

# City of Edinburgh Council

10.00am, Thursday 25 November 2021

## Independent Inquiry Report Arising Out of Allegations Concerning the Conduct of the Late Sean Bell – update on recommendations

Executive/routine  
Wards  
Council Commitments

Executive

### 1. Recommendations

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- 1.1 To note the progress with regard to the recommendations made in the Inquiry report.
- 1.2 To decide whether to accept the recommendation from Pinsent Masons that no further review of the misuse of public funds matter take place given proportionality considerations.

**Andrew Kerr**

Chief Executive

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# Report

## Independent Inquiry Report Arising Out of Allegations Concerning the Conduct of the Late Sean Bell – update on recommendations

### 2. Executive Summary

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- 2.1 On 28 October 2021, Council received a report from the independent Inquiry chaired by Susanne Tanner QC (“Inquiry”) which identified certain failings and missed opportunities on the part of the Council to address the unacceptable conduct of the late Sean Bell. The Inquiry made certain recommendations in this regard.
- 2.2 Council requested an update from the Chief Executive within one cycle as to how these recommendations would be implemented.
- 2.3 This report updates Council on progress and proposed next steps in this regard.

### 3. Background

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- 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.
- 3.4 At October Council, the Council considered the report from the Inquiry which identified key issues, findings and recommendations.

## 4. Main report

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- 4.1 The Inquiry made certain recommendations in their Inquiry report. In October, Council also made additional requests in relation to the findings. These are as set out in the decision of Council.
- 4.2 Elected Members are asked to note progress, next steps and timelines with regard to the recommendations of both the Inquiry and Council. It is important to note that it is expected that some of the recommendations and actions may need to be reviewed once the wider Inquiry report into organisational culture has reported. It is considered likely that there will be areas of crossover which will need to be taken into account and accordingly it is difficult to provide certainty over timelines for all aspects at this stage. Further reports to Council will provide more detail on this.
- 4.3 Recommendations and next steps are the table below.

<b>Policy:</b> Whilst this workstream is likely to be enhanced by the wider Inquiry report into organisational culture which will shortly be received by Council, below details proposed immediate responses with timelines. Once this report has been received and considered, further plans will be brought back to Council for approval.	
Recommendations	Council response
<p>(9.1.9) the current CEC HR practices relating to relationships between CEC employees are inadequate and do not reflect the close working and personal relationships between many CEC employees, which are often undisclosed.</p> <p>(9.1.10) a CEC policy should be created which stipulates that relationships between CEC staff members must be disclosed if they involve an individual with line management responsibilities. This policy should also include the steps to be taken if a situation involving allegations of a sexual nature, domestic abuse or those relating to physical violence, harassment, or stalking, within or outwith the working day or CEC workplace, arises between employees who are, or were, involved in a relationship.</p>	<p>As an immediate step new Policy and guidance in respect of Relationships and Familial will be developed which addresses 9.1.9 and 9.1.10. This will be taken to Policy and Sustainability Committee in March 2022 for approval.</p> <p>A process for the requirement of disclosure of conflicts of interest, specifically relating to familial or former familial relationships between employees will be developed and implemented by the end of quarter one 2022 to address 9.1.16.</p> <p>In respect of 9.1.11 as an immediate step our Domestic Abuse Policy and underpinning guidance and training has been revised and it is proposed will be taken to Policy and Sustainability Committee in March 2022 for approval. We are working with Respect to secure accreditation for this revised policy. (See further detail on training below which will accompany this Policy).</p>

<p>(9.1.16) familial or former familial relationships of employees within the CEC should be disclosed and logged appropriately on both employees' HR files, to ensure that any actual or potential conflicts which may arise during the course of internal investigations are addressed.</p> <p>(9.1.11) the current CEC domestic abuse policy, the 2019 PDA, requires to be revised to state explicitly that it covers situations with CEC employees which arise outside the workplace and / or outwith work hours.</p> <p><i>Further council recommendation:</i> Without prejudice to any further specific recommendations from the Independent Inquiry on Council's wider culture that a full review of all Council policies relating to staff conduct is undertaken to determine how these could be consolidated and clarified to aid compliance and investigation in future. Notes discussions have already begun to improve effectiveness of staff conduct policies as a holistic suite to improve compliance and understanding of the policies as well as access for staff to use policies to be able to more effectively raise issues and get access to support.</p>	<p>In respect of the further Council recommendation, it should be noted that Council employment Policies are legally compliant, but a review will be undertaken in quarter one 2022, in discussion with Trade Unions, as to opportunities to further simplify and consolidate Policies relating to employee conduct. Appendix One details those policies which would be in scope for further consideration</p> <p>This will include adding into Disciplinary Policy that the Council maintains the right to continue any investigations in light of an employee resigning from their employment. Additionally, we will address the pending possible future legal requirement for organisations to prevent sexual harassment at work.</p> <p>Policy review or development will need to adhere to due process (e.g. consultation).</p> <p>However, perhaps what is more important is ensuring colleagues have absolute clarity on routes available for them to escalate matters – whether that be through employment policies, line managers, trade unions, whistleblowing or SHE (our Health &amp; Safety reporting).</p> <p>We have commenced work, engaging with colleagues on this already and will continue this. We hope to conclude this initial preparatory work by the end of quarter one 2022. Beyond that date, further work will need to follow to develop the processes and systems needed, aligned to any Policy changes and, to cascade and embed these across our organisation. Additional consideration will need to be given to any training required for colleagues and line managers.</p>
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**Investigations:** Whilst this workstream is likely to be enhanced by the wider Inquiry report into organisational culture which will shortly be received by Council, below details proposed immediate responses with timelines. Once this report has been received and considered, further plans will be brought back to Council for approval.

