

AGENDA ITEM:14.4.1

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Meeting	Council
Date	13 May 2008
Subject	Appointment of Independent Members to the Standards Committee
Report of	Chief Executive and the Director of Corporate Governance and Monitoring Officer
Summary	This report informs the Council about a recruitment exercise and puts forward nominations for Independent Members of the Standards Committee.

Officer Contributors	Director of Corporate Governance (Monitoring Officer), Governance Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Standards Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	N/A
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1. RECOMMENDATIONS

- 1.1 That Council approves the arrangements taken in relation to the recruitment of Independent Members and the detailed eligibility requirements as set out in the report.
- 1.2 That Michael Barber, Jeremy Collick, Bernd Koschland, Ron Rosenhead Deborah Sanders and David Sparrow be appointed as Independent Members of the Standards Committee for a four year period from May 2008, subject to annual re-appointment;
- 1.3 That one of the Independent Members appointed in 2005, Stephen Ross, whose term of office is due to conclude in May 2010, be re-appointed for the municipal year 2008/09;
- 1.4 That Bernd Koschland be appointed Chairman of the Standards Committee and Stephen Ross be appointed Vice-Chairman for the municipal year 2008/09;
- 1.5 That a vote of thanks be offered to the departing Independent Members, Marguerite Argles and Susan Riddle;
- 1.6 That, in light of the original intention of maintaining a staggered recruitment of Independent Members, the Council re-consider and direct that where an Independent Member leaves office mid-term, his or her replacement shall be appointed for a full four year term from date of appointment..

2. RELEVANT PREVIOUS DECISIONS

- 2.1 17 September 2007 – The Standards Committee made recommendations to the Special Committee (Constitution Review) in respect of a report on Terms of Office for and Recruitment of Independent Members
- 2.2 26 November 2007 – The Special Committee (Constitution Review) considered the report previously considered by the Standards Committee in respect of fixed terms of office for Independent Members and in association with it made a recommendation as to the size of the Standards Committee in the next municipal year.
- 2.2 29 January 2008 (Ordinary Meeting) – Council considered the recommendations from the Special Committee (Constitution Review). Council agreed the size of the Standards Committee and that sub-committees be established. It also agreed four year fixed terms for Independent Members and instructed that a public advertisement and recruitment exercise for new Independent Members be undertaken. Council gave direction concerning the position of the incumbent Independent Members and dates on which their existing terms of office would be deemed to end. The Director of Corporate Governance and Monitoring Officer was instructed to prepare a Barnet specific recruitment pack with reference to the model pack issued by the Association of Council Secretaries and Solicitors (ACSeS) and other guidance.
- 2.4 15 April 2008 – Council considered the recommendations from the Special Committee (Constitution Review) and agreed changes to the Constitution, including those related to the terms of office for Independent Members.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Under the Council's Corporate Plan for 2008/09 to 2010/11, one of the corporate priorities is 'More Choice, Better Value' and a key objective within this priority is 'enhancing and further developing corporate governance'. The information in this report relates to the corporate governance arrangements around the Standards Committee and its operation. The Standards Committee has a vital role in the corporate governance of the Council.

4. RISK MANAGEMENT ISSUES

- 4.1 The decisions made in regard to the establishment of fixed terms of office for Independent Members and re-appointment were taken with an aim of achieving a balance between retaining experienced Members and facilitating opportunities for other residents to apply for a position. There is a risk that if an Independent Member becomes associated with the Council for an extended period they may lose their independence, or be perceived to have done so. However, there can be significant benefit to the Council from experienced Independent Members, particularly in the role of Chairman.
- 4.2 It is important to ensure that Independent Members are persons of impartiality and in whom the public can have confidence.
- 4.3 A member of the public has lodged a complaint (on 9 May 2008) concerning the eligibility criteria for the appointment process, contending that they amount to an exceeding of authority, abuse of power and unlawful discrimination against political activists and others in order to fix the composition of the Committee. The individual concerned did not submit an application. He has requested that the appointments not be made at the meeting and has given notice reserving his right to seek a judicial review. The Council is entitled to set eligibility criteria that are designed to ensure the impartiality and perceived impartiality of the Independent Members of the Standards Committee, provided that they incorporate and do not nullify the minimum statutory requirements. The basis upon which the eligibility criteria have been set and the recruitment process are described elsewhere in this report. It can be seen that the process has been transparent and fair and that the eligibility criteria have been established lawfully and in accordance with the Council's previous decisions.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 All nominees were selected on merit from amongst those who applied and meet the appointment criteria. However, insofar as this was possible within the cohort of applicants, we were mindful of the importance of the Standards Committee membership reflecting the diversity of the borough.

6. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 6.1 There are no financial, staffing, ICT or property implications directly arising from this report.

7. LEGAL ISSUES

- 7.1 The Standards Committee (England) Regulations 2008, as laid before Parliament on 17 April 2008 and which came into force on 8 May 2008, require that a person may only be appointed as an Independent Member of a Standards Committee if the appointment is;
- a) approved by a majority of the members of the authority;
 - b) advertised in one or more newspapers circulating in the area of the authority, and in such other publications or Websites as the authority considers appropriate;
 - c) of a person who submitted an application to the authority.
- 7.2 The full Council appoints Members to its committees, including the Independent Members of the Standards Committee and this meets the first requirement above. The second requirement was met by the placing of an advertisement in all editions of both the Barnet Press and the Hendon Times Group newspapers published on 6 March 2008. An advertisement was also placed in Barnet First magazine and on Barnet Online. The appointments recommended by this report have been made following interviews conducted with all of the applicants. This process of Senior Officers conducting interviews and making recommendations to the Council reconciles the need for selection through a transparent and accountable recruitment process with appointment by the Council. It is also consistent with previous Council practice.
- 7.3 The Regulations also specify minimum restrictions as to those individuals who can not be appointed as an Independent Member of a standards committee. Accordingly, the Regulations prohibit anyone who has been a Councillor or employee of the Authority within the five years before the date of appointment; anyone who is a relative or close friend of a Councillor or employee of the Authority and anyone who is a Councillor or Officer of another local authority.
- 7.4 The Barnet specific recruitment pack was compiled in accordance with the Council's instructions. That is with reference to the model pack issued by the Association of Council Secretaries and Solicitors (ACSeS) and other guidance. Account was taken of both the ACSeS documentation and other guidance and the requirement referred to in the report of the Special Committee (Constitution Review) as to the particular importance of the calibre of membership being seen as robust and fully independent. To achieve and this specific objective, the latter part of sub-paragraph d) below and the five year period referred to in sub-paragraphs b); c) and d) below have been introduced in addition to the minimum requirements of the Regulations and the like elements set out in the ACSeS model pack. Therefore, the "Barnet pack" has stipulated that a person is ineligible to be appointed as an Independent Member of the Standards Committee if he or she;
- a) is now, or has been during the last five years, a Councillor or employee of the London Borough of Barnet; or

- b) is closely associated with anyone who is now, or has been in the last five years, a Councillor or employee of the London Borough of Barnet; or
- c) is, or has been during the last five years, an active member of any political party; or
- d) has, or has had in the last five years, a public profile in relation to political activities; including having been involved, in a lead or prominent role, in a significant contentious issue involving the Council.

7.5 The Standards Committee (England) Regulations 2008 define an Independent Member as, “a person appointed to a standards committee, or sub-committee of the standards committee, of an authority, who is not a member or an officer of that or any other relevant authority”. There is also a requirement that, in making appointments of Independent Members, the Council must have regard to guidance issued by the Standards Board for England. Revised guidance was issued by the Board on 9 May 2008. The guidance states that Independent Members are important in helping increase public confidence in local government. It describes them as providing a clear signal that the standards committee acts fairly and impartially. The decisions taken by the Council on fixed period terms, two fixed terms limitation and staggered appointments are consistent with advice given by the Standards Board. The guidance sets out the requirements of the Regulations. It also points out that an individual’s membership of a political party does not automatically bar them from being an Independent Member of a standards committee, but counsels that consideration should be given to public perception before making an appointment of that nature. It draws attention to the ACSeS recruitment pack and refers to competencies to be looked for when selecting an Independent Member which include , amongst other attributes, the ability to be objective, independent and impartial.

8. CONSTITUTIONAL POWERS

- 8.1 Rule 2 of the Council Procedure Rules specifies that at the Annual Meeting, the Council will:
- i. decide which committees to establish for the municipal year;
 - ii. decide the size and terms of reference of those committees;
 - iii. decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
 - iv. receive nominations of councillors to serve on each committee and outside body; and
 - v. appoint to those committees and outside bodies except where appointment to those outside bodies has been delegated by the Council or is exercisable only by the executive.

