



Audit and Standards Committee Report

Report of: Director of Legal and Governance

Date: 29th July 2021

Subject: Review of the Member Complaints Process

Author of Report: Stephen Bower, Internal Audit and Risk Manager

Summary:

This report is to highlight the findings of the work undertaken by internal audit in relation to an overview of the Standards Complaints process. This was requested by the Audit and Standards Committee at the last meeting on 10th June 2021.

Recommendations: For the Audit and Standards Committee to note the report.

Background Papers:

Category of Report: OPEN

Statutory and Council Policy Checklist

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|------------------------------------------------------------------------------------------------------|
| Financial Implications |
| NO - Cleared by: |
| Legal Implications |
| NO - Cleared by: |
| Equality of Opportunity Implications |
| NO - Cleared by: |
| Tackling Health Inequalities Implications |
| NO |
| Human rights Implications |
| NO: |
| Environmental and Sustainability implications |
| NO |
| Economic impact |
| NO |
| Community safety implications |
| NO |
| Human resources implications |
| NO |
| Property implications |
| NO |
| Area(s) affected |
| None |
| Relevant Cabinet Portfolio Member |
| Councillor Julie Grocutt, Deputy Leader and Executive Member for Community Engagement and Governance |
| Is the item a matter which is reserved for approval by the City Council? |
| NO |
| Press release |
| NO |

Review of the Member Complaints Process

1.0 INTRODUCTION/BACKGROUND

- 1.1 This report is to highlight the findings of the work undertaken by Internal Audit in relation to an overview of the member complaints process at Sheffield City Council. This was requested by the Audit and Standards Committee of the Council on 10th June 2021.
- 1.2 A meeting was held by Internal Audit with the Council's Monitoring Officer Gillian Duckworth to agree the terms of reference for the piece of work. The review has been conducted by Stephen Bower (who is one of the Internal Audit and Risk Managers) as a business partnering piece of work.
- 1.3 The review had a short time scale because feedback was requested for the July 2021 Audit and Standards Committee meeting.
- 1.4 The review did not examine the outcomes of any of the individual complaints (these are undertaken separately by the Monitoring Officer), but it was agreed that Internal Audit would review the application of the process within the Legal and Governance Services.

2.0 MAIN BODY OF THE REPORT

Including Legal, Financial and all other relevant implications (if any)

Complaints Process

- 2.1 The member complaints process is documented in Section 5 of the Council's Constitution. This was used as the basis to undertake this piece of work.
- 2.2 The complaints process is restricted in that it can only consider the actions of members as outlined in the Members Code of Conduct and cannot cover other activities which may be reported under the process. The monitoring officer reviews all complaints at the earliest stage and will inform individuals where the matters raised cannot be considered under this process.
- 2.3 The Member's Code of Conduct and the members complaint process was last reviewed following a workshop by members of the Audit and Standards Committee working with the monitoring officer in September 2019. The workshop considered the good practice recommendations of a

report produced by the Committee for Standards in Public Life from January 2019.

2.4

The Audit and Standards Committee agreed the new complaints process to support the Members Code of Conduct in December 2019.

2.5

The complaint process was found to be clear and succinct and encompasses the seven principles of the Nolan committee report on the standards in public life.

2.6

The process outlines several clear expectations on time scales.

2.7

The process also requires, in accordance with the legislation, that an Independent Person (IP) is used to support the monitoring officer in undertaking her duties in response to the complaints process.

2.8

It is noted that all Members agreed and signed to uphold the Members Code of Conduct.

2.9

Although this process was found to be adequate it is noted that the process will continue to be reviewed annually to ensure that it remains relevant and robust.

Management of the process

2.10

The monitoring officer is directly responsible for the process and is supported by an IP for each case. The monitoring officer undertakes this process diligently and Sarah Hyde who works directly for the monitoring officer as a Democratic Service Team Manager manages the process on a day-to-day basis. She records the actions undertaken responding to complainants, in an appropriate manner. It should be noted that this correspondence was not examined as part of the review.

2.11

The number of complaints received by the council against members is relatively small (2020 a total of 31 complaints received) and many of these fall outside the remit of the process and as such are dealt with quickly and efficiently. The resources used are appropriate, however consideration is being made to business continuity arrangements to ensure that the process can continue should the current individual not be available.

Documenting the process

2.12

As the number of complaints received is small there is no dedicated system used to record all the complaints received, instead, the service has decided to use a standard Word document. This appears to be a reasonable solution due to the number of complaints.

2.13

The document records the following:

- A unique reference number
- The date received
- Complainant
- Subject matter
- Nature of complaint
- Highlight of the relevant part of the code
- The independent person supporting the monitoring officer
- A section to record the current actions and comments
- The outcome of the complaint
- The current status,

2.14

The record was found to be adequate and succinct to follow the process. The dates recorded on the system were not verified to supporting documents, but there is no reason to believe that they are not accurate.

