



**STANDARDS COMMITTEE:
16 March 2021**

Report of: Legal and Democratic Services Manager

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SUBJECT: REVIEW OF THE INDEPENDENT PERSON PROTOCOL

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To consider and approve an update to the Independent Person Protocol.

2.0 RECOMMENDATIONS

2.1 That the updated Independent Person Protocol, attached at Appendix 2, be approved.

3.0 INDEPENDENT PERSONS

3.1 The system of regulation of standards of member conduct in England is governed by the Localism Act 2011.

3.2 All local authorities (other than parish and town councils) must have procedures in place to deal with complaints about member conduct. It is for the authority to decide the details of those procedures, but legally they must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that the authority have decided to investigate.

3.3 The Independent Person Protocol (Appendix 1) was adopted to clarify how this role is to be fulfilled. As part of its national review of local government standards, the Committee on Standards in Public Life (discussed elsewhere in the agenda) reported that in their view the Independent Person should be seen primarily as an impartial advisor to the Council on code of conduct matters and that they should provide a view on code of conduct allegations based on the evidence before them, and whilst being aware of the political context, should be politically neutral with local authorities making use of their perspective and expertise when reviewing their code

of conduct and processes. The Committee considered that the advice of the Independent Person should also be able to be sought from subject members and members of the public, in line with the requirements of the Localism Act. They also reported that an Independent Person needs not just to be independent according to the requirements of the Localism Act 2011 but should also show an ability to:

- offer authoritative and impartial advice
- maintain independence in a politically sensitive environment
- gain the confidence of councillors, officers, and the public
- make decisions on an impartial basis, grounded in the evidence
- work constructively with the local authority and senior officers

3.4 In accordance with the recommendation from the last Standards Committee a review of the existing Protocol has been taken in consultation with Mr Garvey and Mr Fawcett, the current Independent Persons. Amendments were made to the initial proposed draft Protocol reflecting recommendations made by the Independent Persons. The Independent Persons suggested that the requirement for an Independent Person to demonstrate an ability to gain the confidence of councillors, officers and the public (as outlined above) would actually be what would result if the Independent Person demonstrated the other required behaviours set out in the paragraph above. Also the other behaviours were clear and measurable whereas the highlighted behaviour is not. The original wording in paragraph 3.3 above was therefore amended to read as follows:

"The Independent Person should be seen primarily as an impartial advisor to the council on code of conduct matters but should also show an ability to:

- offer authoritative and impartial advice
- maintain independence in a politically sensitive environment
- make decisions on an impartial basis, grounded in the evidence
- work constructively with the local authority and senior officers

which in turn will gain the confidence of councillors, officers and the public."

3.5 The updated Protocol showing the proposed tracked changes is attached at Appendix 2 for consideration and approval.

4.0 SUSTAINABILITY IMPLICATIONS

4.1 There are no significant sustainability impacts associated with this report and, in particular no significant impact on crime and disorder.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are no significant financial or resource implications arising from this report.

6.0 RISK ASSESSMENT

6.1 The Council must put in place arrangements in order to comply with the requirements of the Localism Act. 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.

7.0 HEALTH AND WELLBEING IMPLICATIONS

7.1 There are no health and wellbeing implications arising from this report.

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

1. Current Independent Person Protocol
2. Revised Independent Person Protocol