

CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE: 23 July 2014

**REPORT OF THE MONITORING OFFICER AGENDA ITEM:
HEARINGS PANEL'S DETERMINATION OF PUBLIC SERVICES
OMBUDSMAN FOR WALES CASE 201202666**

**Appendix A to this report is Exempt from Publication as it
contains Exempt Information of the description in paragraphs
12, 13, 14 & 18C of Part 4 to Schedule 12A of the Local
Government Act 1972**

Reason for this Report

1. To notify the Committee of the Hearings Panel's determination in respect of the Public Services Ombudsman's Investigation Report (Ombudsman's Case no. 201202666) considered at the last Committee meeting and referred to the Hearings Panel Sub Committee for determination.

Background

2. A complaint has been made to the Public Ombudsman for Wales by a Member alleging that a fellow Member has failed to observe the Members' Code of Conduct. The Ombudsman's Investigation Report was considered at the last meeting of the Committee on the 20 May 2014.
3. In accordance with the legislation governing this matter, on 20 May 2014 the Committee made an initial determination that the person who is the subject of the investigation should be given an opportunity to respond, either orally or in writing.
4. The Committee resolved to appoint a Hearing Panel and delegated authority to that Panel to determine the matter and impose any appropriate sanction available to the Committee in the event that a breach is found. Further, that the Monitoring Officer be instructed to convene and take all necessary steps in anticipation of the hearing, in consultation with the Chair of the Panel.

Issues

5. A Hearings Panel has been duly constituted to consider and determine this matter on behalf of the Committee, in accordance with the relevant legal provisions (Part 3 of the Local Government Act 2000 and the Local

Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended ("the Regulations") and the Committee's approved Procedure for Hearings (adopted on 20/03/12).

6. Under the Regulations (Regulation 9(1)), the Committee is required, after considering any representations made in respect of the allegations, to determine:
 - a. that there is no evidence of any failure to comply with the Members' Code of Conduct and therefore no action needs to be taken in respect of the matters which are the subject of the investigation;
 - b. that a Member has failed to comply with the Members' Code of Conduct but no action needs to be taken in respect of that failure;
 - c. that a Member has failed to comply with the Members' Code of Conduct and should be censured; or
 - d. that a Member has failed to comply with the Members' Code of Conduct and should be suspended or partially suspended from being a Member of the Authority for up to six months.
7. The Hearings Panel's determination is set out at **Appendix A (Exempt Information)**.
8. Following the Hearings Panel's determination, there is a statutory procedure to be followed for notification and publication of the outcome of the case, as set out in the Regulations, the key provisions of which are:
 - i. Notice of the Hearings Panel's determination must be sent to the Ombudsman and to the Councillors concerned - Regulation 9(3) – (Notice has been duly given);
 - ii. There is a right of appeal against the determination of the Committee, which must be exercised within 21 days after receiving notification of the decision ("the appeal period") – Regulation 10
 - iii. Once the period for appeal has expired, or any appeal has been concluded, the Committee is required, within 14 days, to produce a report on the outcome of the investigation and to send a copy of that report to the Ombudsman, the Monitoring Officer and any Councillors / other persons concerned – Regulation 13(1)
 - iv. Within 7 days after receiving the Committee's report (referred to in paragraph (iii) above), the Monitoring Officer is required to publish a newspaper advertisement giving public notice that copies of the report will be published on the Council's website and made available for public inspection for a period of 21 days – Regulation 13(2).

Legal Implications

9. The relevant legal provisions are set out in the body of the report.

Financial Implications

10. There are no direct financial implications arising from the content of this report.

Recommendations

The Committee is recommended to:

- (1) Note the determination of the Hearings Panel, as set out in **Appendix A (Exempt Information)**; and
- (2) Authorise the Monitoring Officer, in consultation with the Chair of the Hearings Panel, to prepare on behalf of the Committee a report on the outcome of the investigation, and to make all necessary arrangements in respect of notification and publication of that report, in accordance with the requirements of the Regulations, as set out in paragraph 8 of this report.

MARIE ROSENTHAL
County Clerk and Monitoring Officer
14 July 2014

Appendices

Appendix A (Exempt Information)
Hearings Panel's Determination (Ombudsman's Case Ref. 201202666)

Background papers

Standards and Ethics Committee Report, 'Report by the Public Ombudsman for Wales on an Investigation into Alleged Breaches of the Code of Conduct by a Councillor', 20 May 2014