

Report of the Monitoring Officer

Standards Hearing

Summary

1. The Committee recently concluded its first hearing under the new standards arrangements. This report invites Members to consider whether the experience of that case suggests that any improvements can be made to the Committee's procedures.

Background

2. On 28th September last a complaint was received in relation to three Parish Councillors. As with all complaints this was handled in accordance with the Standards published procedures which are available online here:
http://www.york.gov.uk/downloads/file/11346/complaints_procedure
3. Initially the Monitoring Officer consulted with the Independent Person, although due to a conflict of interest, only one of them felt able to participate in advising on this case. The Monitoring Officer considered that advice and also had regard to the Committee's assessment criteria which are published here:
http://www.york.gov.uk/downloads/file/11347/city_of_york_council_joint_standards_committee_assessment_criteria_for_complaints

The Monitoring Officer considered at this stage whether a local settlement might be achievable in respect of part or all of the complaint. A decision was though reached to refer all three matters for investigation. That decision was communicated to the parties in mid October.

4. The former Chair of the Standards Committee was appointed to investigate. She interviewed all the relevant parties except one, who declined to be interviewed. She shared her draft report at the

beginning of January and, having taken on board comments made by the parties, completed her final report before the end of that month. The report concluded that the evidence did not substantiate breaches of the Code by two of the Members involved but that a third had breached the Code. That report was then considered by the Independent Person and Monitoring Officer and the findings of “no breach” were accepted. The parties were advised of this at the beginning of February and were also advised that there would be a hearing in respect of the remaining issue.

5. In the run up to the hearing the Monitoring Officer liaised with the parties and, largely speaking, was able to confirm the factual matters in dispute.
6. As with previous practice notice of the meeting was published but no papers were made public in advance of the Sub Committee determining to do so. However, advice was given the Sub Committee in the following terms:

“Members will need to consider whether to exclude the Press and public from the meeting. As the Committee is dealing with information relating to an individual its proceedings are exempt from the usual access to information provisions so long as, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In taking this decision Members will wish to consider the fact that the complaint relates to events which occurred in a public meeting and the extent to which the facts are agreed. Members will also take into account the public interest in transparent decision making on standards matters. It is, of course, possible for the Sub Committee to exclude the public from part of the meeting such as when any particularly sensitive information is being considered or during the Sub Committee’s deliberations as to whether the Code has been breached and as to sanction.”

7. The hearing took place on 20th March and was conducted following procedures which essentially mirror those used under the previous regime. A copy of the procedures is annexed to this report. Unsolicited feedback from the complainants suggests that they were happy with the way the hearing was conducted.

Issues for Members' consideration

8. Members will no doubt wish to see whether anything can be learned from this first case to reach a hearing under the new standards regime which might improve the handling of future cases. Some particular issues (and there may well be others) which Members may wish to consider are:
 - Timescales for investigations
 - Publicity for Hearings
 - The hearing procedure
9. This case was not unusually complex and took just under six months from complaint to conclusion. That is very much in line with the timescales being reported nationally under the previous regime. The last case handled in York took closer to eight months. The question is whether this is an acceptable timescale. If not, how could it be reduced?
10. There is a case to be made that a Member, who has not yet had a complaint proven against him or her, should not face adverse publicity. However, the clear public interest in the transparency of decision making on these matters will, in most cases outweigh the Member's individual interest. Members of the Committee may wish to discuss the future approach to publishing reports in relation to hearings.
11. The hearing procedure appears quite complex although, in practice, it is not as daunting as it first appears. It does follow a rather adversarial model and could set up a hearing to be about the investigation rather than what has happened. This model is in line with that which was recommended previously by the Standards Board. The Committee is free to change those procedures if it so wishes. One option would be to adopt a more inquisitorial model where the Committee takes responsibility for identifying the facts rather than simply relying on parties to present their cases.

Recommendations

12. Members are recommended to:

- 1) Consider the report and identify any areas where existing procedures might be improved.

Reason: To ensure that the Committee has strong arrangements in place for handling complaints.

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**Report
Approved**

Date 09/04/14

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

None

Annex

Hearing Procedures