

City of Edinburgh Council

10.00am, Thursday 28 October 2021

Monitoring Officer Report

Executive/routine
Wards
Council Commitments

1. Recommendations

- 1.1 To note that the independent Inquiry into complaints about the late Sean Bell, conducted by Pinsent Masons LLP and overseen by Inquiry Chair Susanne Tanner QC, has completed its investigation and has submitted its report to the Council for consideration on 28 October 2021.
- 1.2 To note that the Council's Monitoring Officer is required, under s.5 of the Local Government and Housing Act 1989, to report to Council if they consider that in the course of the discharge of the Council's functions any proposal, decision or omission has resulted in maladministration, illegality or injustice.

Nick Smith

Council Monitoring Officer

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Report

2. Executive Summary

- 2.1 The independent Inquiry has identified certain failings and missed opportunities on the part of the Council to address the unacceptable conduct of the late Sean Bell.
- 2.2 Given the failings and omissions to act as set out by the Inquiry in its report, the Monitoring Officer has concluded that he is required to report this as maladministration and injustice to Council in terms of section 5 of the Local Government and Housing Act 1989.

3. Background

- 3.1 The Council commissioned an independent Inquiry into complaints about the conduct of the late Sean Bell, a former senior manager in its Communities and Families directorate, who passed away in August 2020. Mr Bell was due to stand trial for sexual offences charges, but Police Scotland's criminal investigation was brought to a close following his death.
- 3.2 The Inquiry was carried out by a specialist team from Pinsent Masons' Manchester office, and was overseen by Inquiry Chair, Susanne Tanner QC.
- 3.3 The purpose of the Inquiry was to establish, amongst other things, whether or not any, or appropriate, steps were taken by the Council to respond to any past allegations or suspicions of abuse or inappropriate behaviour by Mr Bell.

4. Main report

- 4.1 Elected Members are referred to the Inquiry's Report into Complaints against the Late Sean Bell, also for consideration on the current full Council agenda. The Monitoring Officer has had access to the full report by the Inquiry. It is not proposed to repeat the Inquiry's findings and recommendations in detail in this report as they are clearly set out in the Inquiry's report.
- 4.2 As Elected Members will note, the report details certain failings and omissions on the part of the Council. The Monitoring Officer considers that these failings and omissions amount to maladministration and injustice and require to be reported to Council under section 5 of the Local Government and Housing Act 1989.

- 4.3 While there is no statutory definition of '*maladministration*' it is generally accepted (including by the Scottish Public Services Ombudsman) to include the following: '*failure to apply rules properly; neglect; inattention; delay; incompetence and ineptitude*'. It is clear from the Inquiry's report that the Council failed to act upon opportunities over a prolonged period of time to invoke appropriate policies in order to investigate serious allegations concerning Sean Bell. It is therefore the Monitoring Officer's clear view that maladministration has occurred encompassing the elements of maladministration italicised above.
- 4.4 In addition, it is the Monitoring Officer's view that injustice has resulted from the Council's initial failures to report serious allegations concerning Sean Bell to Police Scotland. Had such referrals been made appropriately and timeously, Mr Bell would likely have been subject to criminal investigation and potential criminal proceedings at an earlier stage.

5. Next Steps

- 5.1 The Council should consider the findings and recommendations as set out in the Inquiry's report.

6. Financial impact

- 6.1 No direct impact arises from this report, although there will be financial impacts flowing from the Inquiry report.

7. Stakeholder/Community Impact

- 7.1 No direct impact arises from this report, although there will be wider equalities impacts flowing from the Inquiry report.

8. Background reading/external references

- 8.1 The Inquiry's Report into Complaints against the Late Sean Bell.

9. Appendices

- 9.1 None.