

## Report of City Solicitor

## Report to General Purposes Committee

Date: 8<sup>th</sup> March 2017

## Subject: Appointments to the Independent Remuneration Panel and of Independent Person for Standards Matters

Are specific electoral wards affected? If yes, name(s) of ward(s):	<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: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Summary of main issues

1. With the end of terms of office approaching it is now timely to review the appointments to the Independent Remuneration Panel and of the Independent Person.
2. Having consulted with the Leader this report asks General Purposes Committee to recommend to full Council that Sir Rodney Brooke's term as chair of the Independent Remuneration Panel be extended to the end of June 2018 and that, given his experience, that he be invited to support a member panel in a future recruitment process.
3. Also, following consultation with Group Leaders and the Chair of the Standards and Conduct Committee, this report proposes the re-appointment of Mr Gordon Tollefson as the Council's Independent Person.

## Recommendations

1. Members are asked to consider the matters set out in this report and recommend
  - a) To full Council that;
    - Sir Rodney Brooke be re-appointed as Chair of the Independent Remuneration Panel until the end of June 2018.
    - Mr Gordon Tollefson be re-appointed as the Council's Independent Person for a 5 year period until July 2022
  - b) That a Member Panel be established to consider and make recommendations on appointments to the Independent Remuneration Panel necessary in 2018.

## **1. Purpose of this report**

- 1.1 Within the next 4-5 months the terms of appointment expire for;
- The Chair of the Independent Remuneration Panel (for Members' Allowances) and;
  - The Independent Person for Standards matters.
- 1.2 The purpose of this report is to ask General Purposes Committee to make recommendations to full Council concerning these two appointments and to agree to the establishment of a member panel to make recommendations on appointments to the Independent Remuneration Panel necessary in 2018.

## **2. Background information**

### **Chair of Independent Remuneration Panel**

- 2.1 The authority is required to establish an Independent Remuneration Panel to make recommendations to the authority on the Members' Allowances Scheme. The authority has four<sup>1</sup> members serving on the panel and designates one of those members as chair.
- 2.2 Sir Rodney Brooke is the Chair of the Independent Remuneration Panel (IRP) which considers and makes recommendations to full Council in relation to the allowances scheme for Leeds City Council.
- 2.3 Sir Rodney has provided service to the panel as Chair since the panel was established in May 1999. Sir Rodney's current term as Chair of the Leeds IRP expires in June 2017.
- 2.4 Ms Carolyn Lord has also provided service to the panel since May 1999 as an IRP member, whilst Mr David Fortune, an IRP member since 2010; both have their term of office expire in June 2018.

### **Independent Person**

- 2.5 The authority is required to appoint an Independent Person for Standards matters. The authority must seek the views of the Independent Person and take them into account before making a decision on an allegation which it has decided to investigate.
- 2.6 The views of the independent person may also be sought in other circumstances by the authority and also (amongst others) by a member or co-opted member of the authority if that person's behaviour is the subject of an allegation.
- 2.7 Mr Gordon Tollefson is the appointed Independent Person for Standards matters. Mr Tollefson has served the authority in this capacity since July 2012. Mr Tollefson's initial term of office (to July 2013) was reconsidered by General Purposes Committee in February 2013 with a recommendation being made to full Council to vary their original decision and extend Mr Tollefson's term of office until July 2017.
- 2.8 Both Sir Rodney and Mr Tollefson have worked diligently with the Monitoring Officer and her Deputy, and through them, in consultation with the Leaders of the respective political parties, and, in the case of the Independent Person, with the Chair of the Standards and Conduct Committee and Group whips in the discharge of their duties.

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<sup>1</sup> The statutory minimum is three

### 3. Main issues

3.1 With the end of their respective terms of office approaching it is now necessary to review the appointments of the Chair of the Independent Remuneration Panel and the Independent Person.

#### Membership of the Independent Remuneration Panel

3.2 Government guidance suggests that authorities consider appointing panel members for terms of office of between 3 and 5 years. There is no prohibition on members of the panel serving longer terms or repeat terms.

