

Sandwell Metropolitan Borough Council

10 March 2020

Subject:	Appointment of Independent Person pursuant to the Localism Act 2011
Director:	Director of Law and Governance & Monitoring Officer - Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Trisha Newton Senior Democratic Services Officer Trisha_newton@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Council:

1. Approves the appointment of Mr Richard Phillips as an Independent Person pursuant to the provisions of the Localism Act 2011 for a four year period ending 10 March 2024.

1 PURPOSE OF THE REPORT

- 1.1 In accordance with the Localism Act 2011, 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 deciding how to deal with a complaint and 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 The Council has decided to have three Independent Persons. There are currently two vacancies. The position has been advertised openly for several weeks and one candidate was interviewed on 28 February 2020 by a Member Panel, consisting of the Vice Chair of the Ethical Standards and Member Development Committee ('the Committee'), Councillor Hevican (a member of the Committee) and the Leader of the Council. The interview panel unanimously determined that the candidate was a suitable appointment to the role.
- 1.4 Mr Richard Phillips has been offered the position, subject to Council approval, by the Panel and he has accepted. Mr Phillips is a solicitor at Wolverhampton MBC and has over 7 years' experience advising at a senior level.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 The role of the Independent Person for Standards 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.

3 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 3.1 There is no requirement for consultation. The recruitment exercise was however, overseen by the Chair/Vice Chair of the Committee (and the Committee itself).

4 ALTERNATIVE OPTIONS

- 4.1 In accordance with the Localism Act 2011, 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. To retain the current status of one member would be an option, however, the Council has agreed to have three Independent Persons so that arrangements are more robust.

5 STRATEGIC RESOURCE IMPLICATIONS

- 5.1 The role of Independent Person/Independent Member is 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. The cost of advertising is met from within existing budgets.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 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.
- 6.2 Section 28(7) requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation that is to be the subject of an investigation. 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.
- 6.3 The remit of independent persons has been extended by The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 in relation to changes to statutory dismissal procedures for heads of paid service, monitoring officers and chief finance officers. In the case of a proposed disciplinary action against one of the statutory officers, the council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011 to form an independent panel.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 An equality impact assessment is not required.

8 DATA PROTECTION IMPACT ASSESSMENT

- 8.1 A data protection impact assessment is not required.

9 CRIME AND DISORDER AND RISK ASSESSMENT

9.1 A crime and disorder risk assessment is not required.

10 SUSTAINABILITY OF PROPOSALS

10.1 Section 28(7) of the Localism Act 2011 requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation.

11 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

11.1 There are no health and wellbeing implications arising from this report.

12 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

12.1 None arising from this report.

13 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

13.1 To recommend the appointment of Mr Richard Phillips as Independent Person pursuant to the Localism Act 2011. The Council has previously agreed to have three Independent Persons so that arrangements for dealing with complaints are more robust. In accordance with the Localism Act 2011, the person's appointment must be approved by a majority of the members of the authority.

Surjit Tour
Director of Law and Governance
& Monitoring Officer