

Review of Standards Committee Hearings

Report of Councillor Pam Byrd, Chairman of the Standards Committee

This report is presented on behalf of Members of the Hearing Review Panels held throughout January 2025. It provides the Standards Committee with the opportunity to reflect upon the procedures associated with Hearing Review Panels held during January 2025 and complaints submitted from Councillors against other Councillors.

Background

Of 63 complaints submitted against District Councillors during the 2023/24 municipal year, fifteen were referred for formal investigation. This resulted in seven separate investigations, concluding in five Hearing Review Panels.

Members of the Hearing Review Panels have met to discuss and share their experiences in relation to these Hearings from the perspective of the Council's procedure for dealing with complaints against Councillors and the circumstances of each case in this context. The Standards Committee is invited to give due consideration to the following:

1. Nature of complaints and complaints procedure

A complaint is a statement that something is wrong or not satisfactory (*Cambridge dictionary*). It can be an expression of grievance (*Collins dictionary*) or an expression of grief, pain or dissatisfaction (*Merriam Webster dictionary*). Complainants, and those that are the subject of a complaint, should be treated fairly and with respect at all times.

- 1.1 Once a Formal Complaint has been received, the Monitoring Officer is obliged to follow the procedure for dealing with complaints against Councillors, as approved by the Council's Standards Committee. This represents a formal process and, as has been demonstrated, can be timely and have significant cost/resource implications. Every complaint is treated fairly and impartially. The initial two stages of the procedure will put the complaint through a review process to establish whether the complaint is considered (a) valid and (b) sufficiently serious to warrant further investigation.
- 1.2 All of the complaints that were investigated and progressed to Hearings were the result of posts or comments on social media containing allegedly inappropriate or offensive information which were not removed when requested. Throughout the process it has been made clear that a simple acknowledgement by way of removal of online posts/comments, or an apology, at an early stage could have prevented some, or all, of the complaints leading to formal proceedings, such as an investigation and a Hearing.
- 1.3 Discussions about this course of action have identified a lack of trust between Members in that an apology might be perceived as an opportunity to score a political point by way of humiliation of the Member concerned. Such views were expressed based upon some apologies made by Members in the past. It was agreed that where possible and appropriate, an apology should be sincerely made and respectfully accepted if this is agreeable and removes the need for a formal and costly investigation.

- 1.4 An assessment of the volume of complaints received indicated to some Members that certain Complainants may have been quick to submit formal complaints. Many of these complaints were subsequently concluded to be below the threshold for further investigation resulting in no further action being taken. Only those complaints considered to be of a more serious nature were progressed to the next stage of the process i.e. formal investigation.
- 1.5 As part of the Hearing process, the procedure does not necessarily provide the Hearing Review Panel/Standards Committee with the opportunity to seek points of clarification from the Complainant(s). It is considered that this should be incorporated as part of the procedure where possible and appropriate.
- 1.6 When complaints are Councillor v Councillor it is expected that a more informal process should be initiated or considered where possible, before commencing with the processing of a formal complaint. This may enable a resolution to be agreed, avoiding the commencement of the formal procedure which includes an assessment, then engagement with the Independent Person and the production and circulation of a Decision Notice as part of the assessment stage.
- 1.7 In terms of outcomes and sanctions, the Code of Conduct identifies a range of sanctions and these proved to give sufficient flexibility when taking account of the nature of the breaches and the appropriate consequences for the cases heard. However, it is felt by some Members that there is scope for the Committee to review the range of sanctions in the future and to have clarity about their purpose (educational, deterrent, punishment, satisfaction for the complainant) in order to have more effectiveness in bringing about an improvement in Councillor conduct.

Recommendations:

- a) ***Upon receipt of a complaint from a Councillor against another Councillor, the Complainant should be encouraged to make direct contact with the Subject Councillor regarding the alleged breach of the Councillor Code of Conduct to see whether there is any scope for the matter to be resolved informally. The Monitoring Officer should be requested to help facilitate this in acknowledgement of a complaint in the first instance prior to accepting it as a formal complaint.***
- b) ***Group Leaders should play an active role in encouraging a mutually agreeable resolution in order to bring an early closure to the complaint and thereby avoid the time and cost of an investigation. Group Leaders should also ensure that any apologies are received with good grace to ensure that Members treat each other with consideration and the matter is concluded without engendering disrespect.***

c) ***Consideration should be given to amend the procedure for Hearings to provide the Hearing Review Panel or Standards Committee with the opportunity to raise points of clarification with the Complainant(s) in those cases when the Complainant is a Councillor.***

2. Monitoring Officer role and use of external solicitors

- 2.1 The role of Monitoring Officer is clearly set out in the procedure for dealing with complaints against Councillors and has been followed in relation to all complaints submitted. Overall, the complaints procedure worked well.
- 2.2 The Monitoring Officer would normally seek to conduct Councillor Code of Conduct investigations himself. However, the volume of complaints requiring formal investigation were such that the Monitoring Officer was unable to personally deal with them in adequate time. It was therefore necessary for him to appoint an external investigating officer.
- 2.3 The Monitoring Officer initially instructed Legal Services Lincolnshire to act on his behalf. However, Legal Services Lincolnshire confirmed they were unable to undertake the necessary work due to the complexity and volume of the cases requiring investigation. Wilkin Chapman Solicitors were subsequently instructed to investigate the fifteen complaints referred for formal investigation.
- 2.4 Use of external solicitors incurred costs. This would have also been the case had Legal Services Lincolnshire undertaken the investigations on the Monitoring Officer's behalf.