3.3 The guidance provides for the authority to consider whether to appoint a chair for the panel or to let the panel elect its own chair. In Leeds the authority has taken the view that the role of chair of the panel should be specifically identified and appointment made by the authority to that position. There is no provision in guidance or the regulations as to the term of office a chair should serve or whether they should repeat terms.

3.4 The main focus of the guidance is to ensure that each panel is, and is perceived to be, independent.

3.5 Membership terms of panel members are as set out below.

Panel Member	First Appointed	No. of Years' Service at end of current term	Term of Office Expires
Sir Rodney Brooke (Chair)	May 1999	18	June 2017
Carolyn Lord	May 1999	19	June 2018
David Fortune	December 2010	8	June 2018
Matthew Knight	June 2008	12	June 2020

3.6 The Chair, Sir Rodney Brooke has served on the IRP since its creation in 1999 and is a leading expert on allowances schemes in the country - he also serves on a number of panels at other local authorities.

3.7 Leeds City Council has benefitted from Sir Rodney's undoubted knowledge and expertise and he has been instrumental in assisting to shape an allowance scheme for Members of Leeds City Council which both recognises the significant public service role of elected members, whilst also providing for a system of remuneration (through a basic allowance payment which is inclusive of travel and subsistence) which is cost effective to administer.

3.8 The end of Sir Rodney's current term of office provides an opportunity to review the current arrangements and reflect on the aspects of the guidance which encourage assessment of the IRPs independence.

- 3.9 In consulting on this point with group Leaders a view has been expressed from the Conservative Group that if further four year appointments are made to those panel members who have served since the formation of the panel in 1999, this may lead to a perception that the panel no longer independently minded.
- 3.10 Given this view four possible courses of action have been considered in respect of the pending end to the chair's term of office; a) extend Sir Rodney's term as a panel member and Chair, b) seek expressions of interest for the role and invite Sir Rodney to apply with shortlisted applicants interviewed by a panel of senior members, c) seek expressions of interest for the role of chair and again have a panel of senior members interview candidates or d) appoint Sir Rodney for a shorter tenure of one year during which a new chair designate can be recruited.
- 3.11 Having consulted with the Leader this report proposes that General Purposes Committee recommend to full Council option d) and that Sir Rodney's term as chair be extended to the end of June 2018 and that, given his experience, that he be invited to support a member panel in the future recruitment process.
- 3.12 Further, in respect of the appointment of Ms Lord, it is proposed that, given the length of service of Ms Lord, thanks be extended to her for her service to the Council and expression of interest be invited for a new IRP member - with the member panel detailed above being also asked to make recommendations. Being the most recent appointee to the IRP - no recommendations are made at this time regarding Mr Fortune's appointment.

#### Independent Person

- 3.13 Mr Tollefson will complete his first term as the Council's appointed Independent Person at the beginning of July 2017. Mr Tollefson has provided impartial advice to the authority and has quarterly briefing meetings with the Deputy Monitoring Officer.
- 3.14 The role of Independent Person continues to evolve and the existing appointee is well versed in the arrangements adopted in Leeds. It has not though been necessary to seek the views of the Independent Person (and take them into account before making a decision on an allegation which it has decided to investigate) this being because no complaint has thus far proceeded to Stage 3 of the complaints procedure.
- 3.15 The Standards and Conduct Committee have supported the Independent Person in his role by inviting him to attend meetings of the committee as an observer, and ensuring that he has undertaken training on the Members' Code of Conduct.
- 3.16 There is no provision in the Localism Act 2011 in relation to the length of term which may be served by an Independent Person and nor is there guidance on such matters from the Department of Communities and Local Government.
- 3.17 Following consultation, Group Leaders and the Chair of the Standards and Conduct Committee, are supportive of re-appointing Mr Tollefson as the Council's Independent Person for a period 5 years until 1<sup>st</sup> July 2022.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 Group Leaders have been consulted on the matters considered by this report, with, in addition, the Chair of Standards and Conduct Committee being consulted on the proposals concerning the appointment of Independent Person.

## 4.2 Equality and diversity / cohesion and integration

4.2.1 There are no specific matters relating to equality and diversity or cohesion and integration raised by this report.

