

Minutes of the meeting of Standards Panel held at Conference Room 1, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Friday 14 July 2023 at 2.00 pm

Present: Independent Person: Claire Jenkins (Chair)
Councillors: Peter Hamblin, Robert Highfield, and David Hitchiner (Chair of the Audit and Governance committee)
Parish Council Representative: Patrick John Sullivan (HALC)

In attendance:
Officers: Head of Legal Services and Deputy Monitoring Officer: Sean O'Connor
Senior Governance Lawyer: Deborah Upton
Democratic Services Officer(s): Henry Merricks-Murgatroyd; Ben Baugh

6. APOLOGIES FOR ABSENCE

The Chair welcomed everyone to the meeting.

There were no apologies received.

7. NAMED SUBSTITUTES

There were no substitutes.

8. DECLARATIONS OF INTEREST

Councillor David Hitchiner (Chair of Audit and Governance committee) advised members that he knew some of the councillors involved in the complaints being reviewed by the panel.

9. EXCLUSION OF PRESS AND PUBLIC

The Chair asked members if a vote could be taken on whether to hold item 5 of the agenda in public as long as all members are careful to protect the anonymity of subject members involved in complaints.

Sean O'Connor (Deputy Monitoring Officer) advised members that by having the session in public, this could prohibit meaningful conversation as it could prevent members discussing part of the complaints.

A vote was held and members decided to pass the resolution to move into Part 2 to enable members to discuss matters which might otherwise be a breach of confidentiality or data protection.

10. REVIEW OF CODE OF CONDUCT COMPLAINTS

The Chair noted that there had been a lot of changes in the last year. The principal points included:

1. A Senior Governance Lawyer had been appointed towards the end of the sample period. New procedures for handling code of conduct complaints in line with the LGA model procedures have been introduced, as agreed by the. There has been a lot of turnover at all levels and at times, there have been a number of different people from different teams involved in code of conduct related work.
2. The complaints included in the sample being reviewed by this Standards Panel are complaints that were resolved during 1 May 2022 – 30 April 2023. Some complaints within that period are still to be resolved.
3. Therefore, since the point of the last review of complaints received during 1 May 2021 – 30 April 2022, there were still 9 complaints unresolved and these complaints are not within this meeting's sample for review/comment.

Councillor Robert Highfield asked if the panel is required to review cases that are still open.

The Chair responded that the standard rule is to specifically look at the monitoring officer's decisions of complaints that are resolved.

The Deputy Monitoring Officer added that the constitution states that the panel is to look at complaints which have been resolved in order to spot check and comment on the decisions which have been made. This provides members an opportunity to review the decision-making process that governs code of conduct complaints.

The Chair asked members therefore that if they wish to make any recommendations that could be forwarded to the Audit and Governance committee.

Deborah Upton (Senior Governance Lawyer) said that while most of the complaints within the sample were handled internally, some were handled by Cornwall Council. The Senior Governance Lawyer explained the process which was now used for dealing with complaints to members of the standards panel.

She added that there have been a number of changes with receiving complaints which used to come in via PDF format and were usually sent to the Corporate Complaints team, adding to delays. An e-form has now been created and the complaint goes directly to the code of conduct email inbox, which provides better service for customers.

The Chair proceeded to go through the complaints as listed in the sample.

Members heard that recommendations to parish councils were often wider than training in an effort to ensure that the issue which led to the complaint in the first place is resolved, in an effort to avoid repeat complaints.

As part of the process, Independent Persons can act as a sounding board for a subject member who request support from an Independent Person.

From a recruitment perspective going forward, there will be three members of staff involved in dealing with complaints for the future including the Deputy Monitoring Officer, a Governance Lawyer, and a Paralegal post. Therefore more resources are being put in to help deal with the timeliness of complaint cases, bearing in mind the number of complaints received.

Councillor Highfield commented that there is concern about delays by the Council in dealing with the public in a timely manner and that this is just one aspect of it.

The Chair made the point that there are target times as part of the procedure.