3. Arrangements for Hearings

- 3.1 Finding a mutually convenient date for a Hearing and co-ordination of all the necessary parties (Complainant(s), subject Councillor, witnesses/Monitoring Officer, Independent Person, four Panel Members and the investigating officer) proved to be a challenging and time-consuming process. This made it difficult to schedule the Hearings within the recommended timescale. The festive period added to the complexity in this regard.
- 3.2 For three of the Hearings the Independent Person was unable to attend due to a medical emergency. All parties agreed to hold the respective Hearings in the absence of the Independent Person for each of these Hearings rather than postpone.
- 3.3 The arrangements for a Hearing are the responsibility of the Monitoring Officer and the Chairman and Vice-Chairman of the Standards Committee, in accordance with the Procedure. This includes the location, Panel membership and various other procedural and administrative matters. Unfortunately, over the six scheduled Hearings, there were some examples of 'lack of engagement' and some examples of 'attempted interference' with the process.

- 3.4. All Members should note that such lack of engagement or interference is not acceptable, and future instances be investigated as potential breaches of the Councillor Code of Conduct as set out in paragraphs 8.2 and 8.3 of the Code, respectively.
- 3.5. Similarly, there were potential breaches of confidentiality via posts on social media, the publication of a draft report clearly marked confidential and inappropriate emails and social media posts sent and published once Hearing Review Panel agenda packs were published. Members were keen to promote their own narrative to colleagues and members of the public prior to Hearings being held. This was completely inappropriate, and the process was not respected. No comments should be made about any Code of Conduct complaint from Members until the respective cases have reached their conclusion.
- 3.6. All Members should note that any breach of confidentiality will be investigated as a breach of the Councillor Code of Conduct as set out in paragraph 4.
- 3.7. It is the Hearing Review Panel or the Standards Committee that decides whether a breach of the Councillor Code of Conduct has occurred. The legal advice proved to be very valuable in all cases through the investigation reports and through the direct clarifications during the Hearings. The Panel took full account of the information presented by all parties and also considered additional representation made on the day. In some cases, this information on the day included supplementary evidence or further explanation of the wider circumstances and all matters were explored so that an objective decision could be made.
- 3.8. All Members of the Panel acted with complete impartiality and did not know any details relating to any of the cases under investigation until the final investigation report was made available to interested parties. This was to ensure the process at each Hearing Review Panel was conducted fairly.

Recommendations:

- d) Dates for potential Hearings should be identified at the earliest possible opportunity in order that they can be concluded as efficiently as possible.***
- e) Any Members who fail to engage with a Code of Conduct investigation or attempt to interfere with the administrative process associated with an investigation will be held accountable for their actions in accordance with paragraphs 8.2 and 8.3 of the Councillor Code of Conduct.***
- f) Any Members who breach confidentiality associated with Code of Conduct complaints will be held accountable for their actions in accordance with paragraph 4 of the Councillor Code of Conduct.***
- g) Group Leaders should play an active role to ensure that Members of their respective groups do not comment on live Code of Conduct investigations.***

4. Independent Person role

- 4.1 The role of the Independent Person is clearly set out in the procedure for dealing with complaints against Councillors and has been followed in relation to all complaints submitted. The Panel found the contributions and expertise of the Independent Person to be valuable throughout the Hearing process. The Independent Person was actively involved in the assessment stages for all complaints and it was regrettable that circumstances beyond anyone's control led to him being unable to attend the final three Hearings.
- 4.2 The recruitment process is underway for the appointment of a second Independent Person to fill a current vacancy.

5. Wellbeing and welfare of those involved in formal proceedings

- 5.1 The complaints under formal investigation and the Hearing process has demonstrated the demanding nature of the circumstances and what a difficult period it can be for all involved. Support has been offered to individual Members but the Panel acknowledges more could be done to improve this.

Recommendations:

- h) All Complainants, Subject Councillors, Witnesses and Panel Members be made aware of the wellbeing and welfare support available to them in their capacity as Councillors whenever any complaint is referred for formal investigation.**

Councillor Pam Byrd
Chairman of the Standards Committee
On behalf of the Hearing Panel members