- 8.2 By Article 9 of the Constitution, the Standards Committee is empowered with promoting and maintaining the high standards of conduct by Members and co-opted Members, assisting Members to observe the Code of Conduct, advising the Council on the Code and monitoring its operation. It also has powers to grant dispensations relating to registrable interests and to grant exemptions from political restriction. It will appoint sub-committees to carry out its roles and functions related to the assessment, review and referral of allegations regarding breach of conduct and those related to determination and application of sanction in such cases.

9. BACKGROUND INFORMATION

- 9.1 Prior to the municipal year 2008/09 the Standards Committee comprised 7 Members, of which four were Independent Members. At its January 2008 meeting, the Council agreed an increase the size of the Standards Committee to 13, including 7 Independent Members, and instructed the Chief Executive and Director of Corporate Governance and Monitoring Officer to conduct a recruitment exercise in order that appointments could be made at this Annual Meeting. The Council also agreed that Independent Members should be appointed for a fixed term of four years and be limited to two consecutive terms of office. It also made some associated decisions about the fixed terms of those currently serving.
- 9.2 It was the decision of the Council, on the recommendation of the Standards Committee and the Special Committee (Constitution Review), that the two Independent Members who had served since the inception of the Standards Committee in 2000 should be deemed to have reached the end of their terms of office but be entitled to re-apply in competition with other applicants. It was also the Council's decision that the terms of office of the two Independent Members appointed in 2005 should conclude in May 2010. One of the intentions of this was to maintain a staggered recruitment pattern for Independent Members of the Standards Committee so as to have an appropriate level of continuity.
- 9.3 Public advertisements for the positions of Independent Member of the Standards Committee were placed as detailed in paragraph 7.2. An application pack was drafted with reference to the model pack produced by the Association of Council Secretaries and Solicitors (ACSeS) and other guidance. This was also posted on Barnet Online and sent to anyone requesting a copy in response to the advertisements. Thirteen completed applications were received by the closing date of 31st March 2008. As all applicants met the minimum requirements they were all invited to interview, but one subsequently removed herself from the process due to relocation away from Barnet.
- 9.4 The Chief Executive and the Director of Corporate Governance and Monitoring Officer conducted interviews over two days and selected six individuals to be recommended to the Council as Independent Members of the Standards Committee, including one former Independent Member who re-applied for a further term of office. References were then sought on these six individuals. Satisfactory references have been returned in all cases.
- 9.5 Examination of the Standards Committee (England) Regulations 2008, published

on 17 April 2008, showed that the definition of an Independent Member had been changed from that in earlier Regulations. Previously, exclusion from eligibility extended to current Members and Officers of the relevant local authority and also to those who had been Members and Officers of the relevant local authority within the preceding five years. However, under the new definition, Members and Officers of other local authorities are also prohibited from serving as Independent Members of the relevant local authority's standards committee.

- 9.6 In 2007/08 two of the Standards Committee's Independent Members were Officers of neighbouring authorities. Marguerite Argles, an Officer of the London Borough of Camden was one of the Independent Members deemed to have completed her term of office and she declined to re-apply for a further term. Ms Argles has served on the Standards Committee since its inception, most recently as Vice-Chairman.
- 9.7 Susan Riddle, an Officer of the London Borough of Brent, was one of the Independent Members appointed in May 2005 and, by virtue of the Council's decisions on fixed terms of office, intended to complete her term of office in May 2010. The Monitoring Officer has advised her that, due to the change in the Regulations, unfortunately she can not now continue in the role.
- 9.8 The six applicants recommended for appointment as Independent Members of the Standards Committee are:

Michael Barber – Mr Barber is a chartered accountant employed by one of the “Big Four” international firms of auditors. He is presently Assistant Director in their Social Infrastructure Group and prior to that was Senior Manager – Audit. In his professional role he is used to advising both boards of directors and independent audit committees on ethical issues. He is familiar with the public sector, particularly through professional advice given to different agencies and authorities operating within the health sector. He is a resident of the borough.

Jeremy Collick – Rabbi Dr Collick both resides and leads a community as its Rabbi within the London Borough of Barnet. He has occupied this position for the past eight years having been a Rabbi in Brighton for the preceding fifteen years. Whilst in Brighton, he was a member of the Police Authority and sat on its Disciplinary Committee. He also sits as a decision-maker in a religious court where parties can voluntarily agree binding arbitration of civil disputes.

