

## Report – Comptroller & City Solicitor (Monitoring Officer)

### Ombudsman Outcome Report

*To be presented on Thursday 19<sup>th</sup> May 2022*

*To the Right Honourable The Lord Mayor, Aldermen and  
Commons of the City of London in Common Council assembled.*

# NOT FOR PUBLICATION

By virtue of paragraphs 1 and 2 of Part I of Schedule 12A of the Local Government Act  
1972

### SUMMARY

The Comptroller and City Solicitor is designated as the Corporation's Monitoring Officer under s.5 of the Local Government and Housing Act 1989 in respect of its local authority functions. The Monitoring Officer has a duty to report to the Court of Common Council where they are of the opinion that any proposal, decision or omission by the Court or its committees or officers has given rise or is likely to give rise to a contravention of any enactment or rule of law or any such maladministration or failure within the meaning of the Local Government Act 1974.

### RECOMMENDATION(s)

Members are asked to note the report.

### MAIN REPORT

#### Background

1. On 1<sup>st</sup> March 2022 the Commissioner for Local Administration (the Local Government and Social Care Ombudsman) made a finding of maladministration against the Corporation in relation to its handling of a complaint by an elected member against a co-opted member of the then Standards Committee under the Corporation's now defunct standards arrangements under the Localism Act 2011. A copy of the Ombudsman's decision appears at Appendix 1.
2. This finding requires the Monitoring Officer to make a report to the Court of Common Council under s.5(aa) of the Local Government and Housing Act 1989.

#### The Corporation's Standards Arrangements

3. Under the Localism Act 2011 the Corporation, in its capacity as local authority, is required to promote and maintain high standards of conduct by its members and co-opted members and to have in place a code of conduct setting out the expected standards of conduct and a mechanism under which complaints may be made and determined.

4. From April 2012 until April 2021, the Corporation's arrangements were based around a conventional Standards Committee comprising elected and co-opted members supported by statutory "Independent Persons".
5. From approximately 2016 until 2020 these arrangements came under pressure and were unable to retain the support of the Court. This resulted in Lord Lisvane recommending the alternative independent arrangements centred around a panel of Independent Persons which are now in place.

#### **Factual Background & Outcome**

6. The facts are set out in the Ombudsman's decision. In broad terms, at the time of the complaint there was a significant dispute as to the Standards Committee's policy in relation to the granting of dispensations to speak and vote on matters in which a member had a disclosable pecuniary interest.
7. A member applying for such a dispensation complained about remarks made by a co-opted member at a public committee meeting considering their application. The Assessment Sub-committee which met to consider whether the complaint should be investigated or not decided, before reaching a final decision, to see if the co-opted member was prepared to apologise.
8. The ability of the Sub-committee to reconvene to consider the matter was considerably delayed due to the Covid-19 Pandemic. The Sub-committee ultimately decided to take no further action in relation to the complaint but expressed disappointment at the co-opted member's refusal to give an apology for any offence caused.
9. The particulars of the complaint are set out in the decision. The Ombudsman has determined that the report is confidential and will not be published. Following extensive correspondence between the Monitoring Officer and the Ombudsman, the Town Clerk agreed to accept the Ombudsman's recommendations. The Town Clerk wrote to the complainant on 25<sup>th</sup> February 2022 apologising and making a payment of £300. The Assessment Sub-committee no longer exists but the issues raised have been drawn to the attention of the new Independent Standards Panel.

#### **Comments of the Monitoring Officer**

10. Whilst the Town Clerk has accepted the Ombudsman's recommendations the Monitoring Officer had a number of concerns about the lawfulness of the Ombudsman's decision and extensive correspondence took place prior to the issuing of the final decision notice, with some significant changes being made.
11. The Monitoring Officer is of the view that it would be disproportionate to challenge the Ombudsman's decision in the circumstances. Accordingly, the Town Clerk, in consultation with the then Chair and Deputy Chairman of Policy, the former Chair of the Standards Committee and the former Chairman of the Assessment Sub-committee, decided to accept the decision.
12. This report has been shared with the Independent Standards Panel and will be taken into account by them when dealing with complaints.

## **Appendices**

- Appendix 1 – A copy of the Ombudsman's decision report.

All of which I submit to the judgement of this Honourable Court.

DATED this 5<sup>th</sup> day of May 2022

SIGNED on behalf of the City Corporation.

**Michael Cogher**  
**Comptroller and City Solicitor**