

## ASSEMBLY

24 February 2015

<b>Title:</b> Appointment of Independent Persons – The Localism Act 2011	
<b>Report of the Monitoring Officer</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
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<b>Accountable Head of Service:</b> Fiona Taylor, Head of Legal and Democratic Services	
<b>Accountable Director:</b> Chris Naylor, Chief Executive	
<b>Summary:</b>  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).	
<b>Recommendation(s)</b>  The Assembly is recommended to:  (i) Approve the appointment of Dr. Gurpreet Singh Bhatia and Pastor Thomas Adeyemi Aderounmu as Independent Persons in accordance with Section 28(7) of the Localism Act 2011; and  (ii) Agree that the appointment of all the Council's Independent Persons be until the next Assembly meeting following the Annual Assembly in 2018 when it shall be reviewed.	
<b>Reason(s)</b>  Section 28(8) (c) (iii) of the Act 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 LBB 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 IP's and a training and consultation session with the Independent Persons was conducted. The current IP's 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 General Council in 2014. During the review it was noted that the current picture is that the level of complaints against Members requiring the involvement of Independent persons has so far been at a low level.
- 1.5 The Monitoring Officer presented a report to Assembly on February 2014 recommending that the Council make an additional appointment of an Independent Person to provide resilience in the event of potential issues of conflict of interest or general unavailability of one of the Council's IP's. The Monitoring Officer further recommended that to ensure a good return on the investment in austere times that the engagement of Mr. Carpenter and Mr. Little be extended to afford time to provide further experience and enhance their skills and competencies. The Assembly agreed both recommendations.
- 1.6 However shortly after the meeting, 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 Independent Person number went down to one (Mr. Carpenter) on whom we have had to solely rely. This is unsatisfactory as it creates an avoidable conflict of interest and potential lack of legal compliance with the Localism Act 2011 if Mr Carpenter should not be available.

## **2. Proposal to Appoint**

- 2.1 In accordance with the Localism Act, to meet the risks identified the Monitoring Officer working with the lead Member carried out a recruitment exercise. The recruitment was conducted with local and web based advertisements. Two expressions of interest were received from Dr.Gurpreet Singh Bhatia and Pastor Thomas Adeyemi Aderounmu.

2.2 Both applications met the short listing criteria and the candidates were invited for interview on 11 February 2015. The applications were assessed by a recruitment panel under the direction of Councillor James Ogungbose, Cabinet Member for Central Services together with Fiona Taylor, Divisional Director of Legal and Democratic Services and Monitoring Officer and Paul Field, Senior Governance Solicitor. The quality of the performance of the candidates under interview and their experience was high. Both candidates have experience in dealing with ethical issues and neither have any connection with any political parties or been members.

2.3 The panel recommends that the two candidates be appointed based on their performance at interview and the identified need for two additional IP's to avoid the obvious conflict of interest that would arise were an IP to be consulted by both the Member and the Monitoring Officer.

## 2.4 **About the Candidates**

### 2.4.1 Dr Gurpreet Singh Bhatia

Dr Singh is a chartered drug discovery scientist. He has been a resident of Barking and Dagenham all his life and been educated at local schools. He has a PhD in Organic Chemistry from University College London. He demonstrated extensive experience in dealing with difficult ethical matters and adopting a common sense approach to resolution of challenging dilemmas. He understands the paramount importance of maintaining public confidence in the institution of democratic local government.

### 2.4.2 Pastor Thomas Adeyemi Aderounmu

Pastor Thomas Adeyemi Aderounmu has degrees in law and banking and finance and is a practicing Minister in the Borough. He understands well the need for the utmost discretion in the role and he demonstrated he possess valuable transferable skills that would enable him to function well in the role. He too showed that he appreciates the importance of the promotion of standards so as to maintain public confidence in the accountability of elected Members of the Council.

## 2.5 **Terms of engagement**

2.5.1 The appointments will commence from 1 March 2015 subject to satisfactory references. They would run until after the Annual Assembly meeting in 2018. Unlike the previous standards regime, the Independent Person is not a formal Member of a Council committee and has a purely advisory role. Following the decision to appoint by the Assembly an induction process will be arranged, so as to enable Dr.Gurpreet Singh Bhatia and Pastor Thomas Adeyemi Aderounmu to meet Members and officers of the Council.

2.5.2 The appointment attracts an annual allowance of £500. The IP's may also claim reasonable expenses for attendance, travel and subsistence. The IP's 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.

- 2.6 The Monitoring Officer recommends that the Assembly appoints Dr. Gurpreet Singh Bhatia and Pastor Thomas Adeyemi Aderounmu as the Council's independent persons for the purposes of section 28 of the Localism Act 2011 (subject to satisfactory references) with effect from 1 March 2015 to the date of the Annual General Meeting the municipal elections in 2018 and that Mike Carpenter retention continues to the date (Note: under Section 28(8) (c) (iii) of the Localism Act 2011, this decision must be agreed by a majority of the whole number of councillors).

### **3. Options Appraisal**

- 3.1 The appointment of at least one Independent Person is a statutory requirement of the Act. Discussions with other authorities indicate that while there is a statutory minimum of one IP under the Localism Act, it is common agreement that one is not sufficient. For example in 2013 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.
- 3.2 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.
- 3.3 The recent experience of an early resignation leaving only one IP confirms that the 2014 proposals to aim for three IP's does provide the necessary level of resilience at minimal cost to the potential risk.

### **4. Consultation**

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

### **5. Financial Implications**

Implications completed by: Olufunke Johnson, Finance Manager

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

### **6. Legal Implications**

Implications completed by: David Lawson, Deputy Head of Legal

- 6.1 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.

## **7. Other Implications**

- 7.1 **Risk Management** - The Council has a duty to promote and maintain high standards of conduct. Failure to appoint IP's puts the Council at risk of not being able to fulfil these duties in accordance with the Act
- 7.2 **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

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

**List of Appendices:** None