

INDEPENDENT PERSONS' WORKSHOP

Bedford Borough Council. Monday 15 October 2012

The role of the independent person - cases

1. Giver of views

The Act says the independent person's views must be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and that their views may be sought by the authority in relation to an allegation in other circumstances and by a member, or co-opted member, of the authority or relevant parish if that person's behaviour is the subject of an allegation.

This lays down the only statutory role for the independent person. But how this role operates will vary in practice from council to council. We'd like you to discuss some questions to help you decide how it may best operate in practice for your area:

Questions for discussion

When do you give views?

- Do you have any role in 'filtering' allegations before a decision is made?
- If so, would this be in all cases or simply helping an MO for 'cover' when there are 'political'/high-profile complaints to assess?
- Or should you stick with the letter of the Act for your involvement – only become involved when you have to - once a decision has been taken to investigate?
- What about cases not being investigated but undergoing 'other action'. Is there any role for the independent person as 'honest broker' in mediation/banging of heads?

Who can seek your views?

- The Act envisages a role in advising the council on cases and also advising the subject member – should they have any role in advising the complainant as well if needed?

How should you give your views?

- What advice can/should/shouldn't the independent person give?
- At what stage should you give advice to the subject member? Are there any times/stages when it is inappropriate to advise the subject member e.g. once a hearing has been convened?
- How does the independent person avoid conflict with any other role/responsibilities in the investigation/assessment process?

2. Influencer

Parliament was clear that there must be at least one independent person whose views must be sought and taken into account. The implication is that the 'independent person' is there to stand above party politics and has a role which goes beyond giving merely legal, procedural advice which is a matter for the monitoring officer.

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2. Influencer (continued)

But how does the independent person ensure that those views are genuinely taken into account and what should you do if they think your views are being ignored or you have concerns about the political handling of cases?

Questions for discussion

- The independent person no longer has any voting rights so how can you ensure that you are able to 'influence' outcomes if you believe them unfair?
- If you do believe you have been sidelined, is there an agreed arrangement for raising concerns?
- Are your views to be made public? Will you be able to report disagreements to council or more widely or are you simply giving your views in private?
- What, if anything, will be your relationship with the media? If you are not commenting publicly but there does appear to be a contentious issue, will you seem toothless?

3. Independence

The independent person is there to stand above party politics but inevitably some standards issues will involve political disputes.

The independent person may find themselves becoming involved in such disputes or having to advise a member who is the subject of a political allegation, but without the power to be the ultimate decision-maker. Instead the final decisions may be made by committees which reflect the political control of the authority or by group leaders.

Questions for discussion

- How do you ensure you are not perceived as taking sides in individual cases?
- How do you ensure you are seen more generally as independent if you are advising a politically-controlled committee or group of senior politicians?
- Many arrangements will rely on the political groups taking action. What role, if any, will the independent person have in engaging with reluctant/unwilling/uncooperative members or serial offenders, and if you do, how will you do so without being seen to be political? Or are such matters solely for the groups to manage?