.0 RECOMMENDATIONS

2.1 That the actions of the Managing Director (People and Places) in advertising a vacancy for the appointment of an Independent Person and a Reserve Independent Person, short-listing and interviewing candidates be noted and endorsed.

2.2 That the Council on 19 June 2012 appoint XXX as the Independent Person and YYY as the Reserve Independent Person with effect from 1 July 2012.

2.3 That an allowance of £500 be paid to the Independent Person and £250 to the Reserve Independent Person.

3.0 THE LOCALISM ACT 2011

3.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

- 3.2 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Council's Monitoring Officer is the Managing Director (People and Places).

4.0 INDEPENDENT PERSON(S)

- 4.1 The "arrangements" adopted by Council must include provision for the appointment by Council of at least one Independent Person. The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council.

A person is considered not to be "independent" if –

- (a) he/she is, or has been within the last 5 years, an elected or co-opted member or an officer of the Borough Council or of any of the Parish Councils within its area;
- (b) he/she is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Borough Council or of any of the Parish Councils within its area (which would preclude, subject to transitional arrangements) any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or
- (c) he/she is a relative or close friend of a current elected or co-opted member or officer of the Borough Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

For this purpose, "relative" comprises –

- (a) the candidate's spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate's grandparent;
- (d) any person who is a lineal descendent of the candidate's grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

4.2 Functions of the Independent Person

The functions of the Independent Person(s) are –

- (a) They must be consulted by the authority 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 of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local

- resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- (b) They may be consulted by the authority in respect of a standards complaint at any other stage; and
 - (c) They may be consulted by a member or co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.

This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

4.3 How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a reserve candidate is retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is not able to discharge the function.

4.4 Remuneration

As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current Chairman of the Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and Hearings Sub-Committee, but not to be a formal member of the Committee or Sub-Committee. He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. The Independent Person may also be involved in the local resolution of complaints and in the grant of dispensations.

5.0 APPOINTMENT

- 5.1 The recruitment process started on 9 May 2012 when an advert was placed in the newspaper. Press releases were also issued. (Number) application forms were received before the deadline on 30 May. Applications were shortlisted to (number) Candidates by the Managing Director (People and Places), the Borough Solicitor and the Assistant Member Services Manager with interviews taking place on Tuesday, 12 June 2012. Members will be notified as soon as possible thereafter of the recommendations arising from the interviews.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

6.1 There are no significant sustainability impacts associated with this report and, in particular no significant impact on crime and disorder. The report has links to the Sustainable Community Strategy through its work with the Parish Councils.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There is a small budget within Legal and Democracy to handle these matters which if it proves insufficient would require that funding be made available from contingencies. Introducing new arrangements of this nature is time consuming and substantial in-house resource will be required to work on this project. There will be a substantial amount of work arising in relation to Parishes the costs of which cannot be recovered.

7.2 A sum of £750 is available within the Budget to pay the newly recruited Independent Person £500 and the Reserve Independent Person £250.

8.0 RISK ASSESSMENT

8.1 The Council must put in place arrangements in order to comply with the requirements of the Act once relevant sections are brought into effect. Failure to do so or to adhere to suitable arrangements may expose the Council to the risk of judicial review proceedings or Ombudsman action. Any action taken in respect of Members would be proportionate in accordance with the requirements of the Human Rights Act 1998.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required

Appendices

Appendix 1 – (Council only) Standards Committee Minute