

<b>Committee(s):</b> Member Development and Standards Sub-Committee Policy and Resources Committee Court of Common Council	<b>Date:</b> 17/07/2024 26/09/2024 10/10/2024
<b>Subject:</b> Panel of Independent Persons - Report	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	<b>All</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so how much?</b>	<b>N/A</b>
<b>What is the source of funding?</b>	<b>N/A</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department</b>	<b>N/A</b>
<b>Report of:</b> Town Clerk	
<b>Report author(s):</b> Gemma Stokley	<b>For Information</b>

### **Summary**

This report presents activity undertaken by the Panel of Independent Persons in relation to both Complaints received under the Members' Code of Conduct and applications for dispensation since their inception. Their submission has been placed by the Town Clerk's office into the usual report format, in order to facilitate submission to the Member Development and Standards and Policy and Resources Committee ahead of its submission to the Court of Common Council where it will need to go as a report of the Policy and Resources Committee given that neither the Panel nor the Sub-Committee have any direct reporting mechanism.

It is envisaged that a similar annual report will be submitted to the Court of Common Council each Autumn now that the Panel of Independent Persons are at full complement with 12 Independent Persons in place.

### **Recommendation**

Members are asked to note the contents of the report.

## Background

1. The Panel of Independent Persons (The Panel) was initially established by the City of London Corporation (the Corporation) by way of Court of Common Council Resolution on 14 January 2021.
2. This was following an independent Governance Review of the City Corporation undertaken by Robert Rogers, the Lord Lisvane. Part of the recommendations of the Report proposed the establishment of an Independent Panel composed only of independent persons, to receive allegations of misconduct under the Code of Conduct, determine whether to investigate, present findings to the Court, and hear any appeal.
3. Following an initial round of recruitment, the Panel was established in July 2021 and its purpose and powers were set out. The task was unique in that the Panel were called upon to firstly establish and to thereafter administer a suitable Complaints Procedure for complaints received under the Code of Conduct and to also consider applications for Dispensations. The Panel (convening as smaller sub-Panels of three) receives allegations of misconduct, determines whether to investigate and/or proceed to Hearing, presents its findings to the Court and hears any appeals. The Panel also has responsibility for making recommendations as to whether or not dispensations should be granted or refused.
4. When first established the Panel was comprised of nine members. This was later reviewed to ensure that adequate panel members were available to cover all necessary stages of a complaint noting that no one Independent Person may sit on more than one stage of the same complaint, but also to take into account availability and any potential conflicts of interest. It was approved by the Court that a further three members should be appointed bringing the panel to a total of twelve. The final three Panel members joined in October 2023. Details of all current members of the Panel, can be found at Appendix 1. This, therefore, is the first opportunity as a full Panel to present an 'Annual Report' although, for completeness, the opportunity has been taken to summarise all work undertaken with regards to alleged breaches of the Code of Conduct since March 2022 when the first complaint to the newly constituted Panel came forward. It is intended to report to the Court of Common Council in Summer each year going forward.
5. The Panel's current terms of reference are attached at Appendix 2 of this report. The Terms of Reference for the Panel were developed by the Panel. A draft was considered by the Panel and, following a number of suggested amendments, these were referred initially to the Civic Affairs Sub-Committee. The Terms of Reference were subsequently received by the Court in October 2022.

6. This report is being used by the Panel as the means of communicating its activity and the activity of all Assessment, Hearing, Appeal and Dispensations Sub-panels called to sit during the period from March 2022 to May 2024.

