

Minutes of the meeting of Standards Panel held at Committee Room 1, Shire Hall on Tuesday 10 September 2019 at 2.30 pm

Present: Jake Bharier (chairperson)

Councillors: Christy Bolderson, Peter Jinman, Nigel Shaw and Robert Wilson (HALC nominated representative)

Officers: Solicitor to the Council/Monitoring Officer and Head of Corporate Governance/Deputy Monitoring Officer

9. APOLOGIES

There were no apologies for absence.

10. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

11. DECLARATIONS OF INTEREST

The chairman of the standards panel stated that this was the second standards panel meeting to review the quality of the management of arrangements for dealing with code of conduct complaints.

The first meeting had taken place on 13 November 2018 and because the panel would be different each time, the minutes of the previous meetings would not be approved. However, the monitoring officer confirmed that all the actions from the meeting held in November 2018 had been completed.

With regard to declarations of interest, the following comments were made

- Councillor Nigel Shaw recognised the names in appendix 7 and 10 but confirmed that none were close personal associates.
- Councillor Christy Bolderson recognised some names but confirmed that none were close personal associates.

12. EXCLUSION OF PRESS AND PUBLIC

It was noted that the appendices to the report were exempt under Schedule 12 A of the Local Government Act because they identified individuals. The panel needed to decide whether or not the review could take place in a public session. During the discussion the following points were made:

- The behaviour of councillors is a matter of public interest.
- The matter could be considered without identifying individuals, however, there was a risk that the panel may inadvertently identify an individual.
- Neither Councillor Mike Wilson or Jake Bharier had a vote but they could express their opinion.

- The election in May 2019 had voted for openness and was supported by the council.
- It was a review of the process and not of the complaints themselves.
- The panel did not have the power to change the decisions made but could make recommendations in connection with the process used.
- On the basis of the above, there was no reason why the meeting could not be held in public.
- If the panel wished to discuss a complaint in more detail and would have to identify the individuals as part of the discussion, then the panel could move into private session.

RESOLVED

That the meeting of the standards panel held on 10 September 2019 be held in public.

13. SAMPLING OF MONITORING OFFICER RESOLUTION DECISIONS BETWEEN 1 OCTOBER 2018 AND 30 APRIL 2019

The chairman set out the parameters under which the review would be undertaken as follows:

- The panel would go through each appendix and would use the appendix number as the identifier.
- The complainant would also be referred to as the complainant.
- The subject of the complaint would be referred to as the councillor
- The council would always be referred to as the council.

It was noted that the previous review had looked at 38 complaints and the panel felt that that may be too unwieldy but that there needed to be a process of sampling. The current review was in relation to a smaller number of complaints and the panel would consider at the end whether or not it needed to be re-convened to review the remainder of the complaints. One independent person had provided their views on all the complaints.

The criteria which the panel would be considering were:

- Timeliness of decision making
- Consistency of decision
- Any sanctions or recommendations.

It was noted that the monitoring officer was reliant on the complainant and / or subject member providing information in a timely fashion. The panel stressed the importance of people responding promptly to enquiries.

The monitoring officer does not normally reject complaints for delay, but may if the delay was substantial and the complaint was deemed to be frivolous, or insufficient evidence was provided.

Appendix 2

The broad outline of this complaint was in relation to allegations of malicious comments by two councillors.

The outcome for one councillor had been no further action because the councillor had resigned and there was no overriding public interest in continuing the complaint.

It was noted that councillors cannot resign in order to halt a complaint against them as the monitoring officer did consider whether it was in the public interest to continue. The other factor considered was whether the councillor would co-operate once they resigned.

The outcome for the second councillor was no further action as remedial action had been taken to resolve the complaint. The panel noted that if the councillor had not undertaken the action they said had or would occur, the complainant would be able to submit another complaint.

The monitoring officer's view was that it was always better when a councillor remedied the situation.

The panel used the example of a councillor physically assaulting a person, then resign and soon after, being re-elected. The monitoring officer confirmed that the resignation would not prevent the complaint continuing to be investigated in such a circumstance. .

Appendix 3

The outline of the complaint was about the general behaviour of the council where there had been a fairly lengthy history between the council and the complainant. The complaint was detailed and lengthy but it had been challenging to find any complaint against an individual councillor. The complaint had been rejected because it was related to the behaviour of a council and not a councillor and therefore outside of the scope for the arrangements for dealing with code of conduct complaints.

