

ASSEMBLY

17 September 2014

Title: Independent Persons - The Localism Act 2011	
Report of the Monitoring Officer	
Open	For Decision
Wards Affected: None	Key Decision: No
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Accountable Head of Service: Fiona Taylor, Head of Legal and Democratic Services	
Accountable Director: Graham Farrant, Chief Executive	
Summary: This report relates to the requirement to appoint Independent Persons to carry out an advisory role as part of arrangements the Council must have in place to investigate and determine complaints regarding the Councillors' Code of Conduct as required by Section 28(6) (a) & (b) and 28(7) the Localism Act 2011(the Act).	
Recommendation(s) The Assembly is asked to approve the appointment of Mr John Boylin and Mr Michael Hawkins as Independent Persons with effect from 1 October 2014 until the next Assembly meeting following the Annual Assembly in 2016.	
Reason(s) To accord with the requirements of Section 28(8) (c) (iii) of the Localism Act 2011 which states that decisions of appointment of Independent Persons must be agreed by a majority of the whole number of Councillors.	

1. Introduction and Background

- 1.1 From 1 July 2012 The Localism Act 2011 (the Act) required that principal councils such as district, county and London boroughs all adopt local codes of conduct and establish the means to investigate and determine complaints. At the Assembly meeting on 11 July 2012, Members adopted the LBBB Code of Conduct in accordance with the Act, together with procedures for investigating and deciding on allegations of breaches of the Code.
- 1.2 The Act further required that the Council appoints at least one Independent Person(IP):

- (a) whose views are to be sought and taken into account by the Monitoring Officer on an allegation being considered for investigation, but before a decision to investigate is made; and
- (b) whose views may be sought:
 - (i) by the Monitoring Officer on other matters relating to an allegation; and
 - (ii) by a member or co-opted member of the Council who has been complained about.

1.3 To ensure 'independence', this person is not to have links to the Council, councillors or officers or been a member for the last five years. This meant that the previous Independent Members of the statutory Standards Committee, who had served for a number of years, were disqualified from applying for the role as they were co-opted members of the Council.

1.4 In January 2014 it was considered timely to carry out a review of the role of the IPs and a training and consultation session with the Independent Persons was conducted. The current IPs at the time, Mr Carpenter and Mr Little, had held the role for just 18 months. Both were advised that provisionally their initial period would terminate after Annual Assembly in 2014. During the review it was noted that the current picture was that the level of complaints against Members requiring the involvement of IPs had so far been at a low level.

1.5 The Monitoring Officer presented a report to Assembly on 19 February 2014 recommending that the Council make an additional appointment of an IP to provide resilience in the event of potential issues of conflict of interest or general unavailability of one of the Council's IPs. The Monitoring Officer further recommended that to ensure a good return on the investment in austere times, rather than embark on a further recruitment exercise in summer 2014; that the engagement of the IPs be so as to continue to after the Annual Assembly meeting in 2016. This would afford time to provide further experience and enhance their skills and competencies. The Assembly agreed both recommendations.

1.6 Mr Little gave notice that he was stepping down from the role after deciding to be a candidate in the 2014 local elections. This meant that the Council's IP numbers went down to one (Mr Carpenter).

2. Proposal to Appoint

2.1 In accordance with the Localism Act, to meet the risks outlined above, the Monitoring Officer carried out a recruitment exercise. The recruitment was conducted with local and web based advertisements. Two expressions of interest were received from Mr John Boylin and Mr Mike Hawkins.

2.2 The candidates were invited for interview on 15 July 2014 and 23 July 2014 respectively. The quality of performance of the interviewed candidates and their experience was very high. Both candidates have experience in dealing with Code of Conduct complaints against Members and neither have any connection with any political parties or have been members. Indeed the Monitoring Officer has now made this a specific requirement.