### **Operation of the Panel**

7. The Panel operates within the framework of its terms of reference and all Panel members agree to follow the Nolan Principles and also the Code of Conduct in place for members and co-opted members of the Corporation. Each of the Panel members Register of Interests can be found online here: [Modern Council \(cityoflondon.gov.uk\)](https://www.cityoflondon.gov.uk). The Panel is currently chaired by Amanda Orchard with Gary Rogers serving as Deputy Chair.
8. Seven full Panel meetings have taken place since July 2021. Agendas for these meetings are approved by the Chair. All full Panel meetings have been quorate in line with the Terms of Reference. The Terms of Reference are regularly reviewed to ensure that they remain fit for purpose. There is currently an annual meeting of the full panel with any further arranged to suit organisational requirements. The Panel also take the opportunity to share best practice and undertake training relevant to the roles at full meetings. The most recent meeting was kindly hosted by the Chief Commoner in February 2024.
9. Administrative and legal support to the Panel and all sub-panels is provided through the Town Clerk's, the Comptroller and City Solicitor's Department respectively. In any areas where legal advice is required, and there may be a perception that the Monitoring Officer's team might be in any way conflicted, external Counsel are called upon to provide legal advice to the panel.

### **Matters considered by the Panel from March 2022 – May 2024**

#### *Dispensations*

10. The Panel have been asked to make recommendations on six applications for dispensation in this reporting period. The Panel would like to use this platform to encourage all seeking dispensations to complete the necessary applications in sufficient detail with reference to the guidance provided and in sufficient time so as to enable decisions to be taken. Of the six applications considered, the Panel had to adjourn the determination of two upon first receipt as they had insufficient information to enable proper consideration of these.

#### *Alleged breaches of the Code of Conduct*

11. The Panel have received a total of 11 formal complaints in this reporting period. The breaches formally considered and their outcome/current status are summarised below.

12. In accordance with the Complaints Procedure, the first determination at Assessment must be whether or not a complaint is admissible and meets the following tests:

- (i) It is a complaint against one or more named members of the Corporation;
- (ii) The named member was in office at the time of the alleged conduct and the code of conduct was in force at the time;
- (iii) The complaint, if proven, would be a breach of the code of conduct under which the member was operating at the time of the alleged misconduct;
- (iv) The complaint is about something that happened or came to light within the last three months, or is connected to alleged misconduct within the last three months, unless there are reasonable grounds for the complaint not having been made within that time period.

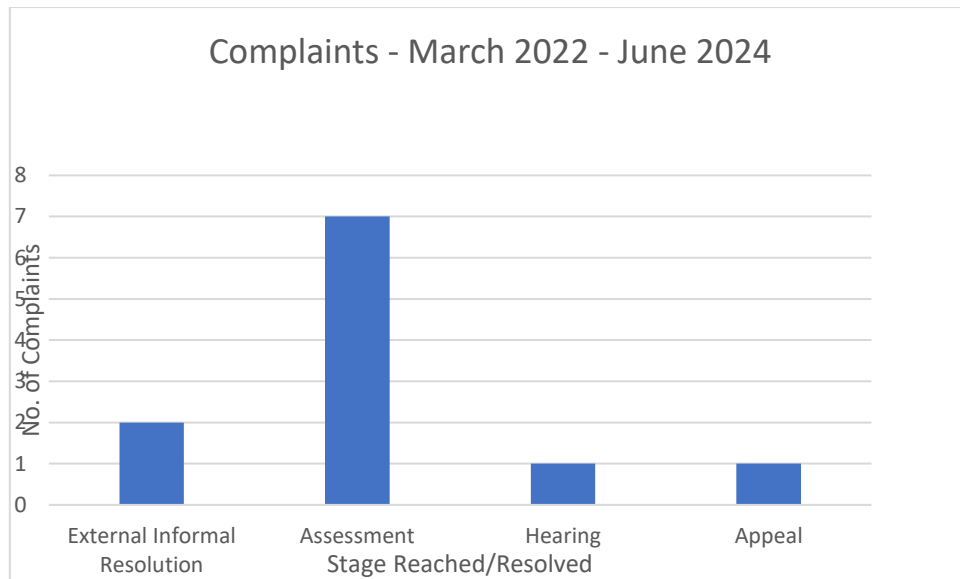
If the complaint fails one or more of these tests, it is deemed 'inadmissible' and cannot be investigated as a breach of the code and the complainant will be informed by the Town Clerk that no further action will be taken in respect of the complaint.