2.15

Complaint's audit testing

In order to obtain a good overview of the process the audit review examined the current year and the past two years' complaints. The information relating to the complaints was made readily available to Internal Audit.

2.16

The total number of complaints received in 2019 was 22. The total number of complaints received in 2020 is 31 and in 2021 there are only 10 complaints being received so far.

2.17

In all cases the complaints register had been accurately completed and was up to date.

2.18

It was noted that in all cases the complaints except for those in the Covid pandemic period (noted below Section 2.27) had been responded to on a prompt basis. All the complaints were highlighted in a succinct and accurate manner. In all cases an IP had been nominated to support the monitoring officer in reviewing the case.

2.19

With the exception of complex cases which are noted separately the investigations had been undertaken within a reasonable time scale and the outcomes noted. It was noted that in 2019/20 the only cases which remained open are where the complaint could not be progressed as the member had not stood for re-election and therefore the complaint could not be continued. This was communicated to the complainant. All other cases for 2019/20 had been completed. For the cases in 2020/21 only one complex case remains outstanding. Of the ten cases reported so far in 2021/22 all but three cases have been resolved.

2.20 Although individual cases were not examined in depth it could be seen from the information that was provided to Internal Audit that they had been dealt with in an appropriate manner, the issues had been highlighted where it was felt that they related to the code of conduct, and these had been investigated and the outcomes noted appropriately. It should be noted that most complaints were dealt with at the lowest level.

Complex cases

2.21 It is noted that over a period of time there may be a few complex cases. These fall into four distinct categories

- Cases involving more than one member,
- Cases between members,
- Cases where a number of different allegations are made or by a number of parties,
- Cases which cover a long period of time.

2.22 These cases are infrequent and often take longer to investigate and report on. The process relies on the prompt response of Members, which for a number of reasons can be delayed. Also, these cases can be difficult in that occasionally they may also include officers. It is difficult therefore for the monitoring officer to undertake these reviews internally for resourcing and other logistical issues.

2.23 These cases will be discussed with the IP and where appropriate external agencies are used to undertake the investigation.

2.24 This is normally a local legal company for which the council has contracts in place because it allows for independence and the appropriate resource to be made available. This would appear to be a reasonable use of resource however their complexity still often requires a considerable period of time for the investigation to be completed.

2.25 The monitoring officer and the IP are diligent in the following up these matters and examining if lessons can be learned for future cases.

2.26 It is recommended that where long and complex cases are being undertaken that the person who brings forward the complaint is informed of the potential delay and where this goes on for a considerable period that they are given adequate updates in progress.

Coronavirus pandemic delays

- 2.27 At the start of the coronavirus lockdown's, it was not possible to deal with any complaints which were received due to resourcing issues and communication methods. Staffing and other resource requirements needed to undertake investigations were needed to support frontline services within the Council, also the methods of communication available were limited and difficult to use at this point. A decision was made those complaints would not be progressed for a short period of time. This was similar to investigations and other matters. From March 2020 to October 2020 any complaints received were held in abeyance. These complaints were not disregarded but were delayed in actioning.
- 2.28 The individuals raising the complaints were informed that their complaint was to be dealt with at the earliest opportunity once it was appropriate to do so. In October 2020 it was appropriate to commence work on these complaints and the monitoring officer and her support staff have diligently worked through these in a logical order.
- 2.29 The backlog of complaints for the most part has now been dealt with and only one of the more complex cases still ongoing. This action seems reasonable within the circumstances and the monitoring officer and her staff should be praised for the work undertaken.
- 2.30 It should also be noted that some of the investigations and correspondence during this time may have taken longer than normal due to the issues brought about by the coronavirus restrictions. These delays for the most part was insignificant.

Overall summary

- 2.31 In summary the process was found to be well documented and well managed and other than for complex cases and for the Covid pandemic period the process was found to be working in an efficient and effective manner and time scales were being adhered to in an appropriate manner.
- 2.32 Going forward the process will need to be reviewed to ensure that it remains fit for purpose once the new committee structure has evolved. This is something that the monitoring officer is aware of and action is being taken.
- 2.33 For the more complex cases the only recommendations are that individuals are given regular updates on the progress of the cases. In addition, for the complex cases there should be a documented review on

file with the monitoring officer and IP to see if there any lessons that can be learned for the future.

2.34

Consideration should be made to ensure that there is continuity of service, should the Team Democratic Services Manager be unavailable.

2.35

The monitoring officer and her staff should be commended upon their actions that they have taken to ensure that the backlog caused under the Covid pandemic and restrictions have now been successfully cleared.

3.0 RECOMMENDATION

3.1 To note the report.