

Non-Executive Report of the:  <b>COUNCIL</b>  20 July 2016	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Melanie Clay, Corporate Director, Law, Probity and Governance	<b>Classification:</b> Unrestricted
<b>Appointments related to the Standards Regime</b>	

<b>Originating Officer(s)</b>	Matthew Mannion, Committee Services Manager
<b>Wards affected</b>	All wards

### Summary

- 1.1 A key element in the standards regime introduced by the Localism Act 2011, is the appointment of at least one 'Independent Person' whose views must be taken into account by the authority when it considers an alleged failure to comply with the Code of Conduct for Members. The Independent Person may also be consulted by a Member facing such an allegation.
- 1.2 The Independent Person 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 Elizabeth Hall was appointed by the Council on 26 June 2013 and her three year appointment has now expired. The Monitoring Officer is recommending that the Council vary its original decision to increase the period of appointment to five years, in effect extending Ms Hall's appointment for a further two years after which the role will be advertised.
- 1.4 The Monitoring Officer will also be arranging to advertise for a replacement Reserve Independent Person as the previous reserve resigned in October 2015. The Monitoring Officer considers that it is prudent to appoint a reserve to cover periods when the Independent Person may be unable to act (for example holidays and sickness) or if a potential conflict arises.
- 1.5 In addition there are three vacancies for Independent Co-opted Members to the Standards (Advisory) Committee. This follows the resignation of the Independent Chair in February this year and the expiry of office of two other Independent Co-opted Members of the Advisory Committee in May this year (both of whom have been long standing Independent Co-optees having been originally appointed to the previous statutory Standards Committee in 2008 and 2009 respectively).

## **Recommendations:**

Council is recommended to:

1. Increase Ms Hall's term of appointment as Independent Person to five years, as outlined in paragraph 1.3 above, to expire on 24 June 2018.
2. Agree the recruitment of a Reserve Independent Person with a report to be presented to Council to confirm their appointment.
3. Agree the recruitment of three new Independent Co-opted Members to the Standards (Advisory) Committee with a report to be presented to Council to confirm their appointment.

### **1. REASONS FOR THE DECISIONS**

- 1.1 The Council is required by the Localism Act 2011 to appoint an Independent Person. The Council Constitution sets out the agreed membership of the Standards (Advisory) Committee which allows for the appointment of up to seven Independent Co-opted Members. The Constitution requires that at least two Independent Co-optees are appointed as all sub-committee meetings require the attendance of at least one Co-optee and all Standards (Advisory) Committee meetings require the attendance of at least two.

### **2. ALTERNATIVE OPTIONS**

- 2.1 The Council is required to appoint an Independent Person. The Council may choose to vary the number of Independent Co-Optees appointed to the Standards (Advisory) Committee.

### **3. DETAILS OF REPORT**

- 3.1 Under the Localism Act 2011, the Council must promote and maintain high standards of conduct by Members and Co-opted Members of the authority, including adopting a Code of Conduct for Members and arrangements for dealing with any allegation that a Member or Co-opted Member has breached the Code. References to Members in this section of the report include the Mayor and Co-opted Members.

#### *Independent Person*

- 3.2 In accordance with the requirements of the 2011 Act, these arrangements include the appointment of an Independent Person. 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.
- Be consulted 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 meetings 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.

3.3 The Independent Person may be consulted by the Council's Monitoring Officer in respect of an allegation against a Member in other circumstances; and/or be consulted by a Member of the Council against whom an allegation or complaint has been made. The views of the Independent Person will be considered by the Standards (Advisory) Committee, or any sub-committee responsible for recommending on the outcome of any complaints and any remedial action.

3.4 Elizabeth Hall was originally appointed as Tower Hamlets' Independent Person at the Council meeting on 26 June 2013. Ms Hall has been consulted in relation to a significant number of complaints over the past three years and her understanding and grasp of the issues have proved invaluable. The Council is therefore now requested to agree to vary its original decision and increase her term of office to a total of five years.

*Reserve Independent Person*

3.5 As stated previously the Independent Person may be consulted by a Member against whom a complaint has been made. This causes some potential 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 in the matter, to be involved in the consultation role with the Monitoring Officer at the investigation and other stages of the complaint handling process.

3.6 The Localism 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.

- 3.7 Ms Ezra Zahabi was appointed to the role of Reserve Independent Person by Council on 26h June 2013. However, she resigned her position in October 2015. The Standards (Advisory) Committee, at its meeting of 24 November 2015 reviewed the position and recommended that a new reserve independent person be appointed at the same time as the Independent Person appointment was made.

*Independent Co-Opted Members of the Standards (Advisory) Committee*

- 3.9 As set out in the summary above, there are three vacancies for Independent Co-opted Members to the Standards (Advisory) Committee. This follows the resignation of the Independent Chair in February this year and the expiry of office of two other Independent Co-opted Members of the Advisory Committee in May this year (both of whom have been long standing Independent Co-optees having been originally appointed to the previous statutory Standards committee in 2008 and 2009).
- 3.10 The Monitoring Officer recommends that all three vacancies should now be subject to recruitment.

**4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 There are no direct financial implications arising from this report. The Independent Person and Independent Co-Opted Members of the Standards (Advisory) Committee receive remuneration in accordance with the Members' Allowances Scheme as set out in the Constitution, for which budget provision exists within the Law, Probity and Governance Directorate budget.

**5. LEGAL COMMENTS**

- 5.1 The Localism Act 2011 introduced new arrangements to govern the standards of conduct for local authority Members and co-optees. A key element of these arrangements is the appointment of at least one 'Independent Person' who's views must be taken into account by the authority when considering any alleged failure to comply with the code of Conduct for Members. The Independent Person may also be consulted by the Member facing such an allegation.
- 5.2 The Independent Person appointment must be confirmed by the majority of Councillors at the full Council meeting.

**6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 There are no specific One Tower Hamlets implications arising from this report.

**7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 There are none specific to this report.

**8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

8.1 There are none specific to this report.

**9. RISK MANAGEMENT IMPLICATIONS**

9.1 There are none specific to this report.

**10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

10.1 There are none specific to this report.

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**Linked Reports, Appendices and Background Documents**

**Linked Report**

- None.

**Appendices**

- None

**Local Government Act, 1972 Section 100D (As amended)**

**List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- None.

**Officer contact details for documents:**

- N/A