13. Should a Member be found to be in breach of the Code, there are a number of sanctions available to the Panel to recommend. These must be reasonable and proportionate in all of the circumstances. The available sanctions for a breach of the code of conduct are:-

- (i) censure;
- (ii) withdrawal of Corporation hospitality for an appropriate period;
- (iii) removal from one or more committees;
- (iv) other action.

14. There is no power to impose any alternative sanctions, although the willingness of a member to co-operate in the matters listed below may have a bearing on any sanction that is imposed:-

- (i) that the member submits a written apology in a form specified;
- (ii) that the member undertakes specified training;
- (iii) that the member participates in such conciliation as is specified.



<b>Matter No.</b>	<b>Source of Complaint</b>	<b>Alleged breaches of the Code</b>	<b>Outcome/Status</b>
01 - 22	Officer v. Members	<i>Failing to act with integrity; failing to comply with the Corporation's policies and procedures; failing to treat Officers with mutual respect; bullying and intimidation, bringing the office or authority into disrepute</i>	<i>Assessment ruled that no further action be taken. It was noted that all Members had offered to make an apology to the Complainant and were encouraged to make this in writing.</i>
02-22	Member v. Member	<i>Failing to value colleagues of the Corporation and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance.</i>	<i>Referred from Assessment directly to Hearing. Hearing found subject Member in breach of paragraph 2(k) of the Code of Conduct and recommended a sanction of censure. Hearing recommendations upheld at Appeal. Hearing recommendations approved by the Court of Common</i>

			<i>Council. Subject Member censured.</i>
<i>03-22</i>	<i>Member v. Member</i>	<i>Failing to value colleagues of the Corporation and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance.</i>	<i>Complaint deemed not admissible at Assessment</i>
<i>04-22</i>	<i>Public v. Member</i>	<i>Failing to act with integrity; failing to comply with the Corporation's policies and procedures;</i>	<i>Assessment ruled that no further action be taken.</i>
<i>05-22</i>	<i>Member v. Member</i>	<i>Failing to value colleagues and officers of the Corporation and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance; Failing to treat people with respect, including the organisations and constituents that you engage with and those that you work alongside, and not bullying, harassing), intimidating or attempting to intimidate any person; Failing to uphold the Corporation's obligations under the Equality Act 2010 by promoting equality, and not discriminating unlawfully against any person on the grounds of race, gender, disability, religion or belief, sexual orientation or age;</i>	<i>Assessment ruled complaint should be referred directly to Hearing unless within the next 14 days, both parties agree to the informal resolution of the complaint by way of a written apology. No apology forthcoming so referred to Hearing where the subject Member was found to be in breach of paragraphs (k), (l) and (n) of the Code of Conduct. A sanction of censure was recommended. A written apology and training for the subject Member was recommended. No Appeal lodged. Hearing recommendations approved by the Court of Common</i>

			<i>Council. Subject Member censured.</i>
<i>01-23</i>	<i>Public v. Members</i>	<i>Failing to value colleagues and officers of the Corporation and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance; Failing to treat people with respect, including the organisations and constituents that you engage with and those that you work alongside, and not bullying, harassing), intimidating or attempting to intimidate any person; Failing to uphold the Corporation's obligations under the Equality Act 2010 by promoting equality, and not discriminating unlawfully against any person on the grounds of race, gender, disability, religion or belief, sexual orientation or age; Failing to provide leadership through behaving in accordance with these principles when championing the interests of constituents with other organisations as well as within the Corporation.</i>	<i>Assessment ruled that no further action be taken</i>
<i>02-23</i>	<i>Public v. Members</i>	<i>Failing to register and declare any private interests, both pecuniary and non-pecuniary, that relate to public duties in a manner conforming with the procedures set out below.</i>	<i>Complaint deemed not admissible at Assessment</i>
<i>03-23</i>	<i>Member v. Member</i>	<i>Failing to value colleagues and officers of</i>	<i>Resolved via Informal</i>

