

**LONDON BOROUGH OF TOWER HAMLETS**

**COUNCIL MEETING**

**26<sup>th</sup> JUNE 2013**

**LOCALISM ACT 2011 STANDARDS REGIME:  
APPOINTMENT OF 'INDEPENDENT PERSON'**

**REPORT OF THE SERVICE HEAD, DEMOCRATIC SERVICES**

**1. SUMMARY**

- 1.1 A key element in the new standards regime introduced by the Localism Act 2011 and incorporated into the Council's own arrangements with effect from 1<sup>st</sup> July 2012, is the appointment of at least one 'Independent Person' who will provide advice to the Council on any allegation it is considering, and may also provide advice to a member facing an allegation who has sought the views of that person.
- 1.2 The Independent Person(s) must be appointed following a public advertisement and recruitment process and his/her appointment must be confirmed by the majority of Councillors at the full Council meeting.
- 1.3 In accordance with transitional arrangements introduced by Regulations issued under the Localism Act, the Council on 18<sup>th</sup> June 2012 appointed Barry O'Connor, former Independent Chair of the Standards Committee, to serve as the interim Independent Person. By law this interim appointment may run only until 30<sup>th</sup> June 2013 and from that date onwards the Independent Person may not be someone who has served as a member, co-opted member or officer of the authority within the previous five years.
- 1.4 The Standards Advisory Committee on 12<sup>th</sup> July 2012 agreed a process for advertisement and recruitment of an Independent Person and Reserve Independent Person. That process is now complete and this report recommends the Council to make the appointments.

**2. RECOMMENDATIONS**

- 2.1 That Ms Elizabeth Hall be appointed as the Independent Person with effect from 1<sup>st</sup> July 2013 for a term of office of three years.
- 2.2 That Ms Ezra Zahabi be appointed as the Reserve Independent Person with effect from 1<sup>st</sup> July 2013 for a term of office of three years.

- 2.3 That the remuneration for the Independent Person and Reserve Independent Person be set at the level of £117 for each matter on which they are required to provide advice and for each attendance at a committee meeting or training event that is required in connection with the role, as set out at section 6 to this report.

### **3. BACKGROUND**

- 3.1 The Localism Act 2011 required the Council to adopt a new Code of Conduct consistent with a number of principles set out in the Act, and arrangements for dealing with any alleged breach of the Code.
- 3.2 The arrangements adopted by the Council must include provision for the appointment by the Council of at least one Independent Person. The statute states that the Independent Person must be appointed through a process of public advertisement and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting). The Act sets out specific statutory prohibitions on who can be an Independent Person and excludes previous and current members and Co-optees, their relatives and close friends.
- 3.3 The Independent Person must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member. They may be consulted by the authority in respect of a standards complaint at any other stage. Independent Persons may be invited to attend meetings of the Standards (Advisory) Committee, but are unlikely to be co-opted onto the Committee. Instead their role is one of consultation in respect of any investigation of an alleged breach of the Code before the Council takes a decision in relation to the allegation.
- 3.4 The Act provides that the former co-opted Independent Members of Tower Hamlets' Standards Committee, together with members and officers of the authority, cannot serve as Independent Persons for a period of 5 years. However, transitional measures included in the Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 allow a local authority, if it so chooses, to appoint a person who is currently the Independent Chair or an Independent Member of the existing Standards Committee as its 'Independent Person' for an interim period extending no later than 30<sup>th</sup> June 2013. Accordingly the Council agreed on 18<sup>th</sup> June 2012 that to provide continuity, the former Chair, Barry O'Connor, would be appointed as the Independent Person from 1<sup>st</sup> July for a temporary period until the recruitment process was complete.

### **4. A RESERVE INDEPENDENT PERSON**

- 4.1 As stated previously the Independent Person may be consulted by a member or co-opted member of the Council against whom a complaint has been made. This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom

the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the advisory role at the investigations stage of that complaint.

- 4.2 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person or the process will be unwieldy. The Standards Advisory Committee has therefore agreed that a Reserve Independent Person should be appointed who can be consulted in the event that the Independent Person is unable to discharge the function for any reason.