Recommendations	Council response
<p>(9.1.1) the system of investigation within the CEC relating to sexual allegations, domestic abuse, physical violence, stalking or harassment needs to be reformed to ensure that it is independent and impartial, and seen to be as such, both within and outwith the CEC.</p> <p>(9.1.2) the CEC should consider the implementation of an independent investigation unit of appropriately experienced and properly trained investigators, to investigate all allegations in relation to CEC employees of a sexual nature, domestic abuse, physical violence, harassment or stalking (whether occurring during the course of work hours or on CEC premises or not). The CEC should either procure an independent external firm to establish an independent team of investigators to take on this role; or create an internal unit of investigators whose sole role is to carry out such investigations. If internal, any such unit should be regularly audited by an independent body.</p> <p>(9.1.3) all allegations in relation to CEC employees of a sexual nature, domestic abuse, physical violence, harassment or stalking (whether occurring during the course of work hours or on CEC premises or not) must be escalated to the CEC’s Monitoring Officer prior to the appointment of any investigator, whether internal or external; and a record should be kept of all such allegations for an appropriate period of time, subject to GDPR considerations, to allow for identification of patterns of behaviour.</p> <p>(9.1.4) if the system of investigation for such matters remains internal, all CEC employees tasked with conducting investigations must be properly trained to ensure, amongst other</p>	<p>This will include simplification (where possible) and further clarification of the entry points for reporting of all employee related instances in respect of conduct. Additionally, full proposals and options for investigatory activity moving forward, including detail on costs.</p> <p>The current practice of appointing Investigatory Officers for employee cases will be reviewed.</p> <p>It is proposed that we will create a ring-fenced team of experienced and trained investigators. Options are currently being considered and costed for both an external unit and/or an internal team who can access specialist external support if required.</p> <p>Whilst the Inquiry team have recommended this team investigate allegations of a sexual nature, domestic abuse, physical violence, stalking or harassment, the proposal which will be developed will consider all formal cases to potentially be investigated by this team (as per Council recommendation). This will ensure that any other issues (e.g. race or hate incidents) are also treated equally.</p> <p>Given the average number of cases we have across our organisation, it</p>

<p>things, that: (a) they are alive to the possibility of potential conflicts of interest arising from personal / work related relationships with those subject to investigation, or witnesses, and decline to act where there is an actual or apparent conflict prior to, or during, the investigation, as required; and (b) they understand how to properly conduct interviews with alleged survivors of various kinds of abuse and will make referrals to support services for survivors, where necessary.</p> <p>(9.1.5) if the system of such investigations remains internal, the CEC should look to an external service provider with appropriate expertise to design and / or deliver the training to CEC employees, and to provide refresher training annually.</p> <p><i>Further council recommendation:</i> That in delivering the Inquiry Recommendations, the Chief Executive give consideration to expanding the scope of the special investigation's unit detailed in paragraph 9.1.1 of the report to include any other serious issues of misconduct including, but not limited to, serious fraud or misappropriation of public funds.</p>	<p>is likely that the Investigatory team will need to be circa 10 individuals, depending on final proposal of scope of cases to be investigated by this team. The cost will vary depending on whether this is an in-house or external resource; but is likely to be in the region of £600,000 (if in house) plus the cost of any assurance audit.</p> <p>Additional steps will be added to process and relevant Policies to ensure matters relating to allegations of a sexual nature, domestic abuse, physical violence, harassment or stalking will be escalated to CEC's Monitoring Officer.</p> <p>Further detailed recommendations will be brought to Council in early 2022.</p> <p>There will remain a reliance on senior employees undertaking the role of Nominated Officer and it should be noted that a pressure on this pool to undertake this role will remain.</p>
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<p><b>Training and Education:</b> Whilst this workstream is likely to be enhanced by the wider Inquiry report into organisational culture which will shortly be received by Council, below details proposed immediate responses with timelines. Once this report has been received and considered, further plans will be brought back to Council for approval.</p>	
Recommendations	Council response
<p>(9.1.6) staff training and understanding within the CF Department and the wider-CEC surrounding domestic abuse, coercive control, the 2019 PDA, the 2019 WBP and other employee and service user welfare policies needs to be improved. Appropriate</p>	<p>As an immediate step training is being designed to roll out once our new Domestic Abuse Policy and Guidance is approved at Policy and Sustainability Committee in March 2022.</p>