Bernd Koschland - Revd Koschland has served on the Standards Committee since its inception in 2000 and as its Chairman for the last three years. As his term of office was deemed to have come to an end in May 2008, he re-applied and was interviewed in the same way as other applicants for the position. His main career has been as a teacher and minister of religion and he serves on many public bodies. He is Chairman of Barnet's Standing Advisory Council for Religious Education (SACRE); member of the Multi-Agency Racial Harassment Group; member of the Safe-guarding Children Board; trust chaplain at the Royal Free Hospital; trustee and council member of Jews Temporary Shelter; member of Barnet Network of Jewish Organisations; Vice-chair of Kinder Transport Association and has had involvement with Barnet Holocaust Commemoration Event and Barnet Civic Network, He has lived in the borough for more than 30

years.

Ron Rosenhead – Mr Rosenhead is a management consultant with sixteen years experience, much of it working with public sector organisations. This work carried out through his own company has given him direct contact with both Officers and Councillors at various local authorities, both as a consultant and trainer. Prior to that, he had sixteen years experience as a Local Government Officer with Leeds City Council, Westminster City Council and the London Boroughs of Enfield and Redbridge. He has a degree in Public Administration and lives in the borough.

Deborah Sanders – Ms Sanders is a Human Resources professional currently working in the National Health Service. In this role, she acts as an adviser on code of conduct and disciplinary matters. This work involves acting in an advisory capacity on staff disciplinary panels, as well as giving guidance of a more general nature. She is used to working with code of conduct linked documentation whether it be issued by Government, professional bodies or her employer. She lives in the borough.

David Sparrow – Mr Sparrow was employed for thirty-seven years by the UK subsidiary of a major international information technology company. He held a number of positions during this time, most latterly as Organisational Change Consultant. He then established his own business focussed on organisational change in large corporations and public bodies. Most recently, he has spent two years working with the Hertfordshire Constabulary as a Performance Analyst. He lives in the borough and served as a school governor within the borough for twenty years, including periods as Chairman of one governing body and also Chairman of the Personnel Committee of another. .

- 9.9 If the Council agrees these appointments they will all be appointed for a fixed term of four years until 2012 and then permitted to re-apply for a further term in competition with other applicants up to a maximum of two terms served. Of course, an Independent Member may resign or otherwise leave office midway through a term.
- 9.10 It was the decision of the Council, on the recommendation of the Special Committee (Constitution Review) that, in cases of mid-term departure, the appointment of the Independent Member should be treated in a manner similar to a by-election for an elected Member and thus a new Independent Member would be appointed to finish the end of that term and then could be invited to re-apply for a first full term. However, this decision was made with the primary intention of establishing and maintaining a staggered pattern of appointment of Independent members. As the Council will now be appointing six Independent Members (of which five are new) in 2008, advertising one position in 2010 and advertising six positions again in 2012, this intention has been somewhat lost and Council is recommended to reconsider and enable appointments to be made for four years from appointment in the case of filling any mid-term departures to move closer towards the intention of staggered appointments.
- 9.11 All Independent Members are re-appointed annually at the Council's Annual Meeting. This has been the practice since the inception of the Standards

Committee in 2000 and brings benefits both of consistency with other committees and of the Council retaining the ability to refuse to re-appoint an Independent Member if there were issues related to, say, poor levels of attendance at Standards Committee meetings, or, other matters persuading the Council that the Independent Member had not been carrying out his or her responsibilities. It is understood that such powers should only be used exceptionally and in circumstances where the continued appointment of the Independent Member would be likely to be detrimental to the work and/or reputation of the Standards Committee.

- 9.12 We have no hesitation in recommending the remaining incumbent Independent Member, Stephen Ross, for annual re-appointment. His service, as well as that of the two departing Independent Members and one re-nominated Independent Member, has been exemplary and they have exhibited the highest levels of dedication, performance and calibre.
- 9.13 The Council in appointing the Standards Committee also appoints its Chairman and Vice-Chairman. With the significant changes in the role of the Committee and its membership, it is considered important that the Chairman and Vice-Chairman should have previous experience of the work of the Committee. Rev Bernd Koschland, the Chairman for the last three years, is recommended for re-appointment as Chairman and Mr Stephen Ross, the next most experienced Independent Member, is recommended to fill the position of Vice-Chairman. Both individuals have indicated that they would be content to serve in these roles. Mr Ross was offered the opportunity to put his name forward for the position of Chairman. However, he stated that, whilst willing in principle to take on the role, he was satisfied with and happy to support Rev. Koschland as Chairman and did not wish to contest the position if Rev. Koschland indicated his willingness to continue.

10. LIST OF BACKGROUND PAPERS

- 10.1 The Standards Committee (England) Regulations 2008
- 10.2 Applications submitted for the position of Independent Member of the Standards Committee.