

**Report of the City Solicitor**

**Report to General Purposes Committee**

**Date: 25<sup>th</sup> June 2012**

**Subject: Appointment of the Independent Person**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. The purpose of this report is to present the General Purposes Committee with the recommendation of a Member Panel in relation to the appointment of an Independent Person.
2. Two candidates applied for the position of Independent Person, one of whom is the current Chair of the Standards Committee, Mr Gordon Tollefson. On the basis of his written application the panel agreed to recommend the appointment of Mr Gordon Tollefson as the Independent Person for a period of one year beginning on 11<sup>th</sup> July 2012.

**Recommendations**

3. Members of General Purposes Committee are asked to recommend that full Council appoints Mr Tollefson for a period of up to one year under the transitional arrangements contained in Article 7 of the Commencement Order.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to present the General Purposes Committee with the recommendation of a Member Panel in relation to the appointment of an Independent Person.

## **2 Background information**

- 2.1 The role description and a short advertisement were placed on the Council's website for a five week period and written applications were invited by Monday 14<sup>th</sup> May 2012. The role description is attached to this report as Appendix 1.
- 2.2 A Member Working Group had previously been asked to nominate any suitable candidates for the position, and these nominated people were contacted and invited to apply. Two candidates applied for the position of Independent Person, one of whom is the current Chair of the Standards Committee, Mr Gordon Tollefson.

## **3 Main issues**

- 3.1 A Member panel comprising the Chair designate of the Standards and Conduct Committee and the whips of the two largest opposition groups met to consider the two applications received on Tuesday 15<sup>th</sup> May 2012. As there were only two applicants, the panel decided that it was possible to make a recommendation on the basis of the written applications only.
- 3.2 As the arrangements under the Localism Act are new and the role of the Independent Person is slightly unclear, Members of the Panel agreed that the successful candidate should only be appointed for a period of one year in the first instance.
- 3.3 They also agreed that the Standards and Conduct Committee should review the new standards arrangements after one year to consider whether the new arrangements were fit for purpose. This review would include consideration of the role description and appointment of the Independent Person.
- 3.4 On the basis of his written application the panel agreed to recommend the appointment of Mr Gordon Tollefson as the Independent Person for a period of one year beginning on 11<sup>th</sup> July 2012.
- 3.5 Mr Tollefson retired from the NHS in January 2006 where he worked as a Senior Ambulance Service Manager. Mr Tollefson has served as a Magistrate in Leeds since 1994 and chairs Courts on a regular basis. Mr Tollefson is now a Executive Board Member of Leodis Healthcare Practice based Commissioning LLP, and became the Deputy Lord Lieutenant in 2008.
- 3.6 Mr Tollefson was also a member of the Leeds City Council Independent Remuneration Panel before joining the Standards Committee in May 2009 as a reserve Independent Member. Mr Tollefson went on to become the Chair of the Standards Committee from June 2010 to date.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 A Member Working Group considered the role description for the Independent Person during its meetings in February and March, and the role description was agreed by a meeting of the Whips on 27<sup>th</sup> March 2012.
- 4.1.2 The Whips also agreed that a smaller group of Members from the Member Working Group should comprise the short listing (and if necessary interview) panel for the position.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

### **4.3 Council policies and City Priorities**

- 4.3.1 The proposed new standards arrangements, of which the Independent Person is a part, are consistent with the principles in the Code of Corporate Governance, particularly principle three “Good Conduct and Behaviour”.

### **4.4 Resources and value for money**

- 4.4.1 As the role of the Independent Person is new, the Head of Governance Services will be seeking a view as to the level of payment the role will attract from the Independent Remuneration Panel. This might be anywhere up to an annual retainer payment of £2,500. The Panel are due to consider this matter as part of their annual review work in June 2012.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Sections 28(7) and (8) set out the role of the Independent Person and who is eligible to hold this position. According to sub-section (8)(b) a person is not eligible to be appointed as the Independent Person if at any time during the 5 years ending with the appointment the person was a member, co-opted member or officer of the relevant authority or of a Parish Council in the authority’s area. This would exclude former Independent Members of the Standards Committee from applying, as Independent Members are co-opted members of Leeds City Council.
- 4.5.2 However, Article 7 of The Localism Act 2011 (Commencement No.6 and Transitional Savings and Transitory Provisions) Order 2012 makes transitional provisions in relation to standards. Article 7 states that a person may be appointed by a relevant authority as the independent person if they are not a member or co-opted member of the standards committee of the relevant authority on 1<sup>st</sup> July 2012, but have held such a post at any time during the 5 years ending on 30<sup>th</sup> June 2012. This transitional provision only applies in relation to appointments made before 1<sup>st</sup> July 2013.

- 4.5.3 Government considers that this addresses the practical realities councils are facing in recruiting an independent person, but equally recognises the need for there to be a clean break with the Standards Board regime and that simultaneously being a member of an existing standards committee and an independent person for the incoming new arrangements risks a conflict of interest.
- 4.5.4 Therefore as Mr Tollefson's appointment as Chair of the Standards Committee ends on 30<sup>th</sup> June 2012 when the Standards Committee is abolished, he will be eligible to be appointed as the Independent Person on 11<sup>th</sup> July 2012.
- 4.5.5 Section 28(c) sets out that the vacancy for the Independent Person must be advertised in such a manner as the authority considers is likely to bring it to the attention of the public, the person must submit an application for the position, and their appointment must be approved by a majority of the members of the authority. The Head of Governance Services can confirm that the first two requirements have been complied with, and full Council will be asked to approve the appointment by a majority on 11<sup>th</sup> July 2012.
- 4.5.6 There are no implications for access to information arising from this report as there is no confidential or exempt information identified within the report. The decision is not open to call-in as the decision is a Council function.

## **4.6 Risk Management**

- 4.6.1 There is a risk associated with not appointing the Independent Person until the 11<sup>th</sup> July 2012, in that there will be a period of ten days between the new standards regime coming into force and the Independent Person being appointed.
- 4.6.2 However, it is considered that this risk is acceptable given that it is unlikely that the services of the Independent Person would be urgently required during these ten days, especially as the subject Member of any complaint has a period of 28 days within which to attempt informal resolution.
- 4.6.3 In addition, if the Independent Person were to be appointed prior to the Localism Act coming into force, Mr Tollefson would have to resign as the Chair of the Standards Committee in order to be eligible for the position, which would cause difficulties should the Standards Committee be required to meet again before it is abolished.

## **5 Conclusions**

- 5.1 The short listing and interview panel met to consider the two applications received on Tuesday 15<sup>th</sup> May 2012. As there were only two applicants, the panel decided that it was possible to make a recommendation on the basis of the written applications only.
- 5.2 On the basis of his written application the panel agreed to recommend the appointment of Mr Gordon Tollefson as the Independent Person for a period of one year beginning on 11<sup>th</sup> July 2012.
- 5.3 Members of the General Purposes Committee are asked to note the transitional arrangements contained in Article 7 of the Localism Act 2011 (Commencement

No.6 and Transitional Savings and Transitory Provisions) Order 2012, which are summarised in paragraphs 4.5.2 to 4.5.6 above.

## **6 Recommendations**

- 6.1 Members of General Purposes Committee are asked to recommend that full Council appoints Mr Tollefson for a period of up to one year under the transitional arrangements contained in Article 7 of the Commencement Order.

## **7 Background documents<sup>1</sup>**

- 7.1 Chapter 7 of the Localism Act 2011
- 7.2 The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012
- 7.3 Email from the Department of Communities and Local Government, received 17<sup>th</sup> February 2012

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.