

LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE
DATE OF DECISION	29 July 2024
REPORT TITLE:	Appointments of Independent Person
DIRECTOR:	Stephen Lawrence-Orumwense Director of Legal & Governance
LEAD OFFICER:	Adrian May, Interim Head of Democratic Services adrian.may@croydon.gov.uk
CONTAINS EXEMPT INFORMATION?	No
WARDS AFFECTED:	All

1 SUMMARY OF REPORT

- 1.1 The Ethics Committee, on the 19 April 2023, due to a vacancy which had arisen, agreed to commence a recruitment process under the provisions of the Localism Act 2011 to ensure a sufficient pool of Independent Persons.
- 1.2 Advertisements for the positions were advertised on the Jobs section of the council's website, in the Croydon council newsletter, via email to the council's voluntary and community sector subscribers, via the Democratic Services Newsletter, and via email to residents currently volunteering elsewhere in the council. Councillors were also written to by email to encourage their contacts who are keen to be involved in the voluntary life of the council to apply
- 1.3 The Selection Panel shortlisted four candidates for the second stage of the application (interview with the Panel), and the interviews were held on 27 and 29 November 2023. Following the interview, the Panel independently scored candidate's performance. Subsequently, the Chair of the Ethics Committee consulted their decision to appoint with the Independent Persons. Finally, it was agreed to recommend the candidate for the appointment.

2 RECOMMENDATIONS

For the reasons given in this report, the Ethics Committee is recommended to:

- 2.1 Agree to recommend to Council that Joanne Middlewick be appointed as an Independent Person for the duration of 2 years, with a possible extension of 2 years.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations ensure that the Council has sufficient Independent Persons to continue to perform its statutory functions under the Localism Act 2011 in respect of the Ethics Functions of the Authority and under Part 4J of the Council's Constitution (Staff Employment Procedure Rules) in respect of disciplinary matters pertaining to Head of Paid Service, Section 151 Officer or Monitoring Officer.
- 3.2 The recommendations ensure that the selection process verified that the appointed candidate met the selection criteria and is eligible to be an Independent Person.
- 3.3 The candidate is highly motivated to contribute to the work of the Ethics Committee and has a strong connection with the London Borough of Croydon, having lived there for most of her life. She demonstrated a deep interest in ethical issues and possesses a very strong professional regulatory background.

4 BACKGROUND AND DETAILS

- 4.1 Section 28 of the Localism Act 2011 ("the Act") imposes a duty upon the Council to 'promote and maintain high standards of conduct by Members and Co-opted Members of the Council'. The Council is required to adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity. In addition, under Section 28(6) and (7) of the Act, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the authority, or of a Committee or Sub-Committee of the authority, has failed to comply with the Council's Code of Conduct can be investigated and decisions made on such allegations. For Members' information, the arrangements as adopted by Full Council, can be accessed [here](#)¹.
- 4.2 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought and taken into account by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member or co-opted Member against whom an allegation has been made.
- 4.3 In addition, the Council's arrangements provide that the Monitoring Officer may consult an Independent Person when considering, at assessment stage, whether or not an allegation ought to be referred for investigation. In other words to avoid the potential conflict of the same Independent Person having to advise different persons/bodies on the same matter, up to four Independent Persons might be involved in providing advice

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at different stages of and to different parties in the Ethics Process – one to advise the Member complained about, one who may advise the Monitoring Officer at Assessment Stage, one who might be consulted by the Authority at any other stage in the process and one whose views must be sought and taken into account by the Council before it takes any final decision on an allegation of breach of the Code which is the subject of investigation.

