

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Standards Committee

Date: 30 July 2020

Reporting officer: Jan Guyler, Head of Shared Legal Service

Subject: Recruitment to Statutory Post of Independent Person x2

Purpose and summary of report:

To update the Standards Committee on the need to recruit to the statutory post of Independent Person x2 and the outcome of the recruitment process.

Recommendations:

1. To note the need to recruit to this statutory post and the outcome of the recruitment process.

1. Role of Independent Person

- 1.1 S28(7) of the Localism Act 2011 requires authorities to appoint at least one Independent Person whose views must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate and whose views should be sought by a member if that person's behaviour is the subject of an allegation. The appointment of an Independent Person under section 28(7) of the Localism Act 2011 must be approved by a majority of the Members of the Council.
- 1.2 The Local Authorities (Standing Orders) (England) Regulations 2015 (SI 2015/881) provide that a local authority must include at least two independent persons to a panel hearing the dismissal of a senior officer (Chief Executive, S151 Officer or Monitoring Officer).
- 1.3 GBC currently has one IP who was appointed in July 2016. The end of their term is unclear. The Council has complied with a statutory duty to adopt a code dealing with the conduct expected of Members and co-opted Members and has in place a process for considering complaints about Councillors' conduct under the Localism Act 2011. Amendments were made to the process for considering complaints in 2019, which included the provision to recruit to the IP role for a new 4 year term commencing on 13 October 2020. GBC also has a reciprocal agreement with other local authorities in Kent to share IP's in circumstances where the council's own IP is unavailable or the complaint involves several members making the issue more complex and avoids any conflict of interest.

- 1.4 At present there is no provision in the Localism Act 2011 that limits the number of times a person can be appointed as an IP and the term of the appointment. The Local Government Ethical Standards – A Review by the Committee on Standards in Public Life report published in January 2019 made the following recommendations:
- a) Recommendation no.8 – The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once. The responsible body for making this amendment is the government.
 - b) Best practice for Local Authorities no.7: Local Authorities should have access to at least 2 IPs.
- 1.5 In light of the Covid-19 pandemic it is unknown when or if the government will amend legislation. Therefore it is proposed that the status quo is maintained with the appointment of 2 IPs with effect from 13 October 2020 for a term of 4 years. By appointing 2 IPs the council will have met the best practice requirements.

2. Fee payable

- 2.1 A day rate of up to £350 is paid to be negotiated by the Monitoring Officer. Clear targets for work will be agreed in advance with the Independent Person on a case-by-case basis. When the IP post was advertised in 2016 there was no fee payable. It is recommended that the daily rate of £350 should attract the appropriate calibre of applicants.
- 2.2 Since the Shared Legal Service and Shared Monitoring Officer arrangements began on 1st April 2017 there has been only one complaint that was referred to the Standards Committee which concluded that an investigation was not required. Therefore the IPs role was limited to merely being sent a copy of the report to the Standards Committee in case the Standards Committee or the Councillor who has been accused of misconduct wish to seek the advice of the IP. That advice was not sought and no charge was made by the IP. It is therefore likely that this fee will rarely be incurred but when it is the calibre of the IP will bring efficiencies due to their experience in such matters.

3. Recruitment process

- 3.1 Approval was obtained from the Management Team to recruit to this statutory post.
- 3.2 The advert was published on the council website on 3 July and in the Gravesend Messenger (in accordance with the Constitution) with a closing date of 17 July with interviews to take place week commencing 27 July. The recruitment process will not therefore conclude before the dispatch date for this report to the Standards Committee. An update will therefore be circulated shortly before the Standards Committee on 30th July to confirm the names of the individuals that will be put forward to full council for approval of their appointment.

4. Background papers

- 4.1 None.

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
Legal	S28(7) of the Localism Act 2011 requires authorities to appoint at least one Independent Person whose views must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate and whose views should be sought by a member if that person's behaviour is the subject of an allegation. The appointment of an Independent Person under S28(7) of the Localism Act 2011 must be approved by a majority of the Members of the Council.
Finance and Value for Money	<p>A daily rate of £350 would attract the right calibre of applicants and would provide value for money due to the skills an IP would bring to an investigation and could reduce the risk of the matter being referred to the Local Government and Social Care Ombudsman.</p> <p>It is suggested that administration of the IP role could take place through the existing shared Legal Services and Monitoring Officer arrangements, with any Gravesham specific costs recharged from Medway via the existing contribution method between the two authorities.</p>
Risk Assessment	If the post is not recruited to the council would be in breach of legislation.
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. N/A</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. N/A</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Corporate Plan	People, Place and Progress

Climate Change	N/A
Crime and Disorder	N/A
Digital and website implications	N/A
Safeguarding children and vulnerable adults	N/A