

Report to the Standards Committee

Date of meeting: 28 March 2013

Report of: Monitoring Officer

Subject: Issues and Options Raised at the Independent Persons' Workshop

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Recommendation:

To consider issues and options raised at the Independent Persons' Workshop

(a) Introduction

1. At the last meeting the Committee received a report from Roger Pratt on his attendance at an Independent Persons' workshop held on 15 November 2012.
2. The Committee requested that a report be submitted to this meeting to facilitate a discussion on the issues and options raised at the workshop. A copy of a detailed report on the proceedings published by the organisers of the event is attached as Appendix 1 but the main issues are set out below together with comments of the Monitoring Officer in bold type.

(b) Filtering Initial Allegations

3. The workshop identified that in some authorities it appears that the Monitoring Officer has discretion as to whether the views of an Independent Person (IP) should be sought on the initial allegation.
4. At the workshop the need for transparency in such cases was emphasised to avoid accusations of inequitable treatment.

The Monitoring Officer proposes to consult an IP in all cases so this is not an issue which needs to be considered.

(c) Decision Letters

5. It was recommended at the workshop that decision letters should state that the views of an IP have been sought but that they should not sign the letter as they are not a decision – maker.

This is the practice being followed.

(d) Role Post Filtering

6. IPs generally expressed the view that they did not envisage having a role in cases other than through investigation (such as informal resolution or mediation). However, some felt that they had specific skills which would assist the Monitoring Officer.

There has been one case to date where a complaint was resolved as a result of the Monitoring Officer organising a meeting between the complainant and the subject member to talk through the issues. An IP was not involved in the meeting.

Does the Committee feel that IPs should have a role in informal resolution, mediation etc.

(e) Multiple roles or one per case

7. It was recommended at the workshop that there should only be one IP per case for clarity and efficiency but that where a different process is in place there needs to be detailed guidance about how the different IPs operate within that framework.

At present the Monitoring Officer selects IPs to use on a case by case basis, undertaking different roles if necessary, eg one supporting the subject member/one supporting the complainant or investigator.

The Committee is invited to discuss the options and the views expressed especially the suggestion that the separation of roles within a case is not good practice. If the existing arrangements are continue does the Committee see the need for the production of detailed guidance.

(f) Giving Views

8. The workshop recommended that views should be expressed in writing to avoid misrepresentation and provide a transparent record.

9. It was emphasised that in giving views to the Monitoring Officer or the Standards Committee or Sub-Committee considering a complaint, IPs should not risk being seen as putting themselves in place of an investigator or become too heavily involved in a case. It was suggested that views expressed should cover two aspects – as a sounding board (eg do you agree or not that the facts constitute a breach) and as a quality assurance that the process has been fair, transparent and proportionate.

10. In relation to giving views to the subject member it was recommended that contact should only take place where it has been agreed in advance (via the Monitoring Officer) and that any views expressed should be made available in writing to all the relevant parties.

11. The workshop recommended that there should be access to an IP for the complainant which should be managed in a similar way to that for the subject member.

**Does the Committee agree that views should always be expressed in writing.
Does the Committee agree with the suggestions for giving views.
The management of contacts with the subject member and/or the complaint is being undertaken as suggested.**

(g) Maintaining Independence and Ensuring Fairness

12. The workshop expressed the view that IPs should be able to escalate concerns about the way in which a matter is being handled with the Council's Chief Executive, Group Leaders or full Council.

13. It was suggested that media contact should be dealt with by the Council rather than the IP.

The ability for IPs to approach the Council's Chief Executive, Group Leaders of full Council is available.

Does the Committee agree with the suggestion about media contact.

(h) Promoting and Maintaining High Standards

14. Few IPs at the workshop considered that they had a role in helping the Council more widely in promoting and maintaining high standards other than by giving support on cases.

15. It was recommended that IPs should not be co-opted members of the Standards Committee but should receive agenda etc in advance of meetings, have the right to place items on the agenda and address meetings.

IPs have not been made co-opted members of the Standards Committee and do not have a vote on matters at meetings. However, in every other respect it is suggested that they be encouraged to participate fully at meetings including items aimed at promoting and maintaining high standards generally, eg reviews of the Code of Conduct, a new Planning Protocol.

Does the Committee agree with this approach.

(i) Other Issues

16. It was suggested there was a need for a protocol between IPs and the Council about both their role and how they are to discharge it.

17. It was also suggested that IPs should sign up to a code of conduct and register and declare interests so that any conflicts can be identified at an early stage.

A draft protocol based on a model produced at the workshop is attached for consideration. This may need amending in the light of decisions taken on the above matters.

Does the Committee agree that IPs should sign up to a code of conduct and register and declare interests.