- 4.4 The Council has delegated to the Ethics Committee the function of investigating and determining any allegations of a breach of the Code of Conduct. The Committee comprises six elected Members of the Council and the Independent Persons who are not committee members but attend in a non-voting advisory capacity at Committee and are involved at other stages of the process as detailed above.
- 4.5 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (“the Regulations”) which amend the earlier 2001 Regulations, make specific provision for the involvement of Independent Persons in relation to Disciplinary Action taken against Head of Paid Service, Section 151 Officer, or Monitoring Officer.
- 4.6 Part 4J of the Constitution which incorporates the requirements of the Regulations provides that consideration of disciplinary action which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Appointments and Disciplinary Committee. In addition, an Independent Panel constituting at least two Independent Persons (who are appointed pursuant to the Localism Act 2011) will advise the Council on any recommendation from Appointments and Disciplinary Committee to dismiss Head of Paid Service, the Chief Finance Officer, or the Monitoring Officer. Following any disciplinary hearing the outcome of which is a proposal to dismiss, the Independent Panel’s views must be reflected specifically in the Report to full Council setting out the Appointments and Disciplinary Committee’s recommendations. The full Council shall have regard to and take into account the recommendations of Appointments and Disciplinary Committee and the Independent Panel in reaching its decision on the matter.
- 4.7 The outcome of the Selection Panel shall be reported to this Committee for onward recommendation to Full Council for a proposed appointment of an additional Independent Person for a term of 2 years with a possible extension of 2 years, whilst noting that appointment within that term does ordinarily take place annually by Council.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The Selection Panel interviewed four candidates and based on the independently set criteria decided that the recommended candidate would be the best suited for the role of an Independent Person.

6 CONSULTATION

- 6.1 The appointment process is required to be confidential. However, an Independent Person was consulted to advise on the recruitment process and provide guidance to the members of the Selection Panel.

7. CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1 Mayor’s Business Plan - Priority 4: Ensure good governance is embedded and adopt best practice.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 Costs relating to the Independent Person will be funded within existing budget.

Comments approved by Allister Bannin, Director of Finance (Deputy s151),
18/07/24.

8.2 LEGAL IMPLICATIONS

8.2.1 The Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

8.2.2 The Council must also have in place arrangements under which allegations of breaches of the Code can be investigated, and under which decisions on allegations can be made.

8.2.3 These arrangements must include provision for the appointment by the Council of at least one independent person—
(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
(b) whose views may be sought—
(i) by the authority in relation to an allegation in circumstances not within paragraph (a),
(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation.

8.2.4 For these purposes a person is not independent if the person is a Member, co-opted Member or officer of the authority or a relative, or close friend, of a person who is a Member, co-opted Member or officer of the authority.

8.2.5 A person may not be appointed as an 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 authority.

8.2.6 Finally, a person may not be appointed unless the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public, the person has submitted an application to fill the vacancy to the authority, and the person's appointment has been approved by a majority of the members of the authority.

8.2.7 The relevant legal requirements in relation to the involvement of Independent Persons in disciplinary action taken against the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer are set out within the body of this report.

8.2.8 *Approved by:* Kiri Bailey on behalf of the Director of Legal Services and Monitoring Officer (18.07.24).

8.3 EQUALITIES IMPLICATIONS

8.3.1 The Council has a statutory duty to comply with the provisions set out in Section 149, Equality Act 2010. The Council must therefore have due regard to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- d) The protected characteristics defined by law are race and ethnicity, disability, sex, gender reassignment, age, sexual orientation, pregnancy and maternity, religion or belief, marriage and civil partnership.

8.3.2 The law requires that the vacancy for an independent Person is advertised in such a manner as the Council consider is likely to bring it to the attention of the public. Subject to the statutory restrictions around applicant's demonstrating 'independence' the vacancy would be available to all.

8.3.3 The selection process for the independent person followed equalities standards in several ways. The selection panel, which handled the shortlisting and interviews, was diverse, representing different backgrounds and viewpoints. This diversity helped prevent bias and ensured a fair evaluation of all candidates.

8.3.4 Additionally, each panel member filled out their scoring sheets independently. This method promoted fairness by ensuring that every candidate was assessed equally and transparently based on the same criteria.

8.3.5 Comments approved by Ken Orlukwu, Senior Equalities Officer, on behalf of Helen Reeves, Head of Strategy & Policy on 18/07/2024

8.4 HR IMPLICATIONS

8.4.1 There are no immediate Human Resources implications arising from this report. Should any matters arise these will be managed through the appropriate Council processes and procedures.

8.4.2 Comments approved by Dean Shoesmith, Chief People Officer. 18/7/2024