

ASSEMBLY

10 OCTOBER 2012

Title: THE STANDARDS COMMITTEE – APPOINTMENT OF TWO INDEPENDENT PERSONS	
Report of: The Monitoring Officer	
Open	For Decision
Wards Affected: All	Key Decision: No
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Accountable Head of Service:	Fiona Taylor, Head of Legal and Democratic Services
Accountable Director:	The Chief Executive
Summary: <p>This report relates to the appointment of two Independent Persons in accordance with the statutory requirements of the Localism Act 2011(the Act).</p> <p>Section 28(6) (a) and (b) of the Act requires local authorities to have mechanisms in place to investigate allegations that a Member has not complied with the Members' Code of Conduct and also arrangements under which decisions on allegations may be made.</p> <p>Section 28(7) of the Act further requires local authorities to appoint at least one Independent Person, who will have an advisory role in the determination of such allegations.</p>	
Recommendation(s) <p>The Assembly is asked to agree:</p> <ol style="list-style-type: none">1. the appointment of Mr Michael Carpenter and Mr Brian Little as Independent Persons in accordance with Section 28(7) of the Localism Act 2011with immediate effect until the Assembly meeting following the next municipal elections in 2014;2. the payment of an allowance of £500 per annum to each of the Independent Persons, together with reasonable expenses for travel and subsistence; and3. that the Members' Allowance Scheme set out in Part F of the Council Constitution be amended accordingly.	
Reason(s) <p>Section 28(8) (c) (iii) of the Act states that this decision must be agreed by a majority of the whole number of Councillors.</p>	

1. Introduction and Background

- 1.1 The Act repeals the framework for the Members' Code of Conduct and process for dealing with complaints with full effect from 1 July 2012. At the Assembly meeting on 11 July last, Members adopted a Code of Conduct in accordance with the Act, together also with procedures for investigating and deciding on allegations of breaches of that Code.
- 1.2 The Act further requires that the Council appoints at least one Independent Person:
- (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 An external recruitment exercise for the position has been undertaken and this report sets out the outcome of that process.

2. Proposal and issues

- 2.1 The post of Independent Person was advertised by the Council jointly with Thurrock Borough Council. A total of seven applications were received and assessed by an officer recruitment panel.
- 2.2 Interviews took place on 19 July 2012, following which Mr Michael Carpenter and Mr Brian Little were shortlisted as possible candidates to be appointed under the Act as Independent Persons for the Council. Both candidates meet the criteria for the post and it is recommended that they each be appointed as Independent Persons with immediate effect until the Assembly meeting following the next municipal elections in 2014.
- 2.3 As background to the candidates:

Mr Michael Carpenter - accumulated many years of experience in local government as a senior educationalist and on his retirement continued to work to promote local government, including serving as a chair of a local authority Standards Committee.

Mr Brian Little - a graduate of The University of East London with a degree in Manufacturing Systems Engineering, and a retired manager from the Ford Motor Company. He accumulated experience in the governance of further education and serves as a chair of a College Trust. Since his retirement, he has served as a member of a local authority's Standards Committee.

- 2.4 An induction process will be arranged which will allow Mr Carpenter and Mr Little to meet Members and officers of the Council. Unlike the previous regime, the Independent Person is not a formal co-opted Member of a Council committee and will have a purely advisory role.
- 2.5 It is proposed to pay the Independent Persons an allowance of £500 pa each, in addition to which they may claim reasonable expenses for travel and subsistence. The Members' Allowance Scheme set out in Part F of the Council Constitution will be amended accordingly.

3. Options Appraisal

- 3.1 The appointment of at least one Independent Person is a statutory requirement of the Act.
- 3.2 It is recommended that the Council appoints two Independent Persons to cover risk of absence or unavailability and to avoid a conflict of interest should the views of that person be sought by both the Monitoring Officer and a Member or co-opted Member, who may be the subject of an allegation.

4. Consultation

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

5. Financial Implications

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

6. Legal Implications

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- 6.1 The Localism Act 2011 has introduced major changes in how standards in terms of Members' conduct are administered. The Coalition Government considered that the Standards Board for England created an over-complicated system which at times led to petty complaints.
- 6.2 The solution was to abolish the Board and transfer the responsibility for administering standards' investigations and adjudication to local level with locally adopted codes and greater discretion to the Monitoring Officer.
- 6.3 The implications are that the local standards regime needs to have established a sound process to ensure fairness in terms of managing standards and dealing with

complaints, and that a proper sifting is carried out at an early stage to ensure that unmerited or trivial complaints do not require time and money to be spent.

- 6.4 The Independent Persons will contribute to this process by being consulted for their views before a decision is made on a complaint or in matters of conduct that are not subject to complaint, as well as offering their views to a Member who may be the subject of a complaint. As occasions may arise where more than one person may seek to consult the independent person, a potential conflict of interest may arise. It is therefore considered necessary to appoint two independent persons as a minimum.

7. Other Implications

7.1 Risk Management

The Council has a duty to promote and maintain high standards of conduct. Failure to appoint Independent Persons puts the Council at risk of not being able to fulfil these duties in accordance with the Act

7.2 Contractual Issues - none

7.3 Staffing Issues – none

7.4 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

7.5 Safeguarding Children - none

7.6 Health Issues – none

7.7 Crime and Disorder Issues – none

7.8 Property / Assets Issues – none

Background Papers Used in the Preparation of the Report:

The Localism Act 2011