

# Agenda

## Standards Panel

Date: **Tuesday 10 September 2019**

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Time: **2.30 pm**

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Place: **Committee Room 1, Shire Hall**

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Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

**Caroline Marshall, democratic services officer**

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If you would like help to understand this document, or would like it in another format, please call Caroline Marshall, democratic services officer on 01432 260249 or e-mail [caroline.marshall3@herefordshire.gov.uk](mailto:caroline.marshall3@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of the Standards Panel**

## **Membership**

**Chairperson**            **Jake Bharier (Independent Person)**

**Councillor Christy Bolderson**  
**Councillor Peter Jinman**  
**Councillor Nigel Shaw**

**Members of Audit and Governance  
Committee**

**Councillor Mike Wilson**

**HALC representative  
(Bartestree with Lugwardine Group Parish  
Council)**

## Agenda

### Pages

**1. APOLOGIES**

To receive apologies for absence.

**2. NAMED SUBSTITUTES (IF ANY)**

To receive any details of panel members nominated to attend the meeting in place of a member of the panel.

**3. DECLARATIONS OF INTEREST**

To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.

**4. EXCLUSION OF PRESS AND PUBLIC**

In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.

**RECOMMENDATION:** that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**2 Information which is likely to reveal the identity of an individual.**

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

7 - 34

To review a sample of monitoring officer resolution decisions between 1 October 2018 and 30 April 2019.



## **The public's rights to information and attendance at meetings**

### **You have a right to: -**

- Attend all council, cabinet, committee and sub-committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the council and all committees and sub-committees and written statements of decisions taken by the cabinet or individual cabinet members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all councillors with details of the membership of cabinet and of all committees and sub-committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the council, cabinet, committees and sub-committees.
- Have access to a list specifying those powers on which the council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the council, cabinet, committees and sub-committees and to inspect and copy documents.

### **Public transport links**

The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

## **Recording of this meeting**

Please note that the council will be making an official audio recording of this public meeting. These recordings form part of the public record of the meeting and are made available for members of the public via the council's website.

To ensure that recording quality is maintained, could members and any attending members of the public speak as clearly as possible and keep background noise to a minimum while recording is in operation.

Please also note that other attendees are permitted to film, photograph and record our public meetings provided that it does not disrupt the business of the meeting.

If you do not wish to be filmed or photographed, please identify yourself so that anyone who intends to record the meeting can be made aware.

Please ensure that your mobile phones and other devices are turned to silent during the meeting.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

## **Fire and emergency evacuation procedure**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit and make your way to the Fire Assembly Point in the Shire Hall car park.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.



<b>Meeting:</b>	<b>Standards Panel</b>
<b>Meeting date:</b>	<b>10 September 2019</b>
<b>Title of report:</b>	<b>Sampling of monitoring officer resolution decisions between 1 October 2018 and 30 April 2019</b>
<b>Report by:</b>	<b>Monitoring officer</b>

## Classification

Open – Report

Appendices 1 to 12 are exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended

1 Information related to any individual

and the public interest in maintaining this exemption whilst the matter is being determined by the panel outweighs the public interest in disclosing the information.

## Key Decision

This is not an executive decision.

## Wards Affected

All Wards

## Purpose and summary

To review a sample of monitoring officer resolution decisions between 1 October 2018 and 30 April 2019.

## Recommendation

THAT

- (a) **The standards panel provide comments on the level of assurance obtained from sampling, to be reported in the annual code of conduct complaints report by the monitoring officer**

## Alternative Options

1. There are no alternative options as it is requirement of the Herefordshire Council constitution that the Standards Panel undertake an annual sample of decisions taken under monitoring officer resolution.