## **5. RECRUITMENT PROCESS**

- 5.1 The Council on 18<sup>th</sup> June 2012 agreed that the Monitoring Officer be authorised to make arrangements to advertise for, and together with a panel drawn from the Standards Advisory Committee in accordance with proportionality to take the necessary action to appoint, an Independent Person and a reserve Independent Person, whose appointments shall be confirmed by the Council.
- 5.2 The Standards Advisory Committee on 12<sup>th</sup> July 2012 agreed a recruitment process to include the advertisement of the position, initial longlisting of applications received by the Monitoring Officer, Chair of Standards Advisory Committee and Interim Independent Person, interviews by the proportionate panel of members and finally a report to the Council and confirmation of appointment(s).
- 5.3 The advertisement was placed as agreed in late September 2012 but no applications were received at that time. A subsequent advertisement in April 2013 in East End Life and another local newspaper, accompanied by publicity to local community groups and businesses, was more successful and 12 applications were received.
- 5.4 The standard of the applicants was high and the longlisting panel identified five candidates for consideration by Members, of whom three were shortlisted for interview.
- 5.5 The interview panel comprised of Mr Matthew Rowe (Independent Chair, Standards Advisory Committee); Councillors David Edgar, Judith Gardiner, Motin Uz-Zaman and Zara Davis (Councillor Abdul Asad was unfortunately unwell and sent his apologies for absence); the Interim Independent Person and the Monitoring Officer.
- 5.6 The panel met on Tuesday 11<sup>th</sup> June 2013 and interviewed the three shortlisted candidates. The panel agreed that Ms Elizabeth Hall should be recommended for appointment as the Independent Person and that Ms Ezra Zahabi should be recommended for appointment as the Reserve Independent Person.

5.7 Further information on the two successful candidates is set out below:-

### **Ms Elizabeth Hall**

Elizabeth Hall is currently vice-chair of the council of Queen Mary University (voluntary position), where she is also independent chair of the Research Ethics Committee and a member of the Audit and Risk Committee. She has continuing active involvement with the Bar Standards Board, Standards and Quality Assurance Committees; the Church of England; and a range of local charities and third sector organisations. Ms Hall was previously a non-executive director of the Standards Board for England until its abolition in 2012. Prior to her retirement she had a successful career with the Financial Services Authority. She is a Tower Hamlets resident and a former Chair of Governors of St Paul's Way School.

### **Ms Ezra Zahabi**

Ezra Zahabi is a qualified solicitor, specialising in regulatory law with a London legal practice. Ms Zahabi has professional experience in examining claims of misconduct and identifying issues that require further investigation; and a keen interest in contributing to the maintenance of high ethical standards in local institutions. She is a Tower Hamlets resident of more than ten years' standing.

## **6. REMUNERATION**

- 6.1 As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person does not come within the scheme of members' allowances and can therefore be determined without reference to the Independent Remuneration Panel. It may however be relevant to consider the level of payments that the Panel has recommended for related functions previously.
- 6.2 The London Councils Independent Remuneration Panel report of 2010 recommended, in relation to Standards Committee independent members, that the annual payment to the Chair and Members of the committee should be based on an estimate of the number of meetings anticipated, which should be used as a multiplier of the co-optees' allowances proposed of £256 and £127 per meeting respectively. This is broadly in line with the rates paid in Tower Hamlets (240 and £117 per meeting respectively.).
- 6.3 Initial research shows that most London Boroughs which have determined the matter are proposing to pay the Independent Person an allowance of up to approximately £1k p.a.. As the workload for the post will vary depending on the number of complaints the Independent Person is required to advise on, it is suggested that an allowance is paid of £117 for each matter on which they are required to provide advice and for each attendance at a committee meeting or training event that is required in connection with the role

## **7. INDEPENDENT PERSON - ROLE DESCRIPTION AND PERSON SPECIFICATION**

- 7.1 Consistent with the statutory provisions and guidance, a role description and person specification was agreed by the Standards Advisory Committee for use during the recruitment process for the Independent Person(s). These are attached at Appendix A.

