

<b>19 September 2013</b>		<b>ITEM: 10</b>
<b>Standards and Audit Committee</b>		
<b>Appointment of Membership to Members Advisory Panel 2013 - 14</b>		
<b>Report of:</b> Fiona Taylor, Head of Legal & Democratic Services, Monitoring Officer		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Non Key	
<b>Accountable Head of Service:</b> Fiona Taylor Head of Legal & Democratic Services, Monitoring Officer		
<b>Accountable Director:</b> Graham Farrant, Chief Executive		
<b>This report is Public</b>		
<b>Purpose of Report:</b> For decision - that the Standards and Audit Committee make appointment of membership to the Members Advisory Panel to serve until the next local elections (2014).		

## **EXECUTIVE SUMMARY**

The Localism Act 2011 (the Act) places a duty on Local Authorities to promote and maintain high standards of conduct amongst their members and co-opted members. The Act further provides that the authority must adopt a code of conduct and that it must have in place arrangements under which allegations of breaches of the code can be investigated and arrangements under which a decision on allegations can be made. The Thurrock Constitution provides that where the Monitoring Officer receives a complaint and after an assessment determines that the matter merits investigation; they are to report their findings on the matter to a Working Group of this Committee (the Member Advisory Panel). This Report requests that the Standards and Audit Committee establishes the Working Group by appointment of membership to the Members Advisory Panel to serve until the next local elections in May 2014.

### **1. RECOMMENDATIONS:**

**1.1 That the Standards and Audit Committee make an appointment to membership to the Members Advisory Panel to serve until the next local elections.**

### **2. INTRODUCTION AND BACKGROUND:**

**2.1** On 1st July 2012 the Localism Act 2011 (the Act) provisions for standards came into effect. The Act places a duty on Local Authorities that they must promote and maintain high standards of conduct amongst their members and

co-opted members. The Act further provides that the authority must adopt a code of conduct and that it must have in place arrangements under which allegations can be investigated and arrangements under which a decision on allegations can be made. The overall responsibility for this function was duly delegated by the Council under the Constitution to the Standards and Audit Committee (this Committee).

- 2.3 The authority duly adopted a code of conduct and a procedure for dealing with complaints that provides the Monitoring Officer shall carry an assessment of complaints and consult with an Independent person appointed under the Act as to whether a matter requires investigation. If the opinion is reached there are grounds for an investigation the procedure requires that the Monitoring Officer report the findings to a working Group of this Committee that is the Member Advisory Panel.
- 2.4 The Composition of the Panel is set out in the Constitution at Chapter 5 Part 5 (page 157) and shall consist of 4 members two elected and two independent members from this Committee. The Chair shall be an independent member and shall have a casting vote.
- 2.5 The legislative requirement is that an authority must have in place arrangements for decision to be made on allegations and so it is right that a panel is established ready to hear any allegation that may need to be brought before it.

### **3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:**

- 3.1 Thurrock Borough Council as an authority subject to the Localism Act 2011 is obliged to have arrangements in place to make decisions on allegations of breach of the Code of Conduct.
- 3.2 To be effective it is best practice to establish a Standing Members Advisory Panel rather than wait until a Complaint about a breach of the Members Code of Conduct reaches the point where it needs to be considered.
- 3.3 Unnecessary or avoidable delay in adjudicatory functions is considered poor practice as it is unfair on all parties that is the complainant and the Member concerned, not to have the matter considered as quickly as is reasonably possible.
- 3.4 Not to have a panel in existence until the occasion demands it creates a situation where complaints cannot be handled promptly as it will necessitate either calling a special meeting of the Standards and Audit Committee or waiting to the next available meeting. Neither option is a sound administrative practice or wise use of resources.
- 3.5 For the above reasons an appointed standing Members Advisory Panel is considered the best option

**4. REASONS FOR RECOMMENDATION:**

- 4.1 As set out in the body of this report for reasons of legal compliance, fairness and good public administration, this Committee is advised that an appointment for membership of the advisory panel should be made forthwith.

**5. CONSULTATION (including Overview and Scrutiny, if applicable)**

- 5.1 This report has been prepared in consultation with the statutory officers for governance that is the Chief Executive and the Monitoring Officer.

**6. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

- 6.1 The promotion of high standards in the conduct of elected and co-opted members is of the highest importance in maintaining public confidence in local democratic accountability and determines how successful the Council is in its achievement of the Council's priorities and objectives

**7. IMPLICATIONS**

**7.1 Financial**

Implications verified by: **Sean Clark**  
Telephone and email: **01375 652010**  
**sclark@thurrock.gov.uk**

There are no direct financial implications for the Council.

**7.2 Legal**

Implications verified by: **David Lawson**  
Telephone and email: **David.Lawson@BDTlegal.org.uk**

As established in the main body of this Report the Localism Act 2011 requires that an authority has arrangements in place to consider and make decisions regarding allegations of breaches of the Members Code of Conduct. This authority has determined that such decision making shall take the form of a hearing by a working group of this committee for the purpose of making recommendation for action to the Monitoring Officer. As set out in this report it is both sound legally and administratively to establish a standing members advisory panel so as any complaints can be dealt with promptly and not subject to avoidable delay which is in itself a form of unfairness to due process of law.

**7.3 Diversity and Equality**

Implications verified by: **Samson DeAlyn**  
Telephone and email: **01375 652 472**  
[sdealyn@thurrock.gov.uk](mailto:sdealyn@thurrock.gov.uk)

There are no direct Diversity implications noted in this report.

**7.4 Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

There are no other significant implications.

**BACKGROUND PAPERS USED IN PREPARING THIS REPORT (include their location and identify whether any are exempt or protected by copyright):**

- Localism Act 2011 – Current Law Annotated Volume

**APPENDICES TO THIS REPORT:**

- None

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