

Values and Ethics Sub-Committee

Supplementary Information



Date: Friday, 3 November 2023

Time: 12.30 pm

Venue: Committee Room 9, First Floor - City Hall,
College Green, Bristol, BS1 5TR

5. Public Forum

Up to 30 minutes is allowed for this item.

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Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to democratic.services@bristol.gov.uk and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on **30 October 2023**.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on **2 November 2023**

Issued by: Allison Taylor, Democratic Services
City Hall, Bristol, BS1 9NE

E-mail: democratic.services@bristol.gov.uk

Date: Thursday, 02 November 2023



Public Forum



Value & Ethics Sub- Committee
3 November 2023 at 12.30pm

1. Members of the V&E Sub Committee

Questions

Number	Name
1	Mike Oldreive
2	Dan Ackroyd

Statements

Number	Name
1	Dan Ackroyd
2	Suzanne Audrey



QUESTIONS FOR V&E, 3 NOVEMBER 2023

Mike Oldreive

The Head of Legal Services, Nancy Rollason was dealing with my complaint made in July 2022. In October, when I queried the delay in dealing with my complaint, I received the following in responses from her:

6 October 2022:

“Unfortunately resolution of the complaint has been delayed as I have been struggling find an independent person to review the initial assessment as the person I usually instruct is no longer available.

My apologies for the delay – I am trying to find someone else who can assist.”

13 October 2022:

“We have an arrangement with an independent person outside of the area, but they are no longer available. I have now been able to identify another person from out of the area who can undertake this piece of work.”

Email from Monitoring Officer, 13 October 2023:

“I am writing to you following the V&E Sub-committee meeting on Monday 9 October, with specific reference to the matters raised relating to the appointment of the independent Persons. Having reviewed the relevant legislation, I would like to clarify the position for you.

The recent recruitment process for Independent Persons will require the ratification of those appointments by Full council and it is anticipated that this will be at the next ordinary meeting of Full Council on 14 November. This is not the position that was outlined in the meeting. I have advised the members of the Sub-committee of this.

Please accept my apologies for any confusion in the meeting

Q1.

How many Independent Persons have been involved in complaints cases since 2013 (other than Mr Christopher Eskell, who was appointed by Full Council in 2013)?

Does the Monitoring Officer consider that these appointments of Independent Persons carried out by the Head of Legal Services and the Monitoring Officer were made lawfully?

If YES, under what specific powers? Please provide a clear reference and justification.

There is a requirement to appoint an IP and consult with them where a complaint is investigated. There is a discretion to consult with an IP in all other circumstances, including initial analysis of a

complaint. The Council consults an independent person to provide advice on the assessment of complaints. There have been no complaints that have required an investigation in the last 5 years.

Q2.

Can the Monitoring Officer explain how the members' complaints process and decisions made since 2013 would be valid if the appointments of Independent Persons are unlawful?

See Answer to Q1

Q3 :

Section 5 of the Local Government & Housing Act 1989 requires the Council to appoint an Officer to act as the Council's Monitoring Officer. The Act provides that it is the personal duty of the Monitoring Officer to report formally to the Council on any proposal, decision or omission by the Council, which has given rise to, or is likely to, or would, give rise to, the contravention of any enactment, rule of law or statutory code of practice.

The appointment of Independent Persons by the Monitoring Officer and the Head of Legal Services is a breach of section 28 of the Localism Act 2011, Will the Monitoring Officer report formally the unlawful appointment of Independent Persons to all members of the Council, as required by statute?

The MO will not be preparing a S5 report. However, there will be a report to Full Council on the 14th November recommending the appointment of 3 Independent persons.

Dan Ackroyd

Please find below my questions for the Values and Ethics Sub-Committee Friday, 3rd November. Apologies for any typos, I have a chronic pain condition that sometimes affects my typing.

Question 1

On the 16th of October I made a complaint to Bristol City Councils complaint process (ref: 40910847) that apparently Bristol City Council has not been acting lawfully with regard to appointing 'Independent Persons' and the complaint process.

That complaint is still being processed, but after asking for some quite simple clarifications to be made, I have received no further response, and so I am asking in a formal setting.

Will the report required under section 5 (2) of the local government and housing act be presented to the Full Council scheduled for the 14th of November? If that is not correct, please can you tell me when and to whom the report will be made?

Please can the council confirm that I definitely will receive a written response by the 6th of November? The deadline for questions for the Full Council meeting on the 14th appears to be the 8th of November, and I would very much like to be able to submit questions on this matter in a timely manner.

Please can you confirm that this matter has been brought to the attention of the Monitoring Officer?

The MO will not be preparing a S5 report. However, there will be a report to Full Council on the 14th November recommending the appointment of 3 Independent persons.

Question 2

The roles of Officers employed in Bristol City Council's Legal Services team and the role of the Monitoring Officer seem to have an inherent conflict.

The Legal Services people are there to empower and help BCC "get stuff done". The role of Monitoring Officer in the complaints process is to be a neutral arbiter.

How does the Monitoring Officer resolve that conflict?

The Monitoring Officer does not consider that there is a conflict of interest

Question 3

I very much look forward to hearing the results of the working group's discussion of Bristol City Council publishing a clear and straightforward Public Interest Test.

One issue that is related to this topic is the sale of "Arena island" to 'L & G'. My understanding is that the exact terms of this deal have never been published. What is the public interest in keeping the terms of this deal secret? cheers Dan Ackroyd

This is not a matter that is within the remit of the Values and Ethics Committee

Dan Ackroyd

Hi,

Please find below my statement for the Values and Ethics committee tomorrow.