## Key Considerations

2. In accordance with the Localism Act 2011 (“The Act”) this council must have procedures in place to deal with complaints about member conduct. It is entirely for the council to decide the details of those procedures, but they must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that they have decided to investigate.
3. The Council’s arrangements since the introduction of the Act involves decision making by the monitoring officer.
4. As part of the amendments to the constitution agreed at Council on 25 May 2018, an annual sample review of decisions made by the monitoring officer under the code of conduct complaints process was approved as a mechanism for maintaining high standards of conduct by members and ensuring that the council’s arrangements are appropriate.
5. At the Standards Panel meeting held on 16 October 2018, the following criteria for identifying a sample of complaint to review approved as follows:
  - a) All complaints which had resulted in dissatisfaction from the subject member or the complainant;
  - b) All complaints handled solely by the monitoring officer without any view from the independent person;
  - c) All complaints which form part of a cluster of complaints which relate either to an individual or an individual parish council;
  - d) All complaints which have been made against members of the cabinet or those acting in support to the cabinet;
  - e) All complaints that have been rejected as out of the scope of the complaints procedure; and
  - f) A random sample of complaints from each of the following categories:
    - I. Rejected under the initial assessment process – with the views of the independent person sought
    - II. Rejected under the initial assessment process – without the views of the independent person sought
    - III. Monitoring officer resolution with a breach of the code of conduct
    - IV. Monitoring officer resolution without a breach of the conduct
    - V. Discontinued with no finding as the subject member has resigned and it is not in the public interest to continue with the complaint.
6. During the period, 1 October 2018 to 30 April 2019, there were 15 complaints received which were against 19 councillors. The period 1 May 2018 to 30 September 2018 was reviewed by the Standards Panel on 13 November 2019. One complaint was withdrawn by the complainant and therefore does not form part of this review: Against the agreed criteria therefor the following complaints are due for review:

- a) Dissatisfaction from the subject member or complainant: 1
  - b) Complaints handled solely by the monitoring officer: 0
  - c) Cluster of complaints which relate either to an individual or an individual parish: 1 which relates to a parish council
  - d) Complaints against members of the cabinet or those acting in support to the cabinet: 0
  - e) All rejected complaints: 10
7. Random sample of complaints with a monitoring officer resolution of breach or not breach of the code: 2
8. It should be noted that there are some complaints which fall into more than one criteria.
9. Appendix one in the pack lists the complaints and appendices 2 to 12 contains the details of each of the complaints namely the original complaint, the subject members' comments and the decision letter or notice.
10. The panel will have to consider how to undertake their review in assessing the appropriateness of the decision making process, points to consider may include:
- a) The timeliness of the decision making
  - b) The consistency of the decisions
  - c) The sanctions which were recommended.

## **Community Impact**

11. Having an effective process for dealing with code of conduct complaints upholds principle A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities and that appropriate action is being taken to ensure that the code is being upheld. By undertaking an annual sample of complaints determined under monitoring officer resolution should provide assurance that all code of conduct complaints are being dealt with in a consistent manner.

## **Equality duty**

11. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

12. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. By doing this sampling we can pick up on and eliminate discrimination, harassment and victimisation if complainants are making false accusations which go against the act

## **Resource implications**

13. There are no resource implications arising as a result of this report.

## **Legal Implications**

14. There are no legal implications arising as a result of this report.

## **Risk Management**

16. There are no risks arising directly from the report which is for information. The process undertaken by the standards panel mitigates any risks in the process and maintaining high standards of conduct mitigates risks to the reputation of the council.

## **Consultees**

17. None.

## **Appendices**

- Appendix 1 List of all complaints to be sampled  
Appendices 2 to 12 Sample complaints

## **Background Papers**

None

Document is Restricted



## **Appendix 2**

### Summary

The complainant complained against two members of a council alleging that their support for a website was in breach of the code of conduct.

### Monitoring officer role

The monitoring officer contacted both councillors for their comments on the complaint and sought the views of the independent persons.

### Councillor 1

Councillor 1 confirmed that they had resigned from the council and would not be providing comments on the complaint

### Councillor 2

Councillor 2 indicated that they would be taking action to resolve the issue.

### Outcome

The monitoring officer resolution was that the complaint be rejected as follow:

### Councillor 1

The councillor had resigned and there was no overriding public interest in continuing to investigate the complaint

### Councillor 2

The councillor had made reasonable endeavours to remedy the situation and in accordance with (f) under the initial assessment stage, the complaint was rejected.



## **Appendix 3**

### Summary

The complainant complained that the actions of the parish council in relation to a piece of land and in particular two councillors were in the breach of the code of conduct. This was a long running issue and the complainant had also complained to the council.

### Monitoring officer actions

The monitoring officer reviewed the complaint and the extensive background papers which the complainant provided. As the complaint was about the internal operation of a parish council, the monitoring officer had no jurisdiction to look further into the complaint. The views of the independent person were sought.

### Outcome

The complaint was rejected as it was outside the jurisdiction of the role of the monitoring officer.



## **Appendix 4**

### Summary

The complainant complained that a councillor had used their position to improperly confer or secure for themselves an advantage by having work diverted from council business to their personal property.

### Monitoring officer actions

The monitoring officer reviewed the complaint which was an historical allegation. As the allegation was serious and potentially a criminal offence, the councillor was contacted for their comments.

