

	<p><b>Constitution, Ethics and Probity Committee</b></p> <p><b>17 March 2016</b></p>
<b>Title</b>	<p><b>Recruitment of Independent Persons to Chair the Standards Committee</b></p>
<b>Report of</b>	<p>Monitoring Officer</p>
<b>Wards</b>	<p>None</p>
<b>Status</b>	<p>Public</p>
<b>Key</b>	<p>No</p>
<b>Urgent</b>	<p>No</p>
<b>Enclosure</b>	<p>Appendix 1 – The Independent Person Recruitment Pack</p>
<b>Officer Contact Details</b>	<p>Kirstin Lambert - <a href="mailto:Kirstin.Lambert@barnet.gov.uk">Kirstin.Lambert@barnet.gov.uk</a>, 02083592177</p>

<p><b>Summary</b></p>
<p>The Constitution, Ethics and Probity Committee, at its meeting of 16 November 2015, considered a report on the Standards regime, and the current arrangements in place for the investigation of and decisions on allegations of breaches of the Code of Conduct for Members. At this meeting it made recommendations to Full Council on 8 December 2015, where it was agreed to establish a new Standards Committee comprising of four members of the Council and an Independent Person (as a co-opted member of the Committee) to replace the Group Leaders Panel. Council also agreed that the Independent Person would act as the Chairman of the Standards Committee.</p>
<p>The Independent Person will fulfil a statutory role in relation to Member Conduct issues. There are also statutory provisions stating that the Independent Persons will have a role in the event of a proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer.</p>
<p>This report asks the Committee to take the next steps in implementing the decision of Full Council on 8 December 2015, in particular in relation to steps needed to appoint a panel of Independent Persons.</p>

## **Recommendations**

### **That the Committee:**

- 1. Agree that 4 potential Independent Persons should be selected for recommendation to Council.;**
- 2. Approve the recruitment pack for advertisement and agree how/where to advertise, as per paragraph 1.5 below;**
- 3. Determine the appropriate option for the composition of the Interview Panel, as per paragraph 1.6 below ;**
- 4. Determine what level of remuneration to recommend to Council to pay the Independent Person, as per paragraph 1.8 below;**
- 5. Determine the period of appointment for the Independent Person, from the options in paragraph 1.9 below and;**
- 6. Delegate authority to the Monitoring Officer to finalise the recruitment pack and make the necessary arrangements to advertise the positions and schedule the interviews for the Independent Persons, in consultation with the Chairman of Constitution, Ethics and Probity Committee.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 Section 27 of the Localism Act 2011 imposes a duty on the council to “promote and maintain high standards of conduct by members and co-opted members” of the council. The council is required to adopt a code dealing with the conduct that is expected of Members and co-opted Members of the council when they are acting in that capacity, and must have in place arrangements under which allegations that a member has failed to comply with the code of conduct can be investigated, and arrangements under which decisions on allegations can be made. Those arrangements must include the appointment of at least one “independent person”, whose views must be sought, and taken into account, before any decision on an allegation which has been investigated is taken.
- 1.2 The council has delegated to the Standards Committee the function of investigating and determining any allegations of a breach of the Code of Conduct by individual members. The Standards Committee comprises of four members of the council and an Independent Person, who will chair the committee as a non-voting member of the committee, because a member who has not been elected does not have a vote unless specifically given one by legislation.
- 1.3 The Independent Member will also have a role in the event of the proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer. There is a statutory requirement to invite 2 independent members to sit on a disciplinary panel in this respect.
- 1.4 It is suggested that an interview panel selects 4 potential Independent Members for recommendation to full Council. They will chair the Standards committee as a non-voting member and will be called on in the event of the proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer in accordance with their statutory role. The committee is asked to approve the recruitment pack for advertisement, agree how/where to advertise and determine the appropriate option for the composition of the

Interview Panel. The committee is also asked to delegate authority to the Monitoring Officer to finalise the recruitment pack and make the necessary arrangements to advertise the positions and schedule the Interviews for the independent persons, in consultation with the Chairman of CEP Committee.

### **Options for advertisement**

1.5 The committee is asked agree how and where to advertise. Options are provided below:

- a) **Option 1:** To place an advertisement in the local press, details of the circulation are attached in Appendix 2. This advert will appear in the Hendon & Finchley Times, Edgware & Mill Hill Times, Barnet & Potters Bar Times, Borehamwood & Elstree Times and will appear online for 30 days thus gaining maximum exposure to about 224,399 people. The advertisement in the local press will be accompanied by a short advert on the Barnet e-newsletter which goes out to local residents and will also be signposted on the Barnet Twitter and Facebook media pages. There is a cost of £1086 + VAT
- b) **Option 2:** To place an advert on the Barnet e-newsletter and signpost on the Barnet Twitter and Facebook media pages. The e-newsletter is sent out to about 1,900 individuals who have signed up to receive notification from the council. There is no cost associated with this option

### **Composition of the Interview Panel**

1.6 The committee is asked agree the composition of the Interview Panel from the following options:

- a) **Option 1.** The Monitoring Officer and a member each from the Administration and Opposition of the Standards Committee.
- b) **Option 2.** The Monitoring Officer, the Chairman of CEP Committee and a member of the Standards Committee.
- c) **Option 3.** The Monitoring Officer, a member of the Standards Committee and a member of CEP Committee.
- d) **Option 4:** Other composition that the committee deems appropriate.

### **Options for remuneration for the Independent Chairman**

1.7 At present under the Members Allowance Scheme 2016/17 an allowance of £127 is paid to Independent and co-opted Members of Council Committees for each meeting that they attend. CEP Committee is asked to determine whether to recommend to Council to pay an additional allowance to the Independent Person to take into account their additional role as Chairman.

