

**MEETING**

**GROUP LEADERS PANEL**

**DATE AND TIME**

**TUESDAY 4 FEBRUARY 2014**

**AT 7.00 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, NW4 4BG**

**TO: MEMBERS OF GROUP LEADERS PANEL (Quorum 3)**

**Councillors**

Richard Cornelius  
Jack Cohen

Anthony Finn  
John Marshall

Alison Moore

**Independent Persons**

Stephen Ross

Tanya Ossack

**Substitute Members (Deputy Group Leaders)**

Daniel Thomas

Barry Rawlings

Susette Palmer

**You are requested to attend the above meeting for which an agenda is attached.**

**Andrew Nathan – Head of Governance**

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Media Relations contact: Sue Cocker 020 8359 7039

**ASSURANCE GROUP**

## ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Appointment of Chairman	
2.	Minutes of last meeting	
3.	Absence of Members (If any)	
4.	Declaration of Members' Disclosable Pecuniary Interests and Non Pecuniary Interests (If any)	
5.	Independent Person Protocol	1 - 8
6.	Report on Use of Delegations	9 - 12
7.	Decision on whether to exclude the Public and the Press  Papers for this item have not been made available in accordance with Section 100B (1) and (2) of the Local Government Act 1972 as the matters yet to be discussed involved the likely disclosure of exempt information. It was for the Panel to decide whether the public and press should be excluded for consideration of the item on the grounds that they involve the likely disclosure of exempt information as defined under Schedule 12A of the Local Government Act 1972.	
8.	CASE 010/13	
9.	Any item(s) the Chairman decides are urgent	

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Meeting	Group Leaders Panel
Date	4 February 2014
<b>Subject</b>	<b>Independent Person Protocol</b>
Report of	Assurance Director
Summary	A protocol has been developed and proposed clarifying the role of the independent person and at what points they are consulted through-out the lifecycle of a complaint under the Member Code of Conduct

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Officer Contributors	Maryellen Salter, Assurance Director
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – Independent Person Protocol
Contact for Further Information:	Maryellen Salter 020 8359 3167 <a href="mailto:maryellen.salter@barnet.gov.uk">maryellen.salter@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

- 1.1 That the Group Leaders Panel comment on the protocol developed capturing the role of the Independent Person and the points at which their views are sought.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Council, 21 May 2013 – Item 10 – That Council confirm the appointment of Mr Stephen Ross and Mrs Tanya Ossack as Independent Persons within the provisions of the Localism Act 2011.
- 2.2 Council, 16<sup>th</sup> April, Item 4.3 - that the Independent Persons are paid on a case by case basis, whereby a fee of £100.00 could be paid for a simple case on which the Independent Person's views has been sought. For more complex cases, for example, where the complaint is referred to a Group Leaders Panel, a fee of £200.00 could be paid. Complexity of a case will be determined by the Council's Monitoring Officer

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 A protocol for the role of independent persons ensures a consistent approach to reviewing complaints under the Members Code of Conduct. Good governance is essential to delivery of all Council priorities.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 By having a protocol available outlining the functions of the independent person, and the timings of involvement throughout a complaint investigation, it mitigates the risk of ambiguity with the process.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 A protocol for independent persons is relevant to the two independent persons currently appointed by Full Council, both of whom have been consulted on the proposals.
- 5.2 The protocol also affects Members who may be a source of an allegation, and also residents who may want to make an allegation about a Member. The protocol follows the provisions of the Localism Act and merely refers to the time where consultation with an independent person may be appropriate. As a result of the creation of this protocol there will be no differential outcomes for different protected communities. The proposal does not compromise the Council in its compliance of the statutory equality duty.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 There is no use of resources implications as a result of this decision.

## **7. LEGAL ISSUES**

- 7.1 The Localism Act 2011 section 28(7) require arrangements put in place by a relevant authority to include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and.
  - (b) whose views may be sought—
    - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),.
    - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and.
    - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Council Constitution, Part 3, Section 3 – details the functions of the Group Leaders Panel “to investigate and determine allegations of a breach of the Code of Conduct for Members in the context of satisfying the Council's continuing duty to promote and maintain high standards of conduct for members.”
- 8.2 Whilst the approval of this protocol does not come within the remit of these functions, the comments of the Panel will be important in finalising a workable protocol.

