

Standards Committee

8th July 2019

Appointment of Independent Persons

Summary of report:

The purpose of the report is to review and approve the joint recruitment process with Sandwell MBC to appoint two Independent Persons pursuant to the Localism Act 2011.

Background papers: None

Recommendations:

That:-

1. The process to undertake a joint recruitment exercise with Sandwell MBC for the appointment of two Independent Persons (or equivalent) at each Authority, as detailed within the report, be approved;
2. The Chair be authorised, in consultation with the Monitoring Officer, to finalise and agree all necessary recruitment arrangements/procedures between both Councils to ensure an effective recruitment exercise is undertaken;
3. A joint recruitment panel comprising three members from each authority be established to include the Chair and Vice Chair together with a third member to be appointed by committee;
4. Committee determines whether the role of Independent Person should be remunerated; and;
5. Subject to recommendation 4, to authorise the Chair, in consultation with the Monitoring Officer, to determine a remuneration package.

1.0 Background

- 1.1 In accordance with the Localism Act 2011 (the Act), arrangements must be put in place for the appointment by the Council of at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision on an allegation against an elected member that it has decided to investigate.
- 1.2 The Independent Person's views may be sought by a member or co-opted member of the Council if that person's behaviour is the subject of an allegation, and may also be sought by the Council in relation to an allegation it has not yet decided to investigate.

- 1.3 Walsall Council has appointed one Independent Person. Whilst this fulfils requirements of the Act, it is proposed that a further two Independent Persons be appointed. This will ensure business continuity should an Independent Person resign or be unavailable at such time that they may be required.
- 1.4 To improve the prospects of securing the appointment of two further Independent Persons, the Assistant Director Legal Services and Monitoring Officer has liaised with his equivalent at Sandwell MBC with a view to undertaking a joint recruitment exercise.
- 1.5 The benefits of a joint recruitment exercise include:
 - a broader remit may attract a broader pool of potential candidates;
 - there is greater opportunities for the sharing of knowledge and support amongst the Independent Persons;
 - increased opportunities to gain greater experience; and
 - a joint recruitment exercise means the costs of the recruitment can be shared between both councils.

2.0 The Recruitment Process

- 2.1 The role description for an Independent Person for standards matters is attached at Appendix 1. The role criteria for the Independent Person is attached at Appendix 2. It is proposed that the Committee authorises the Committee Chair to approve a new joint job role (which is likely to be along similar lines to Appendix 2) with Sandwell Council for the purposes of this recruitment exercise.
- 2.2 Any successful recruitment exercise would be on the basis that the person(s) appointed would act as an Independent Person for both councils. However, each council would need to confirm the appointment of the Independent Person through their respective meetings of Full Council and therefore, retain control over the appointment.
- 2.3 It is proposed that the arrangements for the recruitment exercise principally follows the same processes that has have undertaken previously. This would include an advert in the local newspaper, council website and other forums. Should committee agree to a joint recruitment, both council's details and contact information would feature on recruitment literature.
- 2.4 In addition, it is suggested that the joint recruitment panel consist of an equal number of Committee Members from both councils. The chair and vice chair of the panel will be agreed by the panel members appointed. Any successful candidate must be by majority decision in favour.
- 2.5 It is also proposed that the Committee authorises the Chair to finalise and agree all necessary recruitment arrangements/procedures between both Councils to ensure an effective recruitment exercise is undertaken.

3.0 Remuneration

- 3.1 The role of Independent Person is currently a voluntary position and no annual allowance is paid in respect of this appointment. However, travelling and subsistence expenses are paid at the appropriate rate.
- 3.2 Some Authorities pay an allowance to the Independent Person in recognition of the role undertaken (see table below). This approach is permissible under Section 28 of the Localism Act - *'a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment'*.

Council	Allowance
Powys	£99 for a half day (up to 4 hours) and £198 for a full day (over 4 hours).
Harrow	£445 per annum
Leeds	Co-opted Members of the Standards Committee are entitled to an allowance of £557 (reviewed annually). The Chair of the Standards Committee also receives a Special Responsibility Allowance of £4,828.
Chesterfield	The role of the Independent Person is unsalaried, but a sum of £50 for up to 4 hours work, and £100 for 4 hours and over, up to a maximum of £500 per person per annum is payable in recognition of the role undertaken

- 3.3 It is for the Committee to determine whether the existing arrangement (that the role receives expenses only) should continue or whether officers be requested to undertake a benchmarking exercise to review remuneration packages in other Authorities with a view to introducing remuneration at Walsall.
- 3.4 The matter of remuneration is yet to be considered by Sandwell Councils Ethical Standards and Member Development Committee. Should Standards Committee determine that options for remuneration should be explored further the matter will also need to be considered and determined by a future meeting of the Sandwell Councils Ethical Standards and Member Development Committee before a meeting of the IRP is convened.
- 3.5 As with Members of the Authority, should an allowance be agreed and implemented, claiming said allowance is not compulsory and so any Independent Person may choose not to do so.

