



Leicester
City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

5th December 2023

FULL COUNCIL

TBA

**BIENNIAL REPORT OF STANDARDS COMMITTEE JULY 2021 - JUNE 2023
ANALYSIS OF MEMBER COMPLAINTS**

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1. This is the report of the Monitoring Officer, dealing with Elected Member complaints for the period 1st July 2021 to 30th June 2023. It provides a general overview of complaints for those years, broken down into two periods. Individual complaints themselves are treated confidentially, in accordance with the rules of natural justice. Publicity will attach to cases where they reach the stage of a (public) hearing, or when otherwise appropriate, for example if the misconduct occurred in a very public forum.
- 1.2. Appendix A provides a redacted summary of valid complaints.
- 1.3. Council have separately approved and revised two key documents (the “Code” and the “Arrangements”) which, respectively, set out the expected standards of behaviour of Elected Members and the procedural framework under which misconduct allegations are processed. The Code was last revised in 2022, and the Arrangements are being brought to this same meeting of Full Council to agree revisions from 2023.
- 1.4. The Council has 55 Elected Members (54 Councillors and a directly elected Mayor)

2. RECOMMENDATIONS

- 2.1. For Standards Committee to note the report and make any recommendations
- 2.2. For Council to note the report

3. REPORT

Principles

3.1.1. The principles which underpin the Council's processes for dealing with Member misconduct complaint remain as follows:

- a. There should be simplicity to the scheme so that it is easily understood and transparent
- b. There should be flexibility at every stage of the process for informal resolution and / or robust decisions to be taken about "no further action"
- c. There should be Member involvement at key stages in the process
- d. There should be the involvement of Independent Members (IM) and the Independent Person (IP) at key stages of the process
- e. The Monitoring Officer should have greater powers to deal with complaints relating to the Code of Conduct
- f. All Members and co-opted Members shall cooperate with the application of these Arrangements, recognising that failure to do so can result in the incurring of wasted costs and reputational damage to the Council
- g. Rights for complainants to seek a "review" of a decisions at various stages should be limited, consistent with the reduced scope and severity of allowable outcomes that can be imposed under the new regime
- h. At any stage in the process where it is clear that a matter should be referred to the police this should be done and the local investigation should be suspended

3.2. Volume

No. of valid complaints lodged 1st July 2021 to 30th June 2022	7
No. of valid complaints lodged 1st July 2022 to 30th June 2023	6

2021/22

- 3.3. In the period July 2021 to June 2022 seven valid complaints were lodged, covering ten Elected Members. Two of these ten Members were complained about twice (though no inferences should be drawn from this fact). This means that 45 out of 55 Elected Members did not attract an allegation of misconduct that year.

2022/23

- 3.4. In the period July 2022 to June 2023 six valid complaints were lodged, covering seven Elected Members. This means that 48 out of 55 Elected Members did not attract an allegation of misconduct that year.
- 3.5. The reference to “valid” complaints is deliberate, and it is to be noted that 13 actual referrals were made to the Monitoring Officer in 2021/22 and 29 such referrals were made in 2022/23. It follows that of these 42 “contacts” only 13 were complaints that progressed. The reasons for this included:
- Complaint too vague or general to constitute a valid complaint, and when invited by the Monitoring Officer to clarify the nature of the allegation, the prospective complainant declined to engage
 - Complaint revealed as false and malicious
 - Complaint more properly resolved through other action instigated by the Monitoring Officer (e.g., complaint wasn’t about standards, and complaint really only wanted progression/resolution of an operational matter)
 - Complaint already properly dealt with through other channels
 - Elected Member clearly not acting on the business of the Authority at the time (for example, was acting in private capacity on social media, or was acting on party political business)
- 3.6. In all cases where a prospective complaint is not treated as valid the Monitoring Officer is mindful to assess whether it is just and fair to abandon it, taking an appropriate steer from the Independent Person(s) where appropriate.
- 3.7. In relation to some of the invalid complaints the Monitoring Officer nonetheless can and does utilize his broader jurisdiction to offer advice to Councillors.
- 3.8. It is also worthy of note that in each of the two years being reported upon the Monitoring Officer witnessed the phenomenon of “group” complaints, meaning that he received multiple, often identically worded complaints about the same Elected Member(s) over the same issues. These were notable as follows:

- Complaints 11/2021 and 12/2021 were raised in the context of a pilot to introduce Residents' Parking Zones. Such Schemes are notorious for polarising views and attracting community-wide interest (and, it follows, unhappiness from many). There were more than two complainants across these two complaints.
- Similarly, complaints 05/2022; 06/2022; 14/2022 and 21/2022 were raised in the context of a pilot to introduce low-traffic/Safer Steets zones in one part of the City. Such schemes are notorious for polarising views and attracting community-wide interest (and, it follows, unhappiness from many). There were far more than four complainants across these four complaints
- Complaint 21/2022 attracted multiple, similarly worded complaints.

The Monitoring Officer's approach to these cases is to seek to agree the name of a "lead" complainant with whom to correspond during the investigative phase, but to write to all parties with the outcome. This is regarded as a proportionate means of balancing the interests of all parties, in recognizing the strength of feeling amongst residents whilst also not allowing sheer force of numbers to compel the complaint to take-on an inappropriate air of gravitas.