## **9. BACKGROUND INFORMATION**

- 9.1 Under the Localism Act 2011, at least one independent person is required to be appointed to by the authority for their views to be sought regarding allegations against a Member that falls within the Code of Conduct. Council has complied with this requirement of the law.
- 9.2 It is necessary to set a detailed protocol that makes clear the relationships between the Independent Person (IP) and the various parts of the local authority involved in the process of handling allegations against Members conduct and wider promotion of the Code of Conduct. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.
- 9.3 The Council has appointed two independent persons, one will act in relation to an allegation and the other will act as a reserve. The draft protocol as attached at Appendix A details the various times an independent person may be consulted in accordance with the procedures detailed in the Constitution:
- Considering written allegations;
  - Matters under investigation

- Relationship with the Group Leaders Panel

In addition the protocol details other matters relating to an independent person and their rights to address the Chief Executive for example if they have concerns about processes of the Council in relation to Code of Conduct issues.

- 9.4 The Independent Person will also need to register their interests and declare interests in relation to cases where appropriate. The Independent Person has no voting rights at meetings or when considering written allegations, decisions are either reserved to the Monitoring Officer or the Group Leaders Panel as detailed within the Constitution.

## 10. LIST OF BACKGROUND PAPERS

- 10.1 None.

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>CE</b>

## **DRAFT PROTOCOL RELATING TO THE INDEPENDENT PERSON**

This protocol is to make clear the relationships between the Independent Person (IP) and the various parts of the local authority involved in the process of handling member complaints and wider promotion of the Code of Conduct. Its aim is to ensure that responsibility is clear at each stage of the process and set out the expectations and rights of the IP.

### **Considering written allegations**

1. The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before reaching a decision on whether any further action should be taken on a written complaint.
2. When issuing the decision letter/email, the MO will record that the IP has been consulted and that their views have been taken into account. Where the view of the MO and IP differ, the MO will record the reasons for following a particular course. The letter will make clear that it is the MO and not the IP who is the decision-maker.

### **Matters under investigation**

3. A member of the Council who is the subject of a complaint may seek the views of the IP. A member wishing to contact the IP should do so via the MO who will arrange for a meeting to take place on council premises. These arrangements will be communicated to the subject member by the MO at the point when the subject member is advised of the complaint.
4. Where the IP has given views to the subject member, those views shall be put in writing and made available to all relevant parties in the case.
5. The IP will need to record their discussion with the subject member and provide it to the subject member and also the MO and Group Leaders Panel (GLP).
6. The complainant may also seek the views of the IP. As with the subject member, contact should be arranged through the MO and any views expressed shall be recorded and made available to both the MO and the Group Leaders Panel.
7. The MO may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints.
8. Where a matter has been referred to the Group Leaders Panel for determination, the committee must seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and,

where those views do not reflect the final outcome reasons must be given for any differences. However, it must be clear that it is the Group Leaders Panel and not the IP who is the decision-maker.

9. The IP shall not make any comments to the media (or on social media) on any matter without prior agreement of the MO or council communications team. Any requests for comments from media shall be referred in the first instance to the MO who may refer these to the Chair of the Group Leaders Panel as appropriate.
10. The IP may be requested by the MO or Group Leaders Panel to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
11. The IP may be requested by the MO or Group Leaders Panel to assist in any training on conduct issues as appropriate.
12. Where the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by the reserve IP.

#### Relationship with the Group Leaders Panel

13. The IP (and reserve) shall receive agendas and minutes of all meetings of the Group Leaders Panel and shall be entitled to request for items to be added to the agenda with the agreement of the chair and to speak at the committee.
14. The IP (and reserve) are not members of the Group Leaders Panel and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the chair.

#### Other matters

15. The IP has the right to raise any concerns about Code of Conduct issues or implementation of the process with the authority's Chief Executive.
16. The council, through its Constitution, Ethics and Probity Committee, Group Leaders Panel and MO, is responsible for ensuring that the council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.



