

<b>Meeting:</b>	<b>Standards Panel</b>
<b>Meeting date:</b>	<b>13 November 2018</b>
<b>Title of report:</b>	<b>Sampling of monitoring officer resolution decisions between 1 April 2017 and 30 September 2018</b>
<b>Report by:</b>	<b>Monitoring officer</b>

## **Classification**

Open – Report

Appendices 1 to 38 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 30 April 2017 and 30 September 2018.

## **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 audit and governance committee meeting on 30 July 2018, it was requested that the review 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.
6. 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.
7. During the period, 30 April 2017 to 30 September 2018, there were 64 complaints received. As at the date of publication, there were 5 complaints still open and as such these have not been included within this sampling process.
8. For each of the categories in paragraph 6 above, the following numbers of complaints have been identified:
  - a) Dissatisfaction from the subject member or complainant: 9
  - b) Complaints handled solely by the monitoring officer: 14

- c) Cluster of complaints which relate either to an individual or an individual parish: 1 which consists of 9 complaints and covers both an individual and a parish council
  - d) Complaints against members of the cabinet or those acting in support to the cabinet: 5
  - e) All rejected complaints: 24
  - f) Random sample of complaints with a monitoring officer resolution of breach or not breach of the code: 8
9. In relation to categories in f, many of these are duplicated (complaints in category (i) and (v) are contained in (e) and (ii) is contained in (b)). The random sample therefore contains only complaints with a monitoring officer resolution of breach or no breach of the code. An excel randomiser selected: 8
  10. It should be noted that there are some complaints which fall into more than one criteria and these have been included within each criteria for transparency. The criteria selects 37 out of the 59 complaints received and closed during the period.
  11. Appendix one in the pack lists the complaints under each of the criteria.
  12. Appendices 2 to 38, contains the details of each of the 37 complaints namely the original complaint, the subject members' comments and the decision letter or notice.
  13. 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**

14. 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.  
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 38 Sample complaints

## **Background Papers**

None