However the Senior Governance Lawyer added that she was surprised with the complexity of some of the smaller complaints where, for example, interviewing complainants can involve further communication with several other people linked to a complaint case. Therefore, it can be difficult to get other parties to stick to timelines and often those involved in the case have asked for additional time to respond. However, Independent Persons are extremely good at providing quick responses and supporting a swift process.

The Chair stated that there are two stages in the way in which complaints are dealt with under the new system. The first is there is an option for informal resolution; and second, if an informal resolution cannot be found between parties, then it goes onto investigation.

The Senior Governance Lawyer said that when complaints go to investigation, they can become more complicated and take longer. The procedure says that an informal resolution, at an early stage, does not make a finding of whether a councillor has/has not breached the code of conduct. The complainant and the subject member are given the Monitoring Officers views on what might remedy the complaint e.g. an apology, and then given an opportunity to comment on this. However informal resolution is only successful if both parties can see the need for it.

Councillor Highfield asked who classifies a complaint as a code of conduct complaint.

The Chair answered that it is the monitoring officer aided by Independent Persons and other senior officers including the senior governance lawyer.

The Senior Governance Lawyer added that where complaints are not a matter for the monitoring officer, complainants are signposted where to go. Quite often, people think that Herefordshire Council has jurisdiction over parish councils on things other than standards which they do not and therefore, those individuals must take up these matters with the parish council.

The Chair asked that if the parish council is signed up with HALC can they help in such cases.

Councillor Hitchiner commented that HALC provides this as a separate arrangement and with regard to the county council it does not have jurisdiction over parish councils and is therefore very limited in what it can do in these cases.

The Chair asked if the complainant would be able to see the IAT under the current system.

The Senior Governance Lawyer responded that the complainant is not able to see the IAT. Instead, they see the draft report and the final report but not the IAT because they only see the outcome whether the complaint is accepted or rejected, with an explanation given for the latter outcome. Under the current system, if the complaint was a matter within another regulator's jurisdiction then they would be signposted. The complainant is not signposted to HALC as that would be inappropriate as it is not their role to handle this type of issue and instead their role is to support parish councils who pay it to provide support.

The Chair asked for confirmation that signposting would now happen under current practice.

The Senior Governance Lawyer responded that if she had handled this complaint, she would have provided more information in order to tell the complainant why there was no breach and if there was anywhere else they could go.

The Deputy Monitoring Officer added that neutral advice is given to the complainant to signpost the complainant where to go. For example, if the complaint is a matter for the police, the complainant would be sign-posted to go to the police. In this complaint case, the complainant should have been directed to go back to the parish council to raise their concerns with them.

Patrick John Sullivan (HALC) asked who, from a parish council, would be informed about a complaint against one of their councillors.

The Senior Governance Lawyer confirmed that a parish council clerk would be notified when a complaint has been received about a parish councillor. The clerk, under parish council standing orders, has to tell the council under part 2 restrictions in order to inform members that a complaint has been received against a councillor. However, this only happens when a complaint has been accepted, not when it is rejected. If it showed that there was a repeated problem for the parish council, the monitoring officer could choose to write to the parish council and recommend any solutions. There is no jurisdiction, however, to do anything. The only requirement is to inform the parish council that a complaint against a councillor has been accepted.

The Senior Governance Lawyer further noted that in a complaint where it was thought that an apology was an appropriate resolution, the complainant would be contacted and an apology would be recommended as a solution. The complainant would be asked if they found this acceptable. If they say no, the monitoring officer may still find that this is an appropriate solution and still ask the subject member for an apology.

Resolved that:

The following recommendations were made to the Audit and Governance committee meeting to be held on 31st July 2023; some of which have been implemented during the review year. That:

- a) Full reasons for decisions continue to be given.**
- b) Signposting to alternatives where a matter did not fall within the member's code of conduct and tracking of complaints by functional area where possible (such as planning, licensing etc).**

The meeting ended at 3.58 pm

Chairperson