17. The IP has the right of access to any confidential information required to carry out their role. Access to such information and its storage shall be agreed with the MO.
18. The IP has the right of access to council buildings in order to carry out their role. Access should be agreed in advance with the MO.
19. The MO will meet as required with the IP (and reserve) to review relevant matters.
20. The IP (and reserve) will agree to sign a Code of Conduct, including a register of interests to be held by the MO and will declare any relevant interests in relation to cases to the MO who will decide whether the interest conflicts them out of involvement in the matter.
21. The IP is to be considered an office-holder of the authority in accordance with the duty under s28(7) of the Localism Act 2011 and is therefore entitled to be covered by the council's indemnity insurance provided they act reasonably and within the terms of this Protocol.

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Meeting	Group Leaders Panel
Date	4 February 2014
<b>Subject</b>	<b>Report on Use of Delegations</b>
Report of	Assurance Director
Summary	This report summarises for Members the number of Member complaints received since the last Group Leaders Panel and the decisions made by the Monitoring officer.

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Officer Contributors	Maryellen Salter, Assurance Director
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	None
Contact for Further Information:	Maryellen Salter 020 8359 3167 <a href="mailto:maryellen.salter@barnet.gov.uk">maryellen.salter@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

- 1.1 That the Group Leaders Panel notes the delegations used to reject any formal complaints made under the Member Code of Conduct during the period from 5<sup>th</sup> November 2013 to the 4<sup>th</sup> February 2014.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Constitution, Ethics and Probity Committee, Item 8 minute 2(a)(i)- The Monitoring Officer after consulting with the Independent Person will decide whether any complaint should go to a formal process. If the Monitoring Officer believes that the complaint is frivolous or vexatious or does not fall within the scope of the Code or Conduct, the complaint can be rejected following consultation with an appointed Independent Person. Any such rejected complaint will be formally reported to the next appropriate meeting of the Group Leaders Panel.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The Members Code of Conduct provides the standards of behaviour for those holding a public office and is a necessary requirement of any system of governance. Good governance is essential to delivery of all Council priorities.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 By having the Group Leaders Panel receive reports on a regular basis regarding complaints received under the Members Code of Conduct provides oversight of Member complaints.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 This report is a factual report based on a requirement as stipulated in the Constitution. As a result of this report there are no differential outcomes expected for those with protected characteristics. An equalities impact assessment has not been considered necessary.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 There is no use of resources implications as a result of this decision.

## **7. LEGAL ISSUES**

- 7.1 The Localism Act 2011 section 27 (1) requires that a local authority must promote and maintain high standards of conduct by members and co-opted members of the authority.

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Council Constitution, Members Code of Conduct, requires if the Monitoring Officer believes that the complaint is frivolous or vexatious or does not fall

within the scope of the Code or Conduct, the complaint can be rejected following consultation with an appointed Independent Person. Any such rejected complaint will be formally reported to the next appropriate meeting of the Group Leaders Panel.

## **9. BACKGROUND INFORMATION**

9.1 Since the date of the new operating procedures approved by Full Council (5<sup>th</sup> November 2013) the Monitoring Officer has received 3 complaints. The stages of the complaints are as follows:

- One complaint received on the 13<sup>th</sup> December 2013, upon consultation with the independent person the Monitoring Officer decided that the complaint does fall within the Code of Conduct and is not either vexatious or frivolous and should therefore go to a formal process. The investigation relating to this complaint appears on the agenda for this Group Leaders Panel.
- One complaint received on the 19<sup>th</sup> December 2013, upon consultation with the Independent Person the Monitoring officer decided that the complaint was vexatious and should not proceed to a formal process. The complainant was informed of the decision.
- One complaint received on the 22<sup>nd</sup> January 2014, upon consultation with the Independent Person the Monitoring Officer decided that complaint does fall within the Code of Conduct and is not either vexatious or frivolous and should therefore go to a formal process. The investigation is in its infancy stages and the subject member has been given right of reply to the complaint. A later date of the Group Leaders Panel is to be convened to consider the complaint in due course.

9.2 The Group Leaders Panel are asked to note the progress of the complaints received since the Group Leaders Panel met last.

## **10. LIST OF BACKGROUND PAPERS**

10.1 None.

<b>Cleared by Finance (Officer's initials)</b>	<b>N/A</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>N/A</b>

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## AGENDA ITEM 8

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