## **8. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 8.1 The costs of the recruitment exercise and the Independent Person's remuneration will be met from within existing budgets in the Chief Executive's Directorate.

## **9. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 9.1 The legal implications arising from this matter are set out in the body of the report.
- 9.2 The Localism Act 2011 provides that the appointment of any Independent Person shall not have effect unless approved by a majority of the members of the authority.

## **10. ONE TOWER HAMLETS CONSIDERATIONS**

- 10.1 The recruitment exercise was designed to attract the most diverse range of candidates possible and the selection criteria against which candidates were assessed included demonstrating a commitment to promoting equality and an awareness of the issues affecting a diverse community in an inner London borough

## **11. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 11.1 There are no implications arising from this report.

## **12. RISK MANAGEMENT IMPLICATIONS**

- 12.1 There are no implications arising from this report.

## **13. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 13.1 There are no implications arising from this report.

## **14. EFFICIENCY STATEMENT**

- 14.1 There are no implications arising from this report.

## 15. APPENDIX ATTACHED

Appendix A - Role Description and Person Specification for Independent Person

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**Local Government Act, 1972 Section 100D (As amended)  
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
Localism Act 2011	
Letter from Bob Neill MP to Local Authority leaders, 28 <sup>th</sup> June 2012	John Williams, 020 7364 4204, Mulberry Place, E14 2BG

## **APPENDIX A**

### **INDEPENDENT PERSON: ROLE DESCRIPTION**

Under the Localism Act 2011, the Council must promote and maintain high standards of conduct by members and co-opted members of the authority.

To this end the Council has adopted a Code of Conduct for Members and has agreed arrangements for dealing with any allegation that a member or co-opted member has breached the code.

In accordance with the requirements of the 2011 Act, these arrangements include the appointment of an Independent Person to advise on breaches of the Member Code of Conduct.

The Independent Person will:

- Be available for consultation if an allegation of breach of the Members' Code of Conduct is received by the Council.
- Liaise as necessary with the Council's Monitoring Officer to consider complaints against Members and offer his/her impartial views on the case, including any investigations undertaken.
- Advise the Council prior to any decision to investigate an allegation or complaint relating to whether a member has failed to comply with the Code of Conduct.
- Attend meeting of the Standards Advisory Committee and/or its sub-committees as required
- Contribute to any review of the operation of the standards arrangements and complaints procedure established by the Council under the provisions of the Localism Act 2011.

The Independent Person may:

- Be consulted by the Council's Monitoring Officer in respect of an allegation against a Member in other circumstances.
- Be consulted by a member or co-opted member of the Council against whom an allegation or complaint has been made.

The views of the Independent Person will be considered by the Council's Standards Advisory Committee, who are responsible for recommending on the outcome of any complaints and any remedial action.

### **PERSON SPECIFICATION**

The Independent Person will possess the following attributes, to be assessed through an application and interview process:

- Personal integrity and honesty
- A keen interest and commitment to maintaining high standards in public life.
- A wish to serve the local community and uphold local democracy

- An interest in and awareness of the functions of local government relating to ethical governance, in particular the role of elected Members and the relevant Codes of Conduct.
- Independence, impartiality and experience of exercising sound objective judgements in relation to complex matters
- Excellent questioning, analytical and evaluation skills in order to advise whether a breach of the Code of Conduct or complaint should be investigated.
- A commitment to promoting equality and an awareness of the issues affecting a diverse community in an inner London borough
- Excellent communication skills in particular the ability to provide clear rationale for advice and to explain decision making when required.
- Experience of dealing with private and sensitive issues, exercising discretion and maintaining confidentiality of information received.
- Flexibility to deal with urgent requests.
- Aged 18 or over and with a mature and sound temperament

The Independent Person will not be:-

- A Member, co-opted member or employee of the London Borough of Tower Hamlets; or have held such a post within the previous 5 years.
- A relative or close friend of such a person; or
- An active member of a political party.