



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/11
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (Annual Meeting)
DATE OF MEETING	30 May 2012
SUBJECT OF REPORT	LOCALISM ACT 2011 – NEW MEMBER CONDUCT PROVISIONS – APPOINTMENT OF INDEPENDENT PERSON
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>That the Clerk be authorised to advertise for a post of Independent Person, as required by the new Member conduct provisions of the Localism Act 2011, receive and process any applications received in response to the advertisement and submit a report recommending appointment to the next meeting;</i></p> <p>(b) <i>that the Authority approve that the post of Independent Person should be eligible for reimbursement of travel and subsistence expenses only, at the rates as contained in the approved Scheme of Members Allowances;</i></p> <p>(c) <i>that, subject to clarification of the operative date for the new provisions and the issue of associated Regulations on disclosable interests, the Clerk be asked to submit a report to the next meeting on the proposed new Member conduct arrangements for this Authority.</i></p>
EXECUTIVE SUMMARY	<p>The Localism Act 2011, amongst other things, sweeps away the former, prescriptive Standards regime in favour of a more “light touch” approach capable of adaptation to suit local requirements.</p> <p>There are, however, certain aspects that must be complied with one of which is the appointment of a new Independent Person. This report deals specifically with that requirement.</p>

RESOURCE IMPLICATIONS	Costs associated with advertising for the post of Independent Person, together with costs associated with meeting incurred travel and subsistence costs of that person, will be contained from within existing budgets.
EQUALITY RISK AND BENEFIT ASSESSMENT (ERBA)	The application for post of Independent Person will only be restricted in so far as those express exclusions from holding the post as defined in the Localism Act and none of which relate to equality and diversity considerations.
APPENDICES	A. Proposed advertisement for post of Independent Person.
LIST OF BACKGROUND PAPERS	Localism Act 2011

1. BACKGROUND AND INTRODUCTION

- 1.1 The Localism Act 2011 (the Act) introduces a significant number of changes to the operation of local government including abolition of the former, prescriptive Standards regime. In its place, the Act introduces a more “light touch” approach capable of adaptation to suit particular local requirements.
- 1.2 The new arrangements, however, still contain some compulsory requirements including the adoption of a Code of Conduct and having in place arrangements to deal with alleged breaches of the Code. The arrangements must include an “independent person”, appointed by the Authority following advertisement and whose views:
- must be sought by the Authority before it makes any determination on an allegation it has decided to investigate;
 - may be sought “in other circumstances”; and
 - may be sought by a Member subject to an allegation.
- 1.3 The Act specifies a number of restrictions that would prevent a person from being appointed as an “independent person”. By quirk of drafting, these restrictions mean that the current Independent Members on the Authority’s Standards Committee may NOT be appointed as independent persons.
- 1.4 There is still considerable uncertainty surrounding the new Member conduct arrangements under the Localism Act. Regulations governing disclosable interests are still awaited as is the statutory instrument (a Commencement Order) specifying the operative date for the new arrangements.
- 1.5 Discussions are ongoing with constituent authorities with a view to establishing, as far as is practicable, common operating procedures so as to minimise the bureaucratic impact on this Authority of the “arrangements” that will be required to secure compliance with the provisions of the Localism Act. Progression with this is somewhat hindered at present, however, by considerable uncertainty surrounding the provisions in the Act, including:
- no defined commencement date for implementation of the new provisions. The statutory instrument (a Commencement Order) to this effect is still awaited. It was initially thought that this would be by 1 July 2012 but the latest intelligence, via the Local Government Association, is that this date may slip further and that there may also be a transitional period (which would also require definition) between old and new arrangements;
 - Regulations are still awaited as to disclosable interests. The requirement to disclose and register certain interests – which the Regulations will define – must be contained in the Code to be adopted by the Authority. It follows, therefore, that the absence of such Regulations makes the drafting and adoption of a Code problematic.
- 1.6 As indicated, what is clear is that the new arrangements must feature an “independent person”. This report therefore addresses the appointment of such a person.

2. APPOINTMENT OF INDEPENDENT PERSON

- 2.1 As indicated, the Act requires the new “arrangements” to include one (or more) independent person to exercise the role as set out in paragraph 1.2 above. It can be seen that this role is far less demanding than that of the Independent Member under the current regime who, for example, is required to Chair the Standards Committee and any Assessment, Appeals or Hearings Sub-Committee meeting that may be required. Consequently, it is proposed that – rather than attracting any kind of Special Responsibility Allowance – the role of “independent person” should attract reimbursement for travel and subsistence expenditure only, at the rates as contained in the approved Scheme for Members Allowances.
- 2.2 The Local Government Act 2000, which introduced the current regime, specified the number of Independent Members the Authority was required to have, by reference to the overall size of its Standards Committee. The Localism Act places no such requirement on the number of “independent persons”. Given that the role of the independent person is linked solely to allegations of Code breach and in light of the fact that at no point in its past has this Authority (or the former Devon Fire & Rescue Authority) received let alone investigated such an allegation, it is proposed that only one “independent person” be sought. A draft advertisement for the post of “independent person” is appended to this report.

3. CONCLUSION

- 3.1 As indicated, there is still considerable uncertainty surrounding the provisions in the Localism Act on Member conduct. Nonetheless, officers continue to progress this in conjunction/consultation with constituent authorities and with a view to securing commonality wherever practicable and arrangements for this Authority that are fit for purpose and statutorily compliant but without being overly onerous or bureaucratic.
- 3.2 Whatever these “arrangements” may ultimately be, it is known at this stage that they will need to feature an “independent person” whose appointment has been advertised for and approved by the Authority. This report, therefore, seeks approval to commence the appointment process with a view to submitting a report recommending appointment to the next meeting.
- 3.3 Subject to having received sufficient information to enable proposals to be drafted, it is also intended to submit a report to the next meeting on arrangements for Member conduct to apply for this Authority in accordance with the requirements of the Localism Act 2011.

MIKE PEARSON
Clerk to the Authority

DEVON & SOMERSET FIRE & RESCUE AUTHORITY

LOCALISM ACT 2011 MEMBER CONDUCT APPOINTMENT OF AN INDEPENDENT PERSON

Can you weigh up conflicting evidence and reach an effective conclusion? Are you of integrity and good character? Do you have respect for others and an understanding of diverse ethical issues?

If the answer to the above is yes, you may be just the person we are looking for to act as an Independent Person advising the Authority as part of its arrangements for dealing with complaints that one of its Members may have failed to comply with the Authority's adopted Code of Conduct.

This is an opportunity for the right person to make a real contribution to the fairness and integrity of the Authority.

The appointment will be effective either from 30 July 2012, or such later date as may be notified. To be eligible to be an Independent Member you must NOT:

- be, currently, a Member of the Authority, a co-opted member of an Authority Committee or an employee of the Devon & Somerset Fire & Rescue Service; or have occupied such a position in the last five years
- be a relative or have any close links with any Authority Member or Officer which might lead people to question your independence.

Appropriate training will be given and travelling and subsistence expenses will be paid.

If you are interested in applying please contact either :

- Mike Pearson (Clerk to the Authority) (mpearson@dsfire.gov.uk). Tel: 01392 872202; OR
- Steve Yates (Democratic Services and Corporate Support Manager (syates@dsfire.gov.uk) 01392 872329

Applications should be submitted by 30 June 2012.