

Meeting:	Standards Panel
Meeting date:	16 October 2018
Title of report:	How to undertake an annual sample review of decisions made by the monitoring officer under the code of conduct complaint process
Report by:	Monitoring officer

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

All Wards

Purpose and summary

To agree a process for the annual sampling of code of conduct complaints by the Standards Panel.

Recommendation

THAT

a process by which the annual sampling of code of conduct complaints be undertaken is agreed

Alternative Options

1. Not to agree a process by which to sample code of conduct complaints. This is not recommended as under the Herefordshire Council Constitution, one of the panel's functions is to undertake an annual sample review and there needs to be an agreed methodology for doing so.

Key Considerations

2. As part of the amendments to the constitution agreed at Council on 25 May 2018, an annual sampling of code of conduct complaints was approved.
3. At the audit and governance committee meeting on 30 July 2018, it was requested that the sampling takes place prior to its meeting in November 2018 so that the views of the panel could be taken into account as part of the annual report on the code of conduct.

4. As this is the first time that sampling of the complaints will take place, it is for the panel to decide how this is undertaken.
5. For the period 30 April 2017 to 30 September 2018, there were 64 complaints received by the monitoring officer.
6. The decisions made under the code of conduct complaints process fall broadly into the following categories affecting parish and ward councillors:
 - Rejected under the initial assessment process – with the views of the independent person sought
 - Rejected under the initial assessment process – without the views of the independent person sought
 - Monitoring officer resolution with a breach of the code of conduct
 - Monitoring officer resolution without a breach of the conduct
 - Discontinued with no finding as the subject member has resigned and it is not in the public interest to continue with the complaint.
7. Possible options are:
 - that a maximum number of complaints are sampled representing an agreed percentage. The sampling could be randomised, with the panel selecting from a list of reference numbers, or partially randomised by providing the panel with lists of reference numbers to select from different categories such as Herefordshire Councillors; parish councillors; complaints upheld; complaints dismissed as categorised above.
 - A decision or a number of decisions from each of the categories above are sampled.
8. As part of the annual governance statement report to the audit and governance committee on 30 July 2018, the independent person expressed concern that two complaints against Herefordshire councillors had been rejected without his views being taken into account. The independent person has suggested that these two complaints are reviewed by the standards panel.
9. A member of the audit and governance committee who is not part of this standards panel has also made suggestions as to how the sampling should proceed which is attached at appendix 1

Community Impact

10. 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

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.
13. The panel 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.

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.
Maintaining high standards of conduct mitigates risks to the reputation of the council.

Consultees

17. None.

Appendices

Appendix 1 – Sampling process suggested by a member of the audit and governance committee

Background Papers

None