I'd like to apologise for my outburst at the last meeting. It doesn't justify it, but I had lost my temper after the monitoring officer appeared to mislead this committee.

Which I think he has done a couple of times.

At the meeting on the 25th of September the Monitoring Officer misled the chair of this committee into thinking that public forum could be 'skipped' without moving a motion that would be voted on to allow that change to procedure. A member of the public interrupted that meeting to insist of the rules being followed.

In the last meeting, in my supplementary question I asked:

"I have a supplementary to my question four, where I asked about the proposed change in agenda, item six that says the parties complaint must not publicise the fact or contact or content or complaint or the outcome without the agreement of the monitoring officer. This is a new proposed rule.

My question is, has this rule already been used for dealing with any complaints?"
The Chair sought to clarify:

"Okay. So you are asking if it's been retrospectively?"
Dan Ackroyd:

"Yes. That's what I'm asking. I kind of need a clear answer."
Monitoring Officer:

"The only thing I would say, Chair, is that when we receive a complaint, we impressed upon complainants and access to the subject of a complaint to maintain confidentiality in the process. And this seeks to just recognise that it's been a long standing position of mine that in order to ensure the fairness to both parties, that degree of confidentiality is maintained."
To me, that is an evasive answer, to the point that it is misleading.

A more accurate answer would be "yes, the proposed confidentiality rule has already been used". As evidence, I believe the following is from one of the 'complaint decisions':

"The decision will not be made public and is to be treated confidentially between the Complainant and the Member against whom the complaint was made."
It's not right that the Monitoring Officer is making up his own rules of how complaints are handled, and then refusing to answer questions about it.

It's particularly inappropriate when the 'rule' is in direct contradiction to the "Guidance on Member Model Code of Conduct Complaints Handling" from the Local Government Association:

"Members of the public are not covered by the Code of Conduct. A person making an allegation about a councillor is under no responsibility to the subject member to keep that

complaint confidential, but if they do decide to publish the complaint and it is untrue then the complainant may well expose themselves to an action for defamation."

I also doubt telling members of the public they need to keep something confidential is lawful. Any complaints process where someone needs to give up one of their rights, in this case the right of freedom of expression, is an inherently unjust complaints process.

Another example of misleading happened in response to Mr Oldreive's supplementary question which was:

"There is a requirement under the localism act 2011 for the appointment of an independent person to be approved by majority of the members of the authority. Can the monitoring officer confirm that all requirements of section 28 of the localism act 2011 have been met in Independent person appointments since 2021?

If not, what is the impact?"

The answer given in the meeting by the Monitoring Officer was:

"There's no requirement in the legislation. In fact, I think it would be complete misreading of the legislation to think that that appointment would need to be made by full council." Which apparently was completely wrong.

I'm aware that there is a 'post-meeting clarification' of:

"The recent recruitment process for Independent Persons will require the ratification of those appointments by Full Council and it is anticipated that this will be at the next ordinary meeting of Full Council on 14 November."

But even this response is misleading as it non-responsive to the question.

Mr Oldreive's question was not about the future. He was asking about the past, about whether the Independent Persons who have already been consulted with were appointed lawfully or not.

For a 'clarifying' answer written outside of a meeting, where someone is not under time pressure to give an answer immediately, I would expect it to be a very clear answer to the question asked.

It is not right that the Monitoring Officer is giving misleading answers on such a serious subject.

We're limited in what questions we ask (many questions have been rejected) and limited in asking supplemental questions.

We can't do an effective cross-examination of someone who isn't willing to give full and truthful answers.

With respect Councillors, while this type of evasive answering is not unusual for politicians, I don't think it is acceptable for an officer. It's particularly unacceptable for an officer whose role, according to the Local Government Association, is:

"Monitoring officers are at the heart of the standards framework. They promote, educate and support councillors in following the highest standards of conduct and ensuring that those standards are fully owned locally."

The public cannot have confidence in the standards of this council, when the person meant to be upholding high standards is behaving like this. sincerely,

Dan

I would like to submit the following statement to Values and Ethics Committee, 3 November 2023.
I hope to attend the meeting.

Best wishes
Suzanne Audrey

Statement to Values and Ethics Committee, 3 November 2023

At the previous Values and Ethics committee (9 October 2023) members of the committee and the public were informed by the Monitoring Officer (MO) that Independent members were appointed by the MO and Head of Legal Services and there was no requirement in the legislation stating that the appointment was made by Full Council.

I stress that this was stated by the Monitoring Officer about a process he has implemented with the Head of Legal Services.

A post-meeting clarification dated 20 October 2023 indicated: The recent recruitment process for Independent Persons will require the ratification of those appointments by Full Council and it is anticipated that this will be at the next ordinary meeting of Full Council on 14 November.

The matter cannot end there.

It cannot be dismissed as a bit of a problem that has now been sorted out and we should all move on.

As far as I can tell Independent Persons have not been ratified by Full Council since 2013.

Why?

The public have the right to know who the Independent Persons have been for the last 10 years.

What measures will the Values and Ethics committee take to ensure that this information is in the public domain?

If the Monitoring Officer and the Head of Legal Services are unwilling to release the information then it may be necessary to go through Bristol City Council's complaints procedure (in which trust has been undermined) and escalate it to the Local Government Ombudsman.

That should not be necessary.

We need to restore trust in the Complaints Procedure.