

Agenda

Standards Panel

Date: **Friday 11 March 2022**

Time: **10.00 am**

Place: **Conference Suite, County Offices, Plough Lane,
Hereford, HR4 0LE**

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

For any further information please contact:

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If you would like help to understand this document, or would like it in another format, please call James Vickery, democratic services officer on 01432 260835 or e-mail James.Vickery@herefordshire.gov.uk in advance of the meeting.

Agenda for the meeting of the Standards Panel

Membership

Chairperson

Jake Bharier (Independent person for standards)

Councillor Peter Jinman

Councillor Christy Bolderson

Councillor Jenny Bartlett

**Councillor Richard Gething (Herefordshire Association of Local Councils
nominated representative)**

Agenda

Pages

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. NAMED SUBSTITUTES

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.

Whether the meeting will be held in private will be considered by the panel as the first item for consideration at the meeting.

5. APPEAL OF A MONITORING OFFICER RESOLUTION BY A SUBJECT MEMBER

To consider an appeal by a subject member.

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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.

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



Meeting:	Standards Panel
Meeting date:	11 March 2022
Title of report:	Appeal of a monitoring officer resolution by a subject member
Report by:	Democratic services officer

Classification

Open – Report and appendix 5

Appendices 1 to 4 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.

Whether the meeting will be held in private will be considered by the panel as the first item for consideration at the meeting.

Key Decision

This is not an executive decision.

Wards Affected

All Wards

Purpose

To consider an appeal by a subject member.

Recommendation

THAT the panel determine this appeal.

Options

1. There are two options open to the panel:
 - a) Confirm the monitoring officer's decision; or
 - b) Substitute the monitoring officer's decision for their own decision.

Key Considerations

2. The standards panel is determining an appeal against a monitoring officer resolution by a subject member against a finding of a breach of the code of conduct
3. The original complaint is attached at appendix 1.
4. The initial assessment of the complaint is attached at appendix 2.
5. The original monitoring officer resolution decision notice is attached at appendix 3
6. The appeal is attached at appendix 4.
7. This appeal was accepted because there was procedural unfairness due to the length of time it took to conclude the complaint. It is regrettable that this complaint took over 55 working days which is the normal timescales. This was due to other high priority work and all staff involved in the standards arrangements were undertaking other duties. We did not suspend the arrangements or advise complainants of the fact that delays would be experienced during this period and we apologise for this oversight.
8. This appeal is a review of the decision taken by the deputy monitoring officer on 27 April 2021 who found a breach of the code.
9. The procedure to be followed at this meeting is set out in appendix 5.
10. The deputy monitoring officer who looked at this complaint will be present at the meeting to answer queries which the panel members may have in connection with the matter.
11. The independent person whose views were taken into account when making the monitoring officer resolution has also been invited to the meeting to answer queries which panel members may have.
12. The monitoring officer will be the legal adviser to the standards panel, having had no prior involvement in the determination of this complaint.
13. The subject member has the right to attend the panel to present their views or submit in writing their comments.
14. It is for the panel members to determine whether or not there has been a breach of the code of conduct in relation to the complaint.
15. If the panel find that a subject member is in breach of the code of conduct, it may:
 - Publish its findings in respect of the member's conduct;
 - Report its findings to council (or to the town/parish council) for information;
 - Recommend to council that the member be censured;
 - Recommend to the member's group leader (or in the case of un-grouped members, recommend to council) that he/she be removed from any or all committees or sub-committees of the council;
 - Recommend to the leader of the council that the member be removed from the cabinet, or removed from their portfolio responsibilities;
 - Recommend that the subject member be replace as executive leader;

- Instruct the monitoring officer to (or recommend that the town/parish council) arrange training for the member;
 - Recommend to council (or recommend to the town/parish council) that the member should not be appointed and/or be removed from all outside body appointments to which they have been appointed or nominated by the council (or by the town/parish council);
 - Withdraw (or recommend to the town/parish council that it withdraws) facilities provided to the member by the council, such as a computer, website and / or email and internet access;
 - Exclude (or recommend that the town/parish council exclude) the member from the council's offices or other premises, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings.
 - Require an apology in terms suitable to the standards panel.
16. The above list is not exhaustive. However, it should be noted that the panel does not have the power to suspend a councillor or to withdraw any allowances which a subject member may be in receipt of.
17. If there is a finding of a breach of the code of conduct, the decision will be published as a decision of the standards panel.

Community Impact

18. 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.

Equality duty

15. 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.
16. 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.
17. The appeal process will comply with Equality legislation and will ensure where necessary that the process is accessible and where necessary reasonable adjustment will be provided to support those that share a protected characteristic to participate fully in the process. .
18. Although Article 6 ECHR "right to a fair trial" does not apply to this type of hearing due to the sanctions that can be applied. The common law right to be heard by an

unbiased tribunal, have notice of the misconduct and be heard in answer to the charges apply. The appeal process is capable of achieving justice and fairness.

Resource implications

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

Legal Implications

19 The appeal process forms part of this council's arrangements for making decisions on allegations in accordance with section 27 (6) (9b) of the Localism Act 2011.

Risk Management

20. There are no risks arising directly from the report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the council.

Consultees

21. None.

Appendices

Appendix 1 – Original complaint

Appendix 2 – Initial assessment

Appendix 3 – Original monitoring officer's resolution decision notice

Appendix 4 – Appeal

Appendix 5 – Further comments from the subject member

Background Papers

None

Document is Restricted

Document is Restricted

Document is Restricted

Document is Restricted

Standards Panel

Procedure for hearing an appeal

On the day of the standards panel, the following will occur:

- 1 A chairperson of the panel will be elected (if an independent person is not available to chair the meeting).
- 2 Any declarations of interest will be made
- 3 A decision will be taken by the panel as to whether or not there will be a formal resolution to exclude the press and public on the grounds that an individual may be identified and the public interest.
- 4 Introductions of all parties will be made.
- 5 The complainant and the subject member (or their supporters) will be invited to present their views on the appeal (*to a maximum time of 20 minutes each*). If a supporter speaks on behalf of either the complainant or subject member, then they shall be the only speaker.
- 6 The person appealing a decision shall speak first
- 7 The panel members may ask questions of the complainant and subject member. There will be no cross examination by either the complainant or subject member.
- 8 The monitoring officer or deputy monitoring officer (whoever carried out the complaints process) will be available to answer any questions the panel members may have.
- 9 The independent person who had been consulted on the complaint will also be available to answer any questions the panel members may have.
- 10 The complainant and subject member will be invited to make a closing statement.
- 11 With the exception of the panel, the clerk and the advisor all other attendees will be required to leave the room so that the panel can discuss and arrive at a decision.
- 12 The subject member and complainant will be invited back into the meeting room where the outcome of the panel's discussion will be verbally delivered.
- 13 Where there is a finding of a breach of the code of conduct, the meeting will then be opened back up to the press and public and the outcome repeated.
- 14 A decision notice will sent to both the complainant and subject member within 10 working days of the meeting.
- 15 Where there is a finding of a breach of the code of conduct, details will appear in the decisions of the standards panel page of the council's website within 14 working days.
- 16 Where the panel's decision is to upholding the monitoring officer resolution decision, a copy of the MO decision will be appended to the standards panel decision notice.
- 17 The decision is final and there are no further rights of appeal.
- 18 If a complainant who is a member of the public remains dissatisfied about the process which has been followed, they may complain to the Local Government and Social Care Ombudsman.