4.0 Resource and legal considerations:

- 4.1 Section 27 of the Localism Act 2011 requires authorities to promote and maintain high standards of conduct by their members and co-opted members. The Act requires local authorities to have in place mechanisms to investigate allegations that a member has not complied with their Code of Conduct, and arrangements under which decisions on allegations may be made.
- 4.2 Section 28(7) of the Act requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation. The Independent Person also advises a member facing an allegation who has sought the views of that person. There are restrictions on who can be appointed as the Independent Person, mainly, that the Independent Person cannot be a councillor, officer or their relative or close friend. Public notice has to be given of recruitment for the role.
- 4.3 Should it be agreed that the role be remunerated the council would need to provide a budget to fund this.

3.0 Performance and Risk Management issues:

- 3.1 The Independent Person helps to provide public confidence in the manner in which the Council deals with complaints against its Elected and Co-opted Members.
- 2.2 The role of the Independent Person is advisory and is important in providing assurance to the Council and the public that standards matters are being dealt with effectively, fairly and proportionately.

4.0 Equality Implications:

- 4.1 All applicants will be considered on merit.

5.0 Consultation:

- 5.1 There is no requirement to consult on this report.

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ROLE DESCRIPTION

Responsible to: The Council

Liaison with: Monitoring Officer, Deputy Monitoring Officer, members of the Standards Committee, officers and members of the Council and key stakeholders within the community.

1. To assist the Council in promoting high standards of conduct by elected and co-opted members of the Council and in particular to uphold the Code of Conduct adopted by the Council and the seven principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To be consulted by the Council through the Monitoring Officer, Deputy Monitoring Officer, and/or the Ethical Standards and Member Development Committee before it makes a decision on an investigated allegation and to be available to attend local hearings as necessary.
3. To be available for consultation by the Monitoring Officer, Deputy Monitoring Officer, and/or the Ethical Standards and Member Development Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
4. To be available for consultation by any elected member or co-opted member who is the subject of a standards complaint.
5. To develop a sound understanding of the ethical framework as it operates within the Council.
6. To participate in training and networking events to develop skills, knowledge and experience.
7. To act as advocate and ambassador for the Council in promoting ethical behaviour.

APPOINTMENT OF INDEPENDENT PERSON - BACKGROUND INFORMATION

Under the provisions of the Act the Council is responsible for deciding how to deal with standards issues at a local level, including adopting its own local code of conduct for elected members and determining what arrangements it will adopt to deal with complaints about member conduct.

The Act provides that the Council must appoint an Independent Person or persons to assist in discharging these responsibilities. Full details of the role and responsibilities of the Independent Person are included in this Recruitment Pack. The Council already has one Independent Person and is seeking to make a further two appointments.

The Independent Person will be required to be contactable at all times during normal working hours by telephone or by email and to attend hearings as necessary, which are usually held during the day and possibly at relatively short notice.

SELECTION CRITERIA SKILLS AND COMPETENCIES

The Independent Person will have:

- a keen interest in standards in public life.
- a wish to serve the local community and uphold local democracy.
- the ability to be objective, independent and impartial.
- sound decision making skills.
- leadership qualities, particularly in respect of exercising sound judgement.

The Independent Person will:

- be a person in whose impartiality and integrity the public can have confidence.
- understand and comply with confidentiality requirements.
- have a demonstrable interest in local issues.
- have an awareness of the importance of ethical behaviours.
- be a good communicator.

Desirable additional criteria are:

- working knowledge/experience of local government or other public service and/or of large complex organisations.
- awareness of and sensitivity to the political process.
- knowledge and understanding of judicial/quasi-judicial or complaints processes.

You should demonstrate in your application how you meet the above criteria as this will assist the short-listing process.

Candidates will be assessed via the application form and by interview.

Eligibility for Appointment

A person cannot be appointed as an Independent Person if they are or were within a period of 5 years prior to the appointment:

- a member, co-opted member or officer of the authority.
- a member, co-opted member or officer of a parish council in the District
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Remuneration

This is a voluntary position and no annual allowance is payable in respect of this appointment, however travelling and subsistence expenses will be paid at the appropriate rate.

Special conditions

1. The Independent Person must sign an undertaking to comply with the interests in the register of members interests;
2. Applicants must disclose whether they hold any contract with the Council.
3. Applicants must disclose whether they are a party to any outstanding complaint or grievance against the Council.
4. Canvassing by the candidate will disqualify your position.