

Meeting:	Standards Panel
Meeting date:	Thursday 20 August 2020
Title of report:	Sampling of monitoring officer resolution decisions between 1 November to 30 April 2020
Report by:	Monitoring officer

Classification

Open – Report

Appendices 1 to 15 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 November 2019 and 30 April 2020.

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 held on 10 September 2019, it was agreed that that the sampling would take place at six monthly intervals with an annual report to audit and governance committee in September each year.
6. Usually a criteria for identifying a sample of complaints to review includes:
 - 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. However during the period, 1 November 2019 to 30 April 2020 there were 11 complaints received. Of these:
 - a) 4 complaints were determined under monitoring officer resolution;
 - b) 5 complaints remain open; and

- c) 2 complaints were withdrawn.
- 8. Nine complaints which were open at the time of the standards panel review on 18 December 2019 have been included for consideration.
- 9. During the year 2019/20, there were a total of 36 complaints received, of which the standards panel will have reviewed 28 of them.
- 10. Three appeals were received in respect of complaints being reviewed. None of these appeals were allowed in line with the appeals process as no new substantial information / evidence was provided.
- 11. At the meeting held on 18 December, the panel requested that a column showing the number of days opened be included in appendix 1. This column has now been added.
- 12. As part of the review process for the 2020/21 complaints, further details will be provided with regard to sub-sections of behaviour alleged and more information in connection with length of time open.
- 13. The recommendations of the standards panel from 18 December 2019 will form part of the annual code of conduct report, together with recommendations from this panel, due to be discussed at the Audit and Governance Committee in September 2020.
- 14. 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

- 15. 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 15 Sample complaints

Background Papers

None