

Report to Ethical Standards and Member Development Committee

9 November 2021

Subject:	Recruitment of Persons for Dealing with Standards Matters
Director:	Surjit Tour - Director of Law and Governance and Monitoring Officer
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1 Recommendations

- 1.1 That consideration be given to the proposals with regard to the recruitment process for a third Independent Person for dealing with Standards matters and the proposed timeline to the Ethical Standards and Member Development Committee.
- 1.2 That the Committee notes the recommendations of the Working Group in relation to a remuneration package for Independent Persons.
- 1.3 That the Committee recommends to Council that the term of office for Mr John Tew be extended for a further four year period.

2 Reasons for Recommendations

- 2.1 The Ethical Standards Working Group met on 5 October 2021 to consider the recruitment process for a third Independent Person and the matter of remuneration.
- 2.2 The Committee is asked to consider the proposed timeline for recruitment of a third Independent Person, along with the associated process, documentation and interview panel.



3 How does this deliver objectives of the Corporate Plan?

		The role of the Independent Person 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.
		
		

4 Context and Key Issues

- 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. The Committee on Standards in Public Life recommended that there should be at least 2 Independent Persons for Standards Matters. Their 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. 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.
- 4.2 In order to be eligible to be an Independent Persons Under S 28 Localism Act 2011 the person must not be an Elected Member, Co-opted Member or officer of Sandwell Council and they must not have been any of the above in the past 5 years prior to the Appointment. The Council has decided to have three Independent Persons.
- 4.3 The Council currently has 2 Independent persons. One was appointed on 31 January 2018 until 31 January 2022 (and has agreed to remain in place for a further four year period, subject to Council approval). A recruitment exercise was carried out in early 2020, which resulted in one suitable candidate being appointed as an Independent Person on 10 March 2020 until 10 March 2024. This left one remaining vacancy.



4.4 It is proposed that the following timetable is followed for the recruitment process.

Placing of advertisement –	Week commencing 22 November 2021 Closing date 14 January 2022
Shortlisting	Week commencing 17 January 2022
Interviews	Week commencing 31 January 2022
Update to Ethical Standards and Member Development Committee	TBC – March 2022
Update to Standards Working Group (if required)	February 2022
Council agenda despatch	21 or 28 February 2022
Full Council	1 or 8 March

4.5 It is proposed that the Interview panel consists of the following 5 members:-

- The Chair of the Ethical Standards and Member Development Committee (the Chair)
- The Vice Chair of Ethical Standards and Member Development Committee (member of panel)
- The Leader of the Council (member of panel)
- The Opposition Leader or Deputy (member of panel)
- The Chair of Equalities Commission (member of panel)

4.6 In December 2020 an extensive member engagement process took place as a result of the New Model Code of Conduct being published. One of the matters highlighted was the lack of diversity in relation to the Independent Persons and Members requested that steps be taken to attract a wider range of candidates when steps were taken to fill the third vacancy.



4.7 On the last occasion, the advert for the position was placed on the Council's website, on WM Jobs, in the Local Newspaper and through the Council's Social Media channels. TMP (advertising agency) were consulted, but struggled with suggesting any specialist job boards. Research has been carried out as to where other authorities advertise and it was found that adverts tend to appear on Council websites and through the use of social media channels. Sandwell's current practices are therefore in line with other authorities. However, in an attempt to find ways of reaching a wider audience, HR have been consulted and they have suggested liaising with local religious leaders, local businesses partners and disability and LGBT networks. We will also liaise with our Comms team and discuss the links that they have with BEAM and other protected characteristics groups to assist with targeting minority groups and stakeholders.

Remuneration

- 4.8 The role of Independent Person is currently 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.
- 4.9 Some Authorities pay an allowance to the Independent Person in recognition of the role undertaken. At the present time, the Working Group has recommended that the existing arrangement (that the role receives expenses only) should continue. There is currently no allocated budget to remunerate Independent Persons. In the event that the authority is unable to appoint a third Independent Person, a report will be taken back to the Working Group to consider the matter of remuneration further. Consideration would also need to be given to the fact that there are independent persons assisting in other areas of the Council who are not currently remunerated which could create an inconsistent position between independent roles.



5 Alternative Options

5.1 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. The Council could therefore have just one Independent Person, but this is considered unsatisfactory because of the potential for conflicts and absences, together with this not complying with the recommendations of the Committee for Standards in Public Life. Although the Council could function with just two Independent Persons, it is considered preferable to have a third, again because of absences and conflicts.

6 Implications

Resources:	The role of Independent Person 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.
Legal and Governance:	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. Section 28(7) of the Act requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation. 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.



Risk:	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.
Equality:	An equality impact assessment is not required.
Health and Wellbeing:	There are no direct health and wellbeing implications arising from this report.
Social Value	There are no direct social value implications arising from this report.

7. Appendices

Advert

Recruitment pack

8. Background Papers

None.