It was noted that the complainant had concurrently raised a complaint with the council concerned. It was also noted that parish councils were not required to have a complaints process but that it would be advisable for them to have one in place. The nominated HALC representative confirmed that there were facilities within the Herefordshire Association of Local Councils (HALC) to provide assistance to parish councils with regard to complaints.

Appendix 4

The broad outline of the complaint was that an allegation had been made that a councillor had conferred or secured an advantage. The facts of the cases were clear and there was no evidence to support the allegation.

The panel commented that the investigation had been excellent.

Appendix 5

The broad outline of the complaint was the complainant had taken exception to some comments made against a councillor of a previous administration of the council but had not provided sufficient information or evidence.

The panel were satisfied with the way the complaint had been dealt with.

Appendix 6

The broad outline of the complaint was that the complainant had named individual members in their complaint but the substance was about council procedures.

There were further allegations about:

- a failure to declare but the councillor concerned had been appointed to the organisation by the council concerned and there was no requirement to declare; and
- the eligibility to be a councillor. It was noted that would be an issue for the electoral services.

The panel were satisfied with the way the complaint had been dealt with but it was a good example of where complaints could be considered by another body.

Appendix 7

The complaint was about council procedures rather than an individual.

The panel agreed with the process.

Appendix 8

The broad outline of the complaint was an allegation in connection with discriminatory language: against one councillor for the language used; and against the chair of the council in failing to act. Due to the exceptional personal circumstances of one of the councillors, this complaint had been resolved under other course of action with the agreement of the complainant. The outcome had been a formal public apology at a council meeting and that the council would undergo training. The wording of the public apology had been agreed with the complainant.

It was noted that this was an issue of race relations and it could have been resulted in a referral to the police as it could have been a criminal offence. It was confirmed that it was a serious allegation and that it was a judgement call as to whether to refer the matter to the police; the advice of the council's equality team may be sought in such circumstances, as well as the views of the complainant. The test which the monitoring officer was using was the civil test of the balance of probabilities and there are often complaints which are one person's word against another. The monitoring officer will on occasion contact the ward member or the clerk if it is one person's word against another.

Appendix 9

The complaint was against a council rather than a councillor.

The panel were satisfied in the way this complaint had been dealt with.

Appendix 10

The broad outline of this case was that a councillor had failed to do something requested by the complainant. When the councillor's comments had been received, it had been obvious that the councillor had taken steps to remedy the matter. It was noted that the matter had been raised in 2017 but the complaint was received in 2019.

The monitoring officer confirmed that the length of time was considered but on this occasion had determined that it was a continuing matter.

Appendix 11

The broad outline of this complaint was about the processes of a council and the way were conducting themselves. It was confirmed that HALC could advise but it would be a decision for the council.

There was a requirement for council to have an audit. The process was that there would be an internal auditor and their report goes to an external auditor for consideration. . A parish council with a small precept would apply for an exception.

The panel suggested that the template letter for rejecting complaints where council procedures are being complained about, be amended to say that details of the auditor can be obtained from the parish clerk.

Appendix 12

The broad outline of the complaint was in relation to planning application. The monitoring officer confirmed that land registry maps are contained to check the location of properties in establishing schedule 1 interests.

The panel agreed with the process.

RESOLVED

That

The Panel was satisfied that the sample of complaints considered had each been handled appropriately: in a timely manner, consistently and with appropriate outcomes.

The Panel's advice to the committee was:

- 1. That the guidance for making code of conduct complaints stress the need for the complainant to co-operate in providing requested information in a timely manner.**
- 2. That guidance provided on the website, explaining the remit of the arrangements for code of conduct complaints, also includes signposting complainants to other relevant organisations for matters which the council is unable to consider because they are outside the scope of the code of conduct.**
- 3. Such guidance should include, in particular, how to contact the internal or external auditor.**
- 4. That the panel meet twice a year, to review a six-month sample of code of conduct complaints , and reports to the audit and governance committee on an annual basis**
- 5. That the sampling report includes information on the extent of compliance with recommendations made in each case reviewed.**
- 6. That the process and criteria for undertaking the sample review be replicated at the next meeting.**