Previously CEP Committee, at its meeting on 28 March 2013, agreed to pay the Independent Member of the Group Leaders Panel a fee of £100.00 for a simple case on which the Independent Person's views had 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. In comparison, other authorities at that time paid an annual flat rate as below:

- Harrow Council - £445 per year
- Enfield Council; £500 per year

1.8 The Committee is asked to consider and approve one of the following options for remuneration:

- Option 1:** a payment of £127 for each committee they attend and Chair
- Option 2:** a flat rate payment comparable to our neighbouring authorities
- Option 3:** a payment on case by case basis (approach as previously utilised by the Group Leaders Panel).
  - A fee of £127 where the views of the Independent Person have been sought but the case is not progressed to Committee;
  - A fee of £200 where the views are sought and the case is referred to Standards Committee;
  - A fee of £250 where the Independent Person has to sit as Chairman of a Standards Committee meeting

### **Period of appointment**

1.9 The Committee is asked to express a preference regarding the appropriate period of appointment for the Independent Persons for recommendation to the recruitment panel from the following options:

- Option 1** - All four Independent Persons being appointed for a fixed term of four years – this will provide a balanced approach to the term of office, but carries a risk that any cases which occur at the end of the four year term might be investigated or chaired by a relatively inexperienced independent person
- Option 2** - Two Independent Persons being appointed for a fixed term of two years with the remaining two Independent Persons being appointed for a fixed term of four years – this will ensure that an experienced independent person is retained in the system to cover periods where new independent persons are being recruited and trained, but this approach could be perceived to be unbalanced by those appointed as Independent Persons. It will also mean that there will be recruitment costs incurred every 2 years, rather than every 4 years as in Option 1.

## **2. REASONS FOR RECOMMENDATIONS**

2.1 The Constitution, Ethics and Probity Committee is responsible for promoting and maintaining high standards of member conduct. This report is the next step

in implementing the decision of Council on 8 December 2016 for appointing an Independent Persons to Chair the Standards Committee.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 None in the context of this report.

### **4. POST DECISION IMPLEMENTATION**

4.1 The Monitoring Officer will execute the decisions, as authorised by the Committee.

4.2 Following the Committee decision on remuneration under section 1.8, if necessary, a report will be produced for Council recommending the adoption of the allowance for the Independent Person.

4.3 Following interviews the successful candidates will be formally appointed at the subsequent Council meeting for a period as agreed under section 1.9.

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

5.1.1 The Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the council. The Council is required to appoint at least 1 Independent Person.

#### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The cost of the advertising and recruitment process will be met from Members Allowances budget.

5.2.2 The independent members will receive an allowance in accordance with section 6 (Independent Members and Co-optees' Allowances) of the Members Allowance Scheme in the Constitution (if option 1 as outlined in paragraph 1.8 is agreed). Any other option recommended by CEP Committee would require an amendment to the Members Allowance Scheme, which would need to be approved by Council. Any costs arising would be met from the existing Members Allowances budget.

#### **5.3 Legal and Constitutional References**

5.3.1 Council's Constitution, Responsibilities for Functions, Annex A – the Constitution, Ethics and Probity Committee terms of reference are as follows: *“To have responsibility for overseeing the Council's governance arrangements. Proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council. To consider and make recommendations to the Council on: (i) how it can satisfy the continuing duty to promote and maintain high standards of conduct for Members; (ii) on the Code*

*of Conduct for Members; and (iii) on ethical standards in general across the authority.”*

5.3.2 The steps requested in this report fall within ‘*To have responsibility for overseeing the Council’s governance arrangements*’.

5.3.3 By S28 Localism Act 2011 the Council is required to appoint at least one Independent Person to give a view on complaints against members, including whether to investigate a complaint for alleged breach of the Council’s Code of Conduct. The Council may call upon the services of an Independent Person from another Council if necessary.

5.3.4 By S28(8)(b) of the Localism Act the Council may not appoint a person (or close associate of a person) who has been an officer, member or co-opted member of the Council within the 5 years prior to the appointment.

5.3.5 By S28(8)(c) of the Localism Act appointment of an Independent Person must be approved by Full Council.

5.3.6 As a result of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the independent person will also have a role in relation to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer. At least 2 independent persons must be invited to join any disciplinary panel in this respect. The council may not pay the independent person more money in respect of this role than is paid in relation to their Member conduct role.

5.3.7 There is a statutory requirement to ensure that the post is brought to the attention of the public – S 28(8)(c)(i).

5.3.8 There is no statutory limit on the term of appointment.

## **5.4 Risk Management**

5.4.1 The proposals set out in this report are designed to reduce the risk of reputational damage to the council and to individual members arising from any perception that the council’s arrangements for dealing with complaints about member conduct are not fair or not effective.

## **5.5 Equalities and Diversity**

5.5.1 The decision making processes of the council, is enshrined within the constitution, need to be transparent and accessible to all sectors of the community .The recruitment will be carried out in accordance with the Council’s equal opportunities policy,

## **5.6 Consultation and Engagement**

5.6.1 None

## **6. BACKGROUND PAPERS**

- 6.1 Report to Constitution, Ethics and Probity Committee at its meeting of 28 March 2013 on the Remuneration for Independent Persons  
<http://barnet.moderngov.co.uk/documents/s8057/Remuneration%20for%20Independent%20Persons%20-%20Draft%202.pdf>
- 6.2 Report to Constitution, Ethics and Probity Committee at its meeting of 16 November 2015, item 9  
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=589&MId=8391&Ver=4>
- 6.3 Report to Council at its meeting of 8 December 2015, item 12.3  
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=8341&Ver=4>