3.9. Source of Complaints

2021/22

Complaints from members of the public	7 (all)
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2022/23

Complaints from members of the public	6 (all)
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3.10. Nature of allegations

2021/22

Behaviour	3
Unhelpfulness	4

2022/23

Behaviour	4
Unhelpfulness	2

3.11. It is very difficult to draw any inferences from the categories used above due to the small sample size. The anonymized Appendix gives more insight into the nature of the allegations raised in the context of the complaints

3.12. Route

2021/22

Dealt with by I.P. and M.O.	5
Concluded after 'Review' by M.O. and second I.P	2
Externally investigated and withdrawn	0
Proceeded to Standards Hearing	0

2020/21

Dealt with by I.P. and M.O.	5
Dealt with after 'Review' by M.O. and second I.P	1
Externally investigated	0
Proceeded to Standards Hearing	0

- 3.13. Almost all complaints are dealt with by the Monitoring Officer in conjunction with one of the two Independent Persons. These complaints do not come to the attention of the Standards Committee or the Standards Advisory Board (a sub-committee of the Standards Committee which looks at specific complaints) save by way of anonymized and very brief update at each Standards Committee meeting.
- 3.14. A complaint is entitled to ask for a review of a first-stage outcome. The Council's published "Arrangements" allow for this right to be exercised in respect of all outcomes short of referral for independent investigation. A review is achieved by the Monitoring Officer sending the complaint to the second Independent Person, essentially for a second opinion as to outcome.

3.15. Outcome of allegations

2021/22

Rejected (not related to Code, or covered by another process)	1
Rejected (trivial, no public interest in pursuing, vexatious)	0
Rejected (no potential breach of Code disclosed)	4
Informal resolution (no breach, reparation desirable)	2
Informal resolution (low level breach, undesirable to take further)	0
Standards subcommittee hearing (outcome of 'no breach')	0
Standards hearing (outcome of 'breach')	0

Rejected (not related to Code, or covered by another process)	2
Rejected (trivial, no public interest in pursuing, vexatious)	0
Rejected (no potential breach of Code disclosed)	4
Informal resolution (no breach, reparation desirable)	0
Informal resolution (low level breach, undesirable to take further)	0
Standards hearing (outcome of ‘no breach’)	0
Standards hearing (outcome of ‘breach’)	0

3.16. It is right to note that this biennial report reveals a higher number of complaints than the previous report. The view of the Monitoring Officer is that this is attributable to the return to normal levels of engagement and activity in the operational business of the Council, and the consequent engagement of Elected Members with the public in the post pandemic period.

3.17. Timeliness

The ‘Arrangements’ set the following timeframes:

Complaint received ► Acknowledged to Complainant (within 5 days) ► Acknowledged to Subject Member (within 5 further days) ► Initial filtering decision by M.O. and I.P (within 15 days) ► [Further Fact Finding] ► Outcome letter ► Review (within 15 days of request)

In cases referred for investigation ► Investigation (within 3 months of initial outcome letter) ► Hearing (within 3 months)

3.18. The figures for the number of days taken to deal with a complaint are included within Appendix A. A relevant variable is for cases where an initial filtering decision results in the Monitoring Officer undertaking some more fact finding before an outcome is recommended. This could either entail asking for more details from the complainant, or involve meeting with the Subject Member to discuss the allegations. These are not always achievable within the ten day window envisaged, though the Monitoring Officer is conscious that “drift” in speedily resolving complaints is of itself harmful.

3.19. The Monitoring Officer is confident that in all cases complainants and Subject Members are communicated with in such a way that they are not left in doubt as to what stage of the process has been reached in dealing with their complaint, and when outcomes will be reached. Where target timescales are likely to be exceeded, it is important to explain this to the parties involved in a complaint, and in those circumstances (where the delay is purposeful) it is more important to maintain contact and dedicate what time is needed to the resolution of the complaint than to comply with rigid timeframes. The 'Arrangements' grant a degree of flexibility to the Monitoring Officer to achieve this aim.

3.20. **Cost**

No detailed analysis of the cost of operating the complaints regime has been undertaken, and neither would it be easy to do so. The vast majority of cases are dealt with without recourse to the Standards Advisory Board or a commissioning of any specialist investigations. The work is therefore absorbed within the day-to-day work of the Monitoring Officer in conjunction with one of the two Independent Persons. Most of this work in turn is conducted over e-mail.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

None

4.2. Legal Implications

The Council's regime for dealing with allegations of Elected Member misconduct allegations complies with the provisions of the Localism Act 2011. (Kamal Adatia, City Barrister, ext 1401).

4.3. Climate Change Implications

None

5. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
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Equal Opportunities		
Policy		
Sustainable and Environmental		
Crime and Disorder		
Human Rights Act		
Elderly/People on Low Income		
Corporate Parenting		
Health Inequalities Impact		

6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

7. REPORT AUTHOR

7.1. Kamal Adatia, City Barrister and Head of Standards.