

LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	17 December 2024	
REPORT TITLE:	SURVEY ON ROLE OF INDEPENDENT PERSONS	
DIRECTOR:	Stephen Lawrence-Orumwense Director of Legal Services and Monitoring Officer	
LEAD OFFICERS:	Adrian May Senior Democratic Services & Governance Officer adrian.may@croydon.gov.uk Klaudia Petecka Democratic Services & Governance Officer klaudia.petecka@croydon.gov.uk	
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	ALL	

1 SUMMARY OF REPORT

- 1.1 At the Ethics Committee meeting on the 15 November 2023, Committee agreed for a review of the roles Independent Persons (IP) play in other authorities. This was to compare Croydon approach and also identify areas of best practice.
- 1.2 A survey (Appendix A) has been undertaken by Croydon Democratic Service to explore the roles of Independent Persons across other London Boroughs. Six authorities participated (via providing survey responses from their respective Democratic Service teams).
- 1.3 The findings of the survey demonstrate that, of the London Borough's surveyed, their engagement of IPs is consistent with Croydon's approach. Furthermore, no additional functions or activities were identified.

2 RECOMMENDATIONS

For the reasons as set out in the report and Appendix A, the Committee is recommended to agree:

2.1 to consider and note the survey results.

3 REASONS FOR RECOMMENDATIONS

3.1 The recommendation seeks to ensure that the Council fully leverages the expertise and contributions of Independent Persons.

4 BACKGROUND AND DETAILS

4.1 Survey Development and Distribution

The officers' survey on the role and responsibilities of Independent Persons was initiated as a follow-up action from the Ethics Committee meeting held on 15th November 2023.

Council officers developed the survey and consulted with an Independent Person (*now former*) who had recommended conducting the survey. The survey consisted of ten open-ended questions, which are listed in Appendix A.

The online survey started mid-2024 and was shared with over 60 Democratic Services / Governance Officers across all London Boroughs, and remained open for a few weeks. It was stated that the results would be shared, however borough names would be anonymised.

4.2 Survey Responses and Findings

Whilst follow-up reminders were communicated, only six London Boroughs submitted responses, who were thanked for their participation. The survey responses were qualitatively analysed, to ensure a detailed interpretation of the data. The key findings were:

Appointment and number of Independent Person(s):

- All respondents indicated that they had or were in a process of appointing at least one IP.

- Two local authorities reported having or intending to appoint two Independent Persons, while one authority indicated that it had appointed four Independent Persons.
- In addition to that, one local authority introduced a hierarchy between Independent Persons, namely they have one Independent Person and a Deputy.
- Croydon Council currently has four Independent Persons and has provision to appoint up to five if considered required.

Attendance and observation of Ethics Committee meetings (or equivalent i.e. Standards / Standards Advisory Committee)

- Five local authorities indicated that Independent Persons are invited to attend or observe meetings of their Ethics Committee (or equivalent).
- One local authority, which has a Governance, Audit, Risk Management and Standards Committee, noted that ethical matters are infrequently considered at meetings, and therefore Independent Persons are not invited to attend.
- At Croydon Council, Independent Persons are invited to observe the meeting, and at discretion of the Chair invited to participate in Ethics Committee meetings.

Participation in disciplinary processes against chief officers

- Two local authorities indicated that Independent Persons are involved in disciplinary processes relating to chief officers, with one respondent highlighting that this role is enshrined in their constitution.
- Four local authorities reported that Independent Persons are not involved in such processes. This appears to be inconsistent with legislative requirements and is judged as likely misinterpretation of the question (i.e., not *currently* involved in any disciplinary action).
- Croydon Council's Constitution stipulates that an Independent Panel, comprising at least two Independent Persons, shall advise the Council on any recommendation from the Appointments and Disciplinary Committee to dismiss the Head of Paid Service, Chief Finance Officer, or Monitoring Officer. The views of the Independent Panel must be explicitly reflected in the Report to Full Council, which considers the recommendation.

Involvement in work of any committees other than Ethics Committee (or equivalent)

- Respondents uniformly indicated that Independent Persons in their local authorities are not involved in the work of committees other than the Ethics Committee (or equivalent). This is consistent with Croydon.

Additional responsibilities and roles

- Respondents unanimously stated that Independent Persons in their authorities are not assigned responsibilities or roles beyond their statutory duties. This

appears to be inconsistent with legislative requirements which require local authorities to have in place Independent Persons Panel as part of the disciplinary process relating to chief officers

- Five local authorities confirmed there are no additional areas or activities where they would consider involving Independent Persons. However, one authority suggested exploring the potential for Independent Persons to contribute to matters concerning officer conduct.
- At Croydon Council, aside from advising the Appointments & Disciplinary Panel on chief officer disciplinary proceedings, the Monitoring Officer liaises with Independent Person/s during the course of a Member Complaints including reviewing any proposals around penalties for a breach in the code of conduct.

4.3 Implications for Croydon

The survey findings suggest that there is no precedent among participating London Councils for involving Independent Persons in additional functions or activities. This reinforces that Croydon Council's approach is consistent with established practices across the surveyed councils.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 N/A – a survey was requested by the Committee.

6 CONSULTATION

- 6.1 As detailed, all London Boroughs were invited to participate.

7. CONTRIBUTION TO EXECUTIVE MAYOR'S BUSINESS PLAN

- 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 This report is for noting only, there are no financial Implications regarding the proposal.

8.2 Legal Implications

- 8.2.1 This report is for noting only, there are no legal Implications arising from the recommendation set out in this report. The following is provided for further information regards the role and function of an Independent Person.

- 8.2.2** 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.
- 8.2.3** 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.
- 8.2.4** 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.
- 8.2.5** For these purposes a person is not independent if the person is a Member, coopted 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.
- 8.2.6** The Local Authorities (Standing Orders) (England) Regulations 2001 as amended (“the Regulations”) which require the authority to appoint at least two Independent Persons appointed under the Localism Act, to an advisory panel in relation to disciplinary action taken against the Head of Paid Service, the Section 151 Officer, or the Monitoring Officer.
- 8.2.7** 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.
- 8.2.8** Approved by:Gina Clarke Principal Lawyer Corporate Law & Litigation [05/12/24]

8.3 Equalities Implications

8.3.1 This report is for noting only, there are no equalities implications regarding the proposal.

9. APPENDICES

9.1 None

10. BACKGROUND DOCUMENTS

10.1 Appendix A – Survey Questions