<p>training and education are paramount in ensuring an effective safeguarding culture for employees and service user.</p> <p>(9.1.7) all employees of the CEC with line management responsibilities should be required to partake in mandatory training on domestic abuse, coercive control and how to appropriately deal with those individuals making complaints of a potentially criminal nature; and such training should be refreshed annually, with records kept of such training. The CEC should look to an external service provider with appropriate expertise to design and / or deliver the training.</p> <p>(9.1.8) all employees of the CEC with line management responsibilities should be required to undertake training on public interest disclosures and the 2019 WBP, to enable them to differentiate between such disclosures and matters falling within other CEC policies (the PDA 2019, grievances, and potential disciplinary matters). The CEC should look to an external service provider with appropriate expertise to design and / or deliver the training.</p>	<p>In the meantime, we already have an online level 1 training which is suitable for all employees and includes a small section of how to conduct a trauma informed interview, which is a Scottish Government Resource. This will be promoted across our organisation.</p> <p>Additionally, training to CEC practitioners will continue to be provided from our 14 Council Domestic Abuse Trainers who are accredited by an external body. The cost to deliver this training on an ongoing basis will need to be finalised.</p> <p>Online training in respect of Public Interest Disclosure will be sourced, developed and made accessible for all line managers by the end of quarter one 2022.</p> <p>It is important to note that not all of our employees have access to online training, unless they grant permission for personal email addresses to be used. This remains a challenge for us to ensure such training is completed.</p>
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<p><b>Records and data:</b> Whilst this workstream is likely to be enhanced by the wider Inquiry report into organisational culture which will shortly be received by Council, below details proposed immediate responses with timelines. Once this report has been received and considered, further plans will be brought back to Council for approval.</p>	
Recommendations	Council response
<p>9.1.12 there must be a formal system in place at the CEC for recording disclosures by employees, service users or others relating to allegations of sexual or physical violence, harassment or stalking by CEC employees (whether</p>	<p>9.1.12 &amp; 9.1.13 Immediate consideration is being given as to how more clearly defined and centralised routes for such disclosures can be escalated, recorded and responded to. This relates to the recommendation 9.1.3.</p> <p>There are (HR) system functionality dependencies which need to be</p>

<p>occurring during the course of work hours or on CEC premises or not).</p> <p>9.1.13 record keeping must be improved within the CEC, with notes taken at all meetings where disclosures or concerns are raised by employees to line managers regarding sexual or physical violence, harassment or stalking (whether occurring during the course of work hours or on CEC premises or not). Once recorded, line managers should be obliged to report such disclosures or concerns up the management structure at the CEC.</p> <p>(9.1.14) a record of all investigations conducted (whether internal or external) regarding abuse of a sexual or physical nature, harassment or stalking (whether occurring during the course of work hours or on CEC premises or not) should be kept by the CEC for a period of twenty-five years, in a searchable and accessible format, subject to GDPR considerations.</p>	<p>considered in respect of these recommendations and, further work will need to be completed to address and cost these.</p> <p>9.1.14 Immediate steps will be taken to ensure that all such investigations (as defined) are recorded centrally adhering to GDPR.</p>
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<b>‘Old boys’ network’</b>	
Recommendations	Council response
<p><i>Council recommendation:</i> To request the Chief Executive requests details from inquiry team of those that some witnesses described as being part of an “old boy’s network”. In addition to the recommendations that Human Resources and Internal Audit conduct an assessment of disciplinary issues or complaints handled by any of those actors in order that any issues identified are acted upon and reported appropriately.</p>	<p>A list of those individuals who were alleged to have been part of an “old boys’ network” within the Children and Families department has been received from Pinsent Masons. An assessment is currently ongoing as to how best to conduct a proportionate review of disciplinary or complaint matters handled by these individuals. A recommendation will be brought back to Council for approval.</p>