		<i>the Corporation and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance; Failing to uphold the Corporation's obligations under the Equality Act 2010 by promoting equality, and not discriminating unlawfully against any person on the grounds of race, gender, disability, religion or belief, sexual orientation or age</i>	<i>Resolution (externally facilitated) on the agreement of both parties</i>
<i>04-23</i>	<i>Public v. Member</i>	<i>Bringing the office or authority into disrepute</i>	<i>Complaint deemed not admissible at Assessment</i>
<i>01-24</i>	<i>Co-optee v. Member</i>	<i>Failing to value colleagues and officers of the Corporation and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local governance;</i>	<i>Resolved via Informal Resolution (externally facilitated) on the agreement of both parties</i>
<i>02-24</i>	<i>Public v. Members</i>	<i>Failing to adhere to all Seven Principles of Public Life</i>	<i>Assessment ruled that no further action be taken contingent on one of the subject Members undertaking to update their register of interests accordingly within a period of 28 days.</i>

15. The Panel therefore received 11 complaints in this reporting period, 3 were deemed inadmissible, it was decided that no further action be taken in relation to 4, 2 were upheld with a sanction and 2 were resolved via informal resolution facilitated by an external provider.



## **Conclusion**

16. Over the almost three-year period that the Panel has now been active, a number of matters have been considered and refined as part of the formal Complaints Procedure now in operation. Informal resolution has now been expressly included in the revised Complaints Procedure with external mediation an option if agreeable by all parties involved. This has been very successfully deployed in some of our more recent cases. There has also been the inclusion of the need for any Member-on-Member complaints to first explore resolution with either the Chief Commoner or either the Chair of the General Purposes Committee of Aldermen or the Chair of the Nominations Committee of Aldermen, at an early stage to seek to resolve issues and maintain effective working relationships before proceeding through the formal process.
  
17. These changes have resulted in what is hoped by the Panel to be a more effective and efficient complaints process which is accessible and widely understood by both members of the public and members of the Corporation alike.

## **Appendices**

- Appendix 1 – Panel Membership and Terms of Appointment
- Appendix 2 – Panel Terms of Reference

## Appendix 1

### PANEL MEMBERSHIP AND TERMS OF APPOINTMENT

Both the chair and members of the IRB have initially been appointed for a three year term.

The current IRB members are:

Name	
Andrew Ayre	Appointed 2023
Miranda Carruthers-Watt	Appointed 2021
Robert Coyle	Appointed 2021
Chris Fraser	Appointed 2021
Amina Hossain	Appointed 2023
Tom Kettleley	Appointed 2021
Karen McArthur	Appointed 2023
Amanda Orchard	Chair (approved to June 2025) Appointed 2021
Gary Rogers	Deputy Chair (approved to June 2025) Appointed 2021
Rahul Sinha	Appointed 2021
Philip Thicknesse	Appointed 2021
Atiyah Younis	Appointed 2021

## **Appendix 2**

# **TERMS OF REFERENCE**

### **Functions and Authority of the Panel**

The Independent Persons Panel (the Panel) was established by the City of London Corporation Court of Common Council (the Corporation) by way of Court of Common Council Resolution on 14 January 2021.

The purpose and powers of the Panel is to establish and administer a Complaints Process and to also deal with the granting of Dispensations (the Scheme).

The Panel is to independently consider complaints made by anyone against an elected or co-opted member of the Corporation.

The Panel will also consider granting Dispensations for Members to participate in a particular item of business at a City Corporation meeting where a disclosable pecuniary interest exists that must be disclosed, relating to in any matter that is being considered.

The Panel has authority to develop the Policy on the process for dealing with complaints referring to any Sanctions that may be applied. The Panel is also authorised to consider Dispensations under the Scheme.