## 4.3 Council policies and best council plan

4.3.1 There are no specific matters relating to council policies or the best council plan raised by this report.

## 4.4 Resources and value for money

4.4.1 There are no specific matters relating to resources or value for money raised by this report, however the recruitment process for the Chair of the IRP may incur, as yet unquantified, advertising costs. IRP members do not receive an annual allowance, rather panel members receive a fee per IRP report submitted to the authority - £250 per IRP member with the Chair receiving a payment of £750 per report. These costs are budgeted for within the current resources.

4.4.2 The Special Responsibility Allowance (£2,500 per annum) payable to the Independent Person is provided for within the Members' Allowances Scheme.

## 4.5 Legal implications, access to information, and call-in

4.5.1 Rules on the constitution of IRP panels were consolidated into one set of regulations (**the Local Authorities (Members' Allowances)(England) Regulations 2003/1021**) in 2003. Part 4 of the Regulations deals with the appointment of independent remuneration panels but is un-prescriptive - beyond requiring that each panel is constituted of a minimum of three members who may be neither members of the relevant authority (whether elected or co-opted) nor disqualified from membership, the regulations set no further requirements.

4.5.2 There is government guidance which provides information on application of the regulations by relevant authorities. The main focus of the guidance is to ensure that each panel is, and is perceived to be, independent. It is suggested that authorities consider appointing panel members for terms of office of between 3 and 5 years, but there is no prohibition on their serving longer terms or repeat terms.

4.5.3 The guidance suggests that the authority considers whether to appoint a chair for the panel or to let the panel elect its own chair. There is no provision as to the term of office a chair should serve or whether they should repeat terms. However there are some restrictions in that a Member of an IRP must not:

- Be an elected Councillor of any Local Authority
- Be employed or appointed by Leeds City Council
- Be a senior employee (in a politically restricted post) of another Local Authority
- Be the holder of any position within a political party at local, regional or national level
- Be the subject of a bankruptcy restrictions order or interim order

- Have been convicted in the last 5 years of an offence with a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine
- Be in debt or in dispute with Leeds City Council
- Be a relative or personal friend of an elected member of Leeds City Council.

4.5.4 None of these restrictions apply to Sir Rodney Brooke who is recommended for a 12 month appointment by way of this report.

4.5.5 **Section 28 of the Localism Act 2011** requires the authority to appoint an Independent Person who may not be a member, a co-optee, and officer or a close friend or relative of a member, co-optee or officer and may not have been any of those things for a period of at least five years.

4.5.6 There are restrictions to whom may be appointed an Independent Person. An appointed individual must not:

- Be a member or co-opted member or officer of the Council or a parish/town council in the Council's area,
- Be a relative, or close friend of such a person, or
- Have been a member or co-opted member or officer of the Council or a parish/town council in the Council's area in the previous 5 years.

4.5.7 None of these restrictions apply to Mr Tollefson. In respect of the Standards and Conduct Committee Mr Tollefson attends meetings of the committee as an observer and is not a co-opted Member.

## **4.6 Risk management**

4.6.1 The proposals in the report assist the Councils to comply with its legal obligations and take account guidance issued by government.

## **5. Conclusions**

5.1 It is necessary for the Council to consider and resolve two appointments in advance of terms of office expiring. In doing so this will provide continuity in the roles that are prescribed in legislation.

5.2 Members are also asked to support the establishment of a cross party panel to secure a nomination as chair of the IRP from July 2018 and agree that Sir Rodney's input be sought in that process. Membership of that Panel to agreed by Group Leaders.

## **6. Recommendations**

6.1 Members are asked to consider the matters set out in this report and recommend:

a) To full Council that;

- Sir Rodney Brooke be re-appointed as Chair of the Independent Remuneration Panel until the end of June 2018.
- Mr Gordon Tollefson be re-appointed as the Council's Independent Person for a 5 year period until July 2022

6.2 That a Member Panel be established to consider and make recommendations on appointments to the Independent Remuneration Panel necessary in 2018.

**7. Background documents<sup>2</sup>**

7.1 None.

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<sup>2</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.