### Councillor response

The councillor provided evidence that they had paid for the work which had been done on their land.

The independent person's views were sought.

### Outcome

The complaint was determined as no breach of the code of conduct.



## **Appendix 5**

### Summary

The complainant complained that a councillor had repeatedly referred to former councillors in such a way as to bring the council into disrepute .

### Monitoring officer actions

The monitoring officer reviewed the complaint which contained serious allegations but there was no supporting evidence provided. The independent person's views were sought.

### Outcome

The complaint was rejected as insufficient evidence had been provided in order to determine the complaint.



## Appendix 6

### Summary

The complainant that:

1. A committee of the council had failed in the management of an item.
2. A councillor had failed to declare an interest
3. A councillor was no longer eligible to be a councillor

### Monitoring officer actions

The monitoring officer reviewed the detailed complaint which covered a number of different allegations. The views of the independent person were sought.

### Outcome

The complaint was rejected as follows:

- How a committee of a council operates is outside the jurisdiction of the monitoring officer because it relates to the internal workings of a parish council
- The failure to declare was in relation to an appointment which the council had made and was therefore considered to an outside body and the councillor did not need to declare the interest
- The eligibility in relation to being a councillor was outside the jurisdiction of a councillor.



## **Appendix 7**

### Summary

The complainant complained that the procedure used at a planning committee was incorrect.

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### Monitoring officer actions

The monitoring officer reviewed the complaint and sought the views of the clerk as to whether the procedure had been correctly applied. The views of the independent person were sought.

### Outcome

The complaint was rejected as it was about procedural matters and therefore outside the jurisdiction of the monitoring officer.



## **Appendix 8**

### Summary

The complainant complained that councillor 1 had made discriminatory comments in a council meeting and that councillor 2 had failed to control the meeting.

The complainant also supplied supporting statements.

### Monitoring officer actions

The monitoring officer reviewed the complaint which were of a serious nature. The councillors were contacted for their views.

### Councillor 1

Councillor 1 outlined their personal circumstances and indicated that they would not in a position to provide their comments.

### Councillor 2

Councillor 2 provided their comments on the complaint.

Given the exceptional personal circumstances of councillor 1, the complainant was contacted to see if they would be willing to resolve this complaint under Other Course of Action. The complainant agreed and contact was maintained. The complainant agreed the wording of a public statement and the requirement for the council to be trained.

The views of the independent person were sought.

### Outcome

The complaint was resolved under Other Course of Action and the recommendations of a public statement and training were complied with by the council.



## **Appendix 9**

### Summary

The complainant complained that a council had not treated a planning application fairly.

### Monitoring officer actions

The monitoring officer reviewed the complaint and as it was in relation to the internal operation of a parish council had no jurisdiction to investigate. The independent person 's views were sought.

### Outcome

The complaint was rejected as it was about the internal working of a parish council and therefore outside the jurisdiction of the monitoring officer.



## **Appendix 10**

### Summary

The complainant complained that a councillor had failed to deal with correspondence and the matter was still unresolved.

### Monitoring officer actions

The monitoring officer reviewed the complaint and as it was about a failure to deal with correspondence in a timely fashion contacted the councillor.

The councillor provided evidence that they had endeavoured to resolve the matter but that there were issues not in the control of the council.

### Outcome

The councillor had made reasonable endeavours to remedy the situation and in accordance with (f) under the initial assessment stage, the complaint was rejected.



## **Appendix 11**

### Summary

The complainant complained that a council had not produced accounts

### Monitoring officer actions

The monitoring officer reviewed the complaint and as it was in relation to the internal operation of a parish council had no jurisdiction to investigate. The independent person 's views were sought.

### Outcome

The complaint was rejected as it was about the internal working of a parish council and therefore outside the jurisdiction of the monitoring officer.



## **Appendix 12**

### **Summary**

The complainant complained that a councillor had failed to declare an interest whilst discussing a planning application at a meeting. .

### **Monitoring officer actions**

The monitoring officer reviewed the complaint and as it was in connection with an allegation of a failure to declare Schedule 1 interest contacted the councillor for their comments.

The councillor provided information that they did not have an interest to declare.

The monitoring obtained maps of the planning application and the councillor's land in order to ascertain if a Schedule 1 interest should have been declared.

The independent person's views were sought.

### **Outcome**

The complaint was determined as no breach of the code as the councillor had declared the ownership of the land, it was separated by two other pieces of land from the planning application and the councillor did not live on the land in question. As such the councillor had no direct interest in the planning application.