The Panel is responsible for providing from its membership, the persons to form Assessment, Hearing and Appeal Sub-panels, required to investigate and consider complaints, by informal and/or formal process under the Scheme.

The Panel considers all complaints referred to the Scheme and where formal process is followed will recommend to the Corporation the final outcome for approval. The Panel also issues the deciding determination on dispensation applications.

The Panel is responsible for developing a Policy for Publication of the outcomes of complaints, as recommended to the Corporation.

### **Membership**

The Panel is formed of up to twelve members in total, comprised of all independent members.

All Panel members agree to follow the Nolan Principles and also the Code of Conduct in place for members and co-opted members of the Corporation.

The Panel will maintain a Register of Interests for all independent members which will be published on the City Corporation's Library webpages and updated regularly.

Independent panel members are selected by the Corporation. All appointments are for terms of up to two years, with a maximum of three terms being served.

## **Chair and Deputy Chair**

The members of the Panel shall elect one of its members as Chair, and another member as Deputy Chair, both for a period of 12 months which can be renewed for a maximum of up to 36 months

Where the Chair is not present at a meeting, or is conflicted, the Deputy Chair will take the Chair for the meeting or for any conflicted item

## **Quorum, Frequency and Records of Panel Meetings**

The Panel quorum is five.

The Panel will as standard meet annually each municipal year, but meetings may be cancelled or called more frequently if required.

The Panel shall hold additional meetings as required to deal with any business arising at the request of the Executive of the Corporation or at the request of two members of the Panel.

At least three weeks' notice of the time, date and venue of each Panel meeting shall be provided to all members. All relating paperwork will be issued to all no later than five clear working days before each meeting wherever possible.

It is acceptable for routine business to be conducted electronically.

The Secretariat of the Corporation will prepare minutes and provide each member with a copy. Such minutes will be reviewed at the next meeting and, subject to any amendment, agreed and will be signed by the Chair. The amendment of minutes shall not affect the validity of decisions taken by the panel in the meeting to which the minutes relate.

## **Duties**

The Panel is responsible for establishing and maintaining a Complaints Process and applying the Sanctions Policy, both of which should be reviewed regularly

The Panel is also responsible for considering applications for dispensations submitted by Members.

The complaints process and any guidance will be available to all who want to make a complaint.

The Dispensations form and related guidance will be available to all who wish to submit an application for consideration.

The Panel, and its Sub-panels, are to have regard to the Complaints Process; any Sanctions specified in legislation or in any Sanctions Policy; the Policy and Guidance on the granting of dispensations under the Localism Act 2011; and the Members Code of Conduct when dealing with any complaints or dispensation requests before it.

All formal complaints and/or appeal recommendations will be referred to the Corporation for oversight approval. After the matter has been addressed by the Corporation the outcome will be published where the process requires this.

A recommendation or other outcome at any stage of the complaints process, will be recorded in writing and reported to the next full Panel meeting after the end of the full process for that complaint.

All determinations made by the Corporation will also be reported back to the Panel.

The Panel will adhere to best practice in terms of managing data and do so in line with the City of London Corporation Data Subject Rights Policy.

The Panel will produce an Annual Report that will be published.

### **Sub-Panels**

Each Sub-panel will be comprised of up to three persons.

Appointments to Sub-panels will be undertaken on a rota basis. The Panel can select particular members for a complaint to replace any rota allocations, if specific skills are required to deal with a particular complaint. Also, allocations should ensure, as far as possible, a mix of persons to each Sub-panel to reflect the range of diversity within the panel.

A panel member cannot be part of more than one Sub-panel for each individual complaint.

### **Voting mechanism**

The Panel or any Sub-panel, may vote on and determine any matter arising at the meeting and each member present at the meeting shall have one vote.

Decisions of the Panel or any Sub-panel shall be by simple majority of the votes cast (excluding any abstentions).

Last reviewed 29 February 2024.