<b>Departure of former senior employees</b>	
Recommendations	Council response
<p><i>Council recommendation:</i> To request a briefing by the Chief Executive to Councillors within one cycle on the circumstances of the departure of Alastair Gaw and Andy Jeffries from Council employment as well as information on the ability (or otherwise) of the Council to progress and conclude disciplinary processes after an employee has resigned.</p>	<p>A briefing note in relation to this matter was sent to all elected members on 19 November 2021 and this recommendation can now be closed.</p>

<b>Redress scheme</b>	
Recommendations	Council response
<p>(9.1.15) an appropriate CEC redress scheme should be set up, without admission of liability, to compensate those who have been abused by SB.</p>	<p>The Council is making significant progress to ensure our insurers remain up to speed with the recommendations arising from the Inquiry, and work is advancing on how best to set up a redress scheme. Further details will be brought back to Council for approval.</p>

<b>Misuse of public funds</b>	
Recommendations	Council response
<p><i>Council recommendation:</i> To request a briefing by the Chief Executive within one cycle on the processes followed by the internal and external investigations to establish whether there was any misuse of public funds by Sean Bell and the conclusions reached.</p>	<p>A briefing note in relation to this matter was sent to all elected members on 19 November 2021. The recommendation from Pinsent Masons is that, given the potential costs, that prior investigations have taken place, and the fact that any potential useful outcomes will likely have been exhausted (the value of funds used is low, the funds were only given to those in need, many interviewees have left the Council (and therefore could not be compelled to provide evidence) and the main</p>

	accused party is deceased), it would not be proportionate to spend further public funds to reinvestigate this matter. A decision is required from Council as to whether to accept this recommendation from Pinsent Masons.
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- 4.4 Finally, the Council reiterates its commitment to identifying and addressing inappropriate behaviours and activities and welcomes individuals raising issues of concern through available means of escalation including management, the independent whistleblowing service, our employment Policies or Trade Unions.

## 5. Next Steps

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- 5.1 Following receipt and consideration of the Inquiry report into the wider cultural review of the Council, the Chief Executive will report back to Council within two cycles providing further recommendations on how the Inquiry's recommendations can be implemented.

## 6. Financial impact

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- 6.1 The cost of this Inquiry into complaints about the late Sean Bell to date excluding work in progress which has not yet been invoiced is £0.6m. A budget of £1m has been approved for both inquiries and a further £0.4m will be set aside from the 2020/21 audited budget underspend.
- 6.2 There are likely to be significant financial impacts flowing from the recommendations of the Inquiry report. These have yet to be fully assessed and an update will be provided when the Chief Executive reports back to Council.

## 7. Stakeholder/Community Impact

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- 7.1 The report identifies that Mr Bell had a seriously detrimental impact on those survivors and the wider staff cohort in some of his interactions. This was, and is, not acceptable.
- 7.2 The Council acknowledges that the need for, and the outcome of, this report will come as a shock to, and be distressing for, many employees and citizens and the Council hopes that implementation of the Inquiry's report recommendations will address the concerns identified going forward.

## **8. Background reading/external references**

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- 8.1 [Response to Council Motion on Whistleblowing Culture, Policy and Sustainability Committee – 6 October 2020](#)
- 8.2 [Response to Council Motion on Whistleblowing Culture, Referral from P&S Committee, City of Edinburgh Council 15 October 2020](#)
- 8.3 [City of Edinburgh Council Meeting – 28 October 2021](#)

## **9. Appendices**

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- 9.1 Appendix 1 – Policy recommendations

## **APPENDIX ONE**

### **Employment Policy**

Our current employment policies are legally compliant however, there are potential opportunities to seek to simplify and clarify some aspects of Policy. In this regard the following will be undertaken:

- Review of all conduct related Policy/Procedure to seek to simplify: Employee Code of Conduct; Violence at work policy; Avoidance of Bullying and Harassment; Disciplinary policy (Local Government Employees); Disciplinary policy (Teachers); Disciplinary policy (Chief Officers); Grievance procedure (Local Government Employees); Grievance procedure (Teachers);
- Development of new policy in respect of Familiar/Relationships at Work to be taken to Policy and Sustainability Committee March 2022;
- Complete the revision of our Domestic Abuse policy, with underpinning guidance and training to be taken to Policy and Sustainability Committee March 2022;
- Consideration of developing policy in respect of alcohol, drugs and substance misuse;
- Consideration in respect of pending duty for employers to prevent sexual harassment

Additionally, in order to prioritise the above, a number of Policies which are currently being reviewed may need to be rescheduled for completion (consultation, approval and implementation) to later in 2022/23 due to resource constraints – these includes Maternity, Paternity and Parental Leave, Shared Leave and Sustainable Travel for our Employees.