

ANNUAL ASSEMBLY

15 May 2019

Title: Appointment of Independent Persons	
Report of the Cabinet Member for Finance, Performance and Core Services	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Strategic Leadership Director: Fiona Taylor, Director of Law & Governance (and Monitoring Officer)	
Summary: The Council must appoint Independent Person(s) (IPs) to perform an advisory role as part of arrangements regarding the following: (i) Investigating and determining complaints made under the Councillors Code of Conduct as required by the Localism Act 2011 (the Act); and (ii) Disciplinary proceedings for Statutory Chief Officers (Statutory Standing Orders (SI 2015 / 881). Following a review of the Council's arrangements, it is proposed that the services of the three current IPs be retained for a further three-year term.	
Recommendation(s) The Assembly is recommended to agree the extension of the appointment of Mr Michael Carpenter, Dr Gurpreet Singh Bhatia and Pastor Thomas Adeyemi Aderounmu as Independent Persons, under the Localism Act 2011, until the next Assembly meeting following the Annual Assembly in 2022.	
Reason(s) Section 28(8) (c) (iii) of the Act states that decisions on the appointment of Independent Persons must be agreed by a majority of Councillors.	

1. Introduction and Background

- 1.1 From 1 July 2012, the Localism Act 2011 (the Act) required that councils must adopt local codes of conduct and establish the means to investigate and determine complaints about Councillors. 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', an IP is not to have links to the Council, Councillors or officers or been an elected Member for the previous five years.
- 1.4 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015 / 881) amended the disciplinary procedure for statutory chief officers i.e. the Head of Paid Service (Chief Executive), Chief Finance Officer (Chief Operating Officer) and the Monitoring Officer (Director of Law and Governance). SI 2015 / 881 introduced the requirement for two IPs to be appointed to sit on a statutory Chief Officer disciplinary panel.
- 1.5 Two IP appointments were made in 2012. At the Assembly in February 2014, the Monitoring Officer presented a report recommending that the Council make an additional appointment to provide resilience in the event of potential issues of conflict of interest or general unavailability of one of the Council's IP's.
- 1.6 Mr Michael Carpenter has held the position of IP since July 2012. Dr Gurpreet Singh Bhatia and Pastor Thomas Adeyemi Aderounmu were appointed as IPs in February 2015.

2. Proposals

- 2.1 A desk top review has been carried out which examined the number of Members' Complaints where Independent persons were needed. Whilst there have been a number of complaints under the Members' Complaints arrangements, there have only been two matters which required a formal Complaints hearing, the first being in February 2016 and the second in October 2018. Up until the hearing in 2016 the last Members' Complaint hearing was in March 2010.
- 2.2 While it is not possible to predict the level of future complaints, the picture at Barking and Dagenham is that the need for a formal Complaints hearing is very rare. It is therefore difficult to justify the cost of recruiting, inducting and training three new IPs, particularly when the current IPs are so skilled under the Members' Complaints Code and the arrangements for a statutory officer's disciplinary committee.
- 2.3 The Monitoring Officer has contacted the three current IPs and they have all expressed a willingness to continue. It is proposed, therefore, that the

appointments of Mr Carpenter, Dr Bhatia and Pastor Aderounmu are extended until after the Annual Assembly meeting in 2022

3. Options Appraisal

- 3.1 The appointment of at least one Independent Person is a statutory requirement of the Act.
- 3.2 When Barking and Dagenham's scheme was established in late 2012 a minimum number of two was proposed, principally because of the risk of conflict of interest. The current level of three IPs is considered appropriate, in order to provide added resilience and in view of the requirements of SI 2015 / 881.

4. Consultation

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

5. Financial Implications

Implications completed by: Katherine Heffernan, Group Manager- Service Finance

- 5.1 The position of IP attracts an annual allowance of £500. The IP's may also claim reasonable expenses for attendance, travel and subsistence.
- 5.2 The allowance and any expenses required to fund these posts will be met from existing budgets within Democratic Services.

6. Legal Implications

Implications completed by Suzan Yildiz, Deputy Head of Legal Services

- 6.1 The body of this report sets out the legal framework. As explained, by virtue of the Act, the Council is required to have a minimum of one IP, although this is considered to be unsatisfactory as there are circumstances where statutory obligations, such as the right for a Member to consult with an IP, the need for consultation by the Monitoring Officer and a Sub-Committee, dictate that two or more IPs are required. An arrangement of a minimum of one IP does not provide sufficient resilience, e.g. if the IP is not available or a member wishes to consult with an IP. In addition, with the extension to the duties of an IP to sit on a Chief Officer disciplinary panel, Members are recommended to agree to the re appointment of the IP members as set out in this report.

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

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

List of Appendices: None