- 2.3 The applications were assessed by a recruitment panel under the direction of Fiona Taylor Head of Legal / Divisional Director and Monitoring Officer, David Lawson, Deputy Head of Legal and Deputy Monitoring Officer and Paul Feild Senior Governance Solicitor. The panel recommended that the two candidates be appointed based on their performance at interview and the identified need for three IPs to allow for conflict of interests that may arise where the IP is consulted by both the Member and the Panel.

3. About the Candidates

3.1 John Boylin

John is a retired senior Police Officer having served as Borough Commander for Newham and then Redbridge. He then served as officer in charge of Redbridge's Parks Police. He is non political. He recently served as Operations Manager for Security Infrastructure for London Olympics 2012 and has served as an IP for Brentwood Borough Council for several years.

3.2 Mike Hawkins

Mike is currently Chief Executive of Brentwood Chamber of Commerce, a position he has held for 10 years. He was appointed as a magistrate and since became a bench Chairman. He is non political. He was Divisional Director of NatWest/RBS Group and also Chairman of MasterCard UK. He believes in maintenance of strict political impartiality and has served as an IP for Brentwood Borough Council for several year, helping to adjudicate some difficult disputes between or involving members. He also has a role as an 'Expert' member of the European Payments Council, Brussels, arbitrating between banks and major corporations on disputes regarding the major EU initiative of implementing Single Europe Payments.

4. Terms of engagement

- 4.1 The appointments will commence from 1 October 2014 subject to satisfactory references. They would run until after the Annual Assembly meeting in 2016. An induction process is in the process of being arranged, which will allow John Boylin and Mike Hawkins to meet Members and officers of the Council. Unlike the previous standards regime, the IP is not a formal Member of a Council committee and has a purely advisory role.

- 4.2 The appointment attracts an annual allowance of £500. The appointment of an additional IP will necessitate payment of an additional allowance of £500 which can be met from existing budgets. The IPs may also claim reasonable expenses for attendance, travel and subsistence. The IPs are not Co-Opted Members and therefore the inclusion of such an allowance provision will not engage any need to have it approved / reviewed by the LBBB Members' Remuneration Panel.

5. Options Appraisal

- 5.1 The appointment of at least one IP is a statutory requirement of the Act. Discussions with other authorities indicate that while there is a statutory minimum of one IP under the Act, it is common agreement that one is not sufficient. For example last year when Thurrock Council lost an IP through an early death it took a number of months to recruit and place a replacement. During the vacant period it

would not have been possible to manage complaints without conflicts of interest arising. When Barking and Dagenham Council's scheme was established in late 2012 a minimum number of two was proposed principally because of the risk of conflict of interest. Officers believe that recent experience indicates that to ensure resilience there needs to be an additional appointment.

- 5.2 The recent experience of an early resignation leaving only one IP confirms that the 2014 proposals to aim for three IPs does provide the necessary level of resilience at minimal cost to the potential risk.

6. Consultation

- 6.1 It is a statutory requirement that Assembly is consulted and approves the appointments.

7. Financial Implications

Implications completed by: Olufunke Johnson, Finance Manager

- 7.1 The allowance and expenses required to fund these posts will be funded from existing budgets within Democratic Services.

8. Legal Implications

Implications completed by: David Lawson, Deputy Head of Legal

- 8.1 The body of this report sets out the legal framework and as explained the Council is required to have a minimum of one IP though this should be considered to be unsatisfactory as there are circumstances where statutory obligations such as the right for a Member to consult with an IP and the need for consultation by the Monitoring Officer and a Sub-Committee means that two IPs is the bare minimum but such an arrangement provides for no resilience if an IP is not available.

9. Other Implications

- 9.1 **Risk Management** - The Council has a duty to promote and maintain high standards of conduct. Failure to appoint IPs puts the Council at risk of not being able to fulfil these duties in accordance with the Act
- 9.2 **Customer Impact** - Residents of the borough must be confident that the Council will continue to promote and maintain high standards of conduct through the implementation of the statutory requirements of the Act

Public Background Papers Used in the Preparation of the Report: None

List of Appendices: None