

Report of the City Solicitor

Report to General Purposes Committee

Date: 12th February 2013

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. This report outlines the recommendation made by the Standards and Conduct Committee in relation to the role of the Independent Person after July 2013.
2. The Localism Act 2011 prevented former Independent Members of the Standards Committee from becoming the Independent Person for a period of 5 years after their membership of the Committee ended. However, the Localism Act 2011 (Commencement No.6 and Transitional Savings and Transitory Provisions) Order 2012 dis-applied these rules in relation to appointments made before 1st July 2013. Therefore full Council appointed Mr Gordon Tollefson (former Independent Member and Chair of the Standards Committee) as the Independent Person for a period of one year on 11th July 2012.
3. Having operated under the new arrangements for a number of months, and given the role and associated appointment restrictions (and transitional arrangements) set out by the Localism Act 2011 it is timely to reconsider the options available to the Council after July 2013.

Recommendations

4. General Purposes Committee is asked to recommend to full Council that they vary their original decision taken on 11th July 2012 and extend the current appointee's appointment for a further four years.

1 Purpose of this report

- 1.1 This report outlines the recommendation made by the Standards and Conduct Committee in relation to the role of the Independent Person after July 2013.

2 Background information

- 2.1 The Localism Act 2011 prevented former Independent Members of the Standards Committee from becoming the Independent Person for a period of 5 years after their membership of the Committee ended. However, the Localism Act 2011 (Commencement No.6 and Transitional Savings and Transitory Provisions) Order 2012 dis-applied these rules in relation to appointments made before 1st July 2013.

- 2.2 The Council used these transitional arrangements to appoint Mr Gordon Tollefson (former Independent Member and Chair of the Standards Committee) as the Independent Person for a period of one year on 11th July 2012.

3 Main issues

- 3.1 During the last appointment process a Member panel made up of Group Whips (or their representatives) from the three largest political groups conducted the short listing and interview process and made a recommendation to the General Purposes Committee. Because the role of the Independent Person was new, and it was unclear how the new complaints process would operate in practice, a view was reached that, because of these uncertainties that the appointment be for only one year.

- 3.2 Having operated under the new arrangements for a number of months, and given the role and associated appointment restrictions (and transitional arrangements) set out by the Localism Act 2011 it is timely to reconsider the options available to the Council after July 2013. Members of the Standards and Conduct Committee were asked to consider these options at their meeting on 11th January 2013.

- 3.3 Appendix 1 describes the role, appointment criteria and transitional arrangements which apply to the Independent Person.

3.4 Options for the role of the Independent Person after July 2013

- 3.5 Two options have been considered by the Standards and Conduct Committee.

- 3.6 Option 1 is for a fresh recruitment and appointment process to be conducted over the coming months. This would culminate in the appointment of a new Independent Person by Full Council in July 2013. The recruitment process would be overseen via Member panel (drawn from the Standards and Conduct Committee), with the panel making recommendations to General Purposes Committee for an appointment to be made by full Council.

- 3.7 The role would need to be advertised in such manner as the authority considers is likely to bring it to the attention of the public; candidates must submit an application to the authority, and the appointment must be approved by the

majority of Members of the authority. The existing Independent Person would be ineligible to apply for the role because of the amendment to the transitional arrangements which state that he cannot be appointed for a term of office ending on or after 1st July 2013.

- 3.8 Given that the nature of the role is yet to fully evolve, and that the existing appointee is well versed in the recently adopted arrangements, officers' view is that repeating the formal appointment process (so soon after the last recruitment exercise) may be unduly costly in terms of Member and officer time and associated recruitment costs; added to which there would be no guarantee that a suitable candidate would be found.
- 3.9 Option 2 would be to ask full Council to vary their original decision taken on 11th July 2012 and extend the current appointee's appointment to a further four years. This decision would have to be made before 1st July 2013.
- 3.10 Members should note that it is not explicit in the Order whether an extension to the Independent Person's current term of office would be permissible or not, and therefore pursuing this option does represent a slight risk to the Council. However, it is considered that the benefits of extending the term of office outweigh any potential dis-benefits and would be the most pragmatic solution as well as presenting value for money for the Council, particularly because the appointee is already familiar with the local standards regime.
- 3.11 The Standards and Conduct Committee decided that Option 2 was the most suitable option, and resolved to recommend to General Purposes Committee that full Council vary its original decision taken on 11th July 2012 and extend the current appointee's appointment for a further four years.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Leaders and Whips have been informally consulted on the possibility of extending the current appointee's term of office and no objections have been made to the proposal.
- 4.1.2 The Standards and Conduct Committee were consulted at the meeting on 11th January 2013, and have resolved to recommend Option 2 as set out above.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no equality and diversity or cohesion and integration issues in relation to this report.

4.3 Council policies and City Priorities

- 4.3.1 The procedure for dealing with complaints under the Members' Code of Conduct (in Part 4 of the Council's Constitution) sets out the role of the Independent Person and their involvement in the complaints process.

4.4 Resources and value for money

- 4.4.1 Members of the Standards and Conduct Committee reviewed the current payment made to the Independent Person and considered that no alterations to the £2,500 payment was required.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The role of the Independent Person and the eligibility for the role is set out in Chapter 7 (Section 28) of the Localism Act 2011. The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 introduced transitional arrangements to allow former Independent Members of Standards Committees to be appointed as the Independent Person if the appointment was made before 1st July 2013.
- 4.5.2 These arrangements were further amended on 3rd July 2012 by the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) (Amendment) Order 2012, to state that former Independent Members of Standards Committees may not be appointed for a period ending on or after 1st July 2013, unless the appointment was made before 24th July 2012 and the appointment was due to end on or after 1st July 2013.
- 4.5.3 However, there is nothing in the Act or Order which explicitly state that it would not be permissible to extend the length of the existing Independent Person's term of appointment. To do so, full Council would need to vary the original appointment decision made on 11th July 2012 prior to 1st July 2013.

4.6 Risk Management

- 4.6.1 As stated above, the Act and the Order do not explicitly state whether it would be permissible or not to extend the current term of office. Therefore if Members were minded to pursue this option, there is a small risk to the authority that the decision to extend the term of office might not be in fully in accordance with the intention of the transitional arrangements.

5 Conclusions

- 5.1 The current Independent Person's term of office will expire on 11th July 2013. The options open to the Council are to conduct another appointment process (under which the current appointee would not be eligible to apply), or to extend the existing term of office by varying the original decision of the full Council.
- 5.2 Having considered these options at its meeting on 11th January 2013, the Standards and Conduct Committee has resolved to recommend to General Purposes Committee that full Council vary its original decision taken on 11th July 2012 and extend the current appointee's appointment for a further four years.

6 Recommendations

- 6.1 General Purposes Committee is asked to recommend to full Council that they vary their original decision taken on 11th July 2012 and extend the current appointee's appointment for a further four years.

7 Background documents¹

- 7.1 None.

¹ 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.