

## Supplementary Questions – V&E Sub-Cttee – 3 Nov 2023

### Mike Oldreive

In his answer the MO appears to be attempting to assert that there are 2 types of IP:

- Ones that are appointed at his discretion, and
- Those that are appointed under S28 of the Localism Act 2011.

I refer members and the Chair to S28 of the Localism Act, which makes it clear that an Independent Person (IP) is defined in law and can only be appointed by a 'majority of members' following the due process set out in the section of the Localism Act. There is no provision in law for any other 'type' of IP.

Subsection 8 of S28 requires specific criteria to be met by IPs. Correspondence from HOLS to me (included in my original question) suggests that the MO & HOLS have been using IPs from other Local Authorities. (Subsection 8 refers to relationships of IPs with the LA, Members and Officers, so although they may meet requirements for another LA this may not be the case at Bristol).

I believe that sharing my information with someone that has not been lawfully appointed to the process would be a breach of confidentiality and data protection regulations. There is no provision for any such 'consultation' in either the law or BCC Members Complaints Process.

#### Questions for the Monitoring Officer.

**Q1** – How many individuals has he and the HOLS appointed to the 'initial analysis' and advice on 'assessments of complaints'? (Since he was appointed as MO & HOLS appointed working with him). Please provide numbers (and names) by year and confirmation that each of these appointments to 'initial analysis' and advice on 'assessments of complaints' were made lawfully. (A tabulated answer would assist in clarity and openness).

3 IPs have been consulted since 2019

They were appointed as IPs for other local authorities, and assisted in the initial assessment phase. There was no referral for investigation on the complaints they considered and they were not appointed by Full Council. The statutory duty to consult was not engaged.

**Q2** – Can you confirm that in sharing my complaint and personal information with a third party (and that of other members of the public who have had an 'Independent Member' directly appointed by yourself or HOLS to their complaints case) you have not breached the confidentiality of the complaints process and data protection regulations?

We are satisfied that any information shared has been in compliance with Data protection legislation

### Dan Ackroyd

These are my supplementary questions that I wanted to ask in the meeting. I would hope to get responses before the deadline for submitting questions for the Full Council meeting on the 14th.

### # Supplementary to my Question 1

Please can you say in very simple terms, why you believe you don't need to write a Section 5 report?

The Decision as to whether to issue a S5 report is a matter for the Monitoring Officer who is satisfied that this matter does not meet the threshold to prepare such a report

### (# Supplementary to my Question 2

Thank you for your response. To further my understanding, do you mean that you've never encountered a situation where there's been a conflict of interest, or do you think it's just not theoretically possible for there to be conflict of interest between the different 'hats' you wear as both Director of Legal and Democratic Services and as the "Monitoring Officer"?

Whether a conflict of interest exists is assessed on a case by case basis.

### # Supplementary to my Question 3

The answer given says that the question is not within the remit of the Values and Ethics committee. If I write to you, will you provide the legal notes or other document that describes your consideration of the public interest in keeping the terms of that deal secret.

The route to request this information is to make a Freedom of information request.