


London Borough of Hammersmith & Fulham AUDIT, PENSIONS AND STANDARDS COMMITTEE 12 March 2019		 h&f hammersmith & fulham
APPOINTMENT OF ADDITIONAL INDEPENDENT PERSON		
Report of the Monitoring Officer – Rhian Davies		
Open Report		
Classification: For Information		
Key Decision: No		
Wards Affected: None		
Accountable Director: Hitesh Jolapara, Strategic Director, Finance and Governance		
Report Author: Kayode Adewumi - Head of Governance and Scrutiny		Contact Details: Tel: 020 8753 2499 E-mail: kayode.adewumi@lbhf.gov.uk

1. EXECUTIVE SUMMARY

- 1.1. This report requests that the Council undertake a recruitment exercise to appoint an additional Independent Person. At present the Council only has one Independent Person.
- 1.2. The report also updates the Committee on the number of complaints received by the Monitoring Officer within the last 12 months and advises the Committee that the Committee on Standards in Public Life published its report on local government ethical standards on 21 January 2019.

2. RECOMMENDATIONS

- 2.1. To note the outcome of the complaints received.
- 2.2. To approve the recruitment of an additional Independent Person.

3. REASONS FOR DECISION

- 3.1. For the Council to comply with its obligations under the Localism Act 2011 in respect of ethical standards and The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 in respect of dismissal arrangements for statutory officers.

4. PROPOSAL AND ISSUES

Appointment of Independent Person

- 4.1. Under the Localism Act 2011, the arrangements adopted by the Council to deal with the consideration of Councillor Code of Conduct complaints must include provision of one or more Independent Persons. Under the Act the functions of an Independent Person are as follows:
- They must be consulted by the Council before it makes a finding as to whether a Councillor has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Councillor (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
 - They may be consulted by the Council in respect of a standards complaint at any stage of the process; and
 - They may be consulted by a Councillor or co-opted member of the Council against whom a complaint has been made.
- 4.2. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, introduced an additional formal statutory role for the Independent Persons to work together as a Panel in advising the Council prior to any vote on whether to dismiss the Council's Head of Paid Service, Monitoring Officer and Chief Finance Officer, ('Protected Officers'). Under these Regulations, the advisory Panel must contain at least two Independent Persons.
- 4.3. The Council currently only has one Independent Person, who was appointed in 2012, and could not therefore comply with the 2015 Regulations if necessary. Additionally, as there is currently only one Independent Person if a member defending a complaint wished to speak to the Independent Person that Independent Person would already have been consulted on the matter by the Monitoring Officer.
- 4.4. The recruitment process is outlined in the pack attached as Appendix 1.

Complaints within the last 12 months

- 4.5. The Monitoring Officer has received complaints about elected members since her report to this Committee in March 2018. One complaint was dealt with informally and having consulted with the Independent Person on the other two complaints, the Monitoring Officer decided not to refer either of the complaints for investigation.

Report of the Committee on Standard in Public Life

- 4.6. The Committee on Standards in Public Life undertook a consultation last spring, the terms of reference for the review were to examine the structures, processes and practices in local government in England for:
- maintaining codes of conduct for local councillors

- investigating alleged breaches fairly and with due process
- enforcing codes and imposing sanctions for misconduct
- declaring interests and managing conflicts of interest; and
- Whistleblowing

4.7. The Committee has now published its report which can be found at [Local Government Ethical Standards report](#). The recommendations of the report can be found attached as Appendix 2 to this report.

5. CONSULTATION

5.1. The Leader, Leader of the Opposition and the Chief executive have been notified of this requirement.

6. EQUALITY IMPLICATIONS

6.1. It is not anticipated that there will be any negative impacts on any groups with protected characteristics, under the terms of the Equality Act 2010, from the appointment of an additional independent person.

6.2 Implications verified by Peter Smith, Head of Policy and Strategy, tel. 020 8753 2206

7. LEGAL IMPLICATIONS

7.1. In order to satisfy the prescriptive requirements of the Localism Act, the vacancy for an Independent Person must be advertised in such a manner as the Council considers is likely to bring it to the public's attention and those interested must submit an application.

7.2. In addition, the appointment of an Independent Person must be approved by a majority of the members of the authority. This means that any appointment must be approved by at least 24 councillors, not merely a simple majority of councillors present and voting. It is anticipated that the recommendation to appoint an Independent Person will be taken to the Annual Council meeting in May 2019.

Implications drafted by Rhian Davies, Assistant Director of Legal and Democratic Services, tel. 07827 663794

8. FINANCIAL IMPLICATIONS

8.1. The process for the appointment of Independent Persons and the drafting of the recruitment pack will be met from within existing revenue budgets.

Implications completed by Andre Mark, Finance Business Partner, 020 8753 6729.

LIST OF APPENDICES:

A. Application pack for Independent Person