

CITY & COUNTY OF CARDIFF

DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE:

22 MARCH 2016

REPORT OF THE INTERIM MONITORING OFFICER

HEARINGS PANEL PROCEDURE

AGENDA ITEM : 5

Reason for this Report

1. To allow the Committee to consider proposed amendments to the Hearings Panel Procedure.

Background

2. Under its terms of reference the Standards and Ethics Committee has responsibility to hear and determine any complaints of misconduct by Members or a report of the Monitoring Officer, whether on reference from the Ombudsman or otherwise.

On 2 May 2013 the Committee appointed a Sub-Committee, known as the Hearings Panel, to discharge these functions on its behalf.

3. Complaints may be referred to the Hearings Panel by:-
 - (i) The Ombudsman under Part 3 of the Local Government Act 2000.
 - (ii) The Monitoring Officer under the Local Resolution Protocol adopted by the Council on 23 May 2013 to deal with relatively minor "Member on Member" complaints.
4. The purpose of this Report is to allow the Committee to consider proposed amendments to the Hearings Panel Procedure.

Issues

5. Part 3 of the Local Government Act 2000 allows the National Assembly for Wales to prescribe a Model Code of Conduct for local authority members.
6. The National Assembly made a Model Code under the Local Authorities (Model Code of Conduct) (Wales) Order 2008. This Council has adopted the Assembly's Model Code of Conduct and it is published in the Council's Constitution.

7. The formal mechanism for enforcing the Code of Conduct is set out in Part 3 of the Local Government Act 2000. The Public Services Ombudsman for Wales has jurisdiction to investigate complaints that a local authority member has failed to comply with the Code of Conduct.
8. In 2013 the Ombudsman indicated that the majority of “Member on Member” complaints referred to him were relatively low level behavioural issues, typically during what could often be seen as the cut and thrust of Council debate and local politics.
9. The Ombudsman indicated that such complaints could be more appropriately resolved informally by the adoption of “Local Resolution Protocols”. These are voluntary arrangements that have no statutory force.
10. The City of Cardiff Council adopted a Local Resolution Protocol on 23 May 2013 and every Councillor has signed up to it when they signed the Cardiff Undertaking.
11. The Protocol anticipates that a complaint should first be formally mediated by the Monitoring Officer. If this informal approach does not resolve the complaint the Protocol allows the complaint to be referred to a Sub-Committee of the Standards and Ethics Committee comprised of independent members. This Sub-Committee is referred to as the Hearings Panel.
12. Also in 2013 the Standards and Ethics Committee adopted a Procedure to govern the conduct of hearings by the Hearings Panel. A copy is provided as **Appendix A**.
13. It is now proposed to revise the Procedure and a copy of the proposed revised procedure is provided as **Appendix B**.
14. The main changes proposed are as follows:-
 - (a) The imposition of a time limit of 3 months for referral of a complaint under the Protocol to the Monitoring Officer.
 - (b) Clarity is provided that the officer who attempts to mediate a complaint will not subsequently be the officer who advises the Hearings Panel.
 - (c) There will be one comprehensive hearing to deal with issues of fact, breach of the Code, and sanction rather than 3 mini-hearings as at present.
 - (d) The Panel’s written decision will be published on the Council’s website for a period of 21 days rather than indefinite publication of the full decision as at present. This matches the statutory requirement in respect of complaints which are referred from the Ombudsman. [In any event there is a statutory requirement for the minutes of the Sub-Committee to be published].

Legal Implications

15. The relevant legal implications are set out in the body of this Report.

Financial Implications

16. There are no direct financial implications arising from this Report.

RECOMMENDATION

The Committee is asked to consider and comment upon whether the revised Hearings Panel Procedure set out at **Appendix B** should be adopted.

David Marr
Interim Monitoring Officer
1 March 2016

APPENDICES

Appendix A	Existing Hearings Panel Procedure
Appendix B	Proposed Hearings Panel Procedure