



WARDS AFFECTED
All

Leicester
City Council

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

1st October 2019

COUNCIL

14th November 2019

BI-ANNUAL REPORT OF STANDARDS COMMITTEE JULY 2017 - JUNE 2019
ANALYSIS OF CASES REFERRED

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 2017 to 30th June 2019. 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.
- 1.2. This report focuses specifically upon the case work that has come to the attention of the Standards Committee during the two years since the last annual report, covering the period 1st July 2017 to 30th June 2019. This report does not purport to deal with the other work undertaken by the Standards Committee in the relevant years (such as the policies it has commissioned, the reviews it has undertaken or the themes it has explored)
- 1.3. 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. 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**
- g. 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 2017 to 30th June 2018	6
No. of valid complaints lodged 1st July 2018 to 30th June 2019	8

2017/18

- 3.3. In the period July 2017 to June 2018 six valid complaints were lodged, covering six Elected Members. This means that 49 out of 55 Elected Members did not attract an allegation of misconduct.

2018/19

- 3.4. In the period July 2018 to June 2019 eight valid complaints were lodged covering seven Elected Members. One Elected Member (Councillor K) was complained about twice. This demonstrates that 48 out of 55 Elected Members did not attract an allegation of misconduct.
- 3.5. The reference to “valid” complaints is deliberate, and it is to be noted that 23 actual referrals were made to the Monitoring Officer in 2017/18 and 22 such referrals were made in 2018/19. It follows that of these 45 “contacts” only 14 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)
 - Elected Member(s) decided not to pursue a complaint against another Elected Member following an informal discussion with the Monitoring Officer
- 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) if appropriate.

3.7. Source of Complaints

2017/18

Complaints from members of the public	4
Complaint from police	1
Complaint from staff member (neighboring LA)	1

2018/19

Complaints from members of the public	5
Complaints from other Elected Members	1
Complaint from LCC staff member	2

3.8. Nature of allegations

2017/18

Behaviour	3
Unhelpfulness	1
Abuse of position	2

2018/19

Behaviour	4
Unhelpfulness	1

Abuse of position	3
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3.9. 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

3.10. Route

2017/18

Dealt with by I.P. and M.O. (or Deputy M.O.)	3
Concluded after ‘Review’ by M.O. and second I.P	2
Proceeded to Standards Hearing	1

3.11. One case proceeded to a full Standards hearing. This case received media attention in October 2018.

2018/19

Dealt with by I.P. and M.O. (or Deputy M.O)	6
Dealt with after ‘Review’ by M.O. and second I.P	2
Proceeded to Standards Hearing	0

3.12. 100% of cases were 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 which is convened throughout the year.

3.13. Of the eight cases, two involved the complainant seeking a “review” of the first-stage decision. The Council’s “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. In both cases taken to review level over the past year, the conclusion was not different to that reached by the first Independent Person in conjunction with the Monitoring Officer. The view of the Monitoring Officer on this is that this demonstrates a broad level of consistency between the Monitoring Officer and the two Independent Persons as to the appropriate threshold and proper use of the Standards regime in individual cases, but also acts as a useful mechanism to test out initial decisions and to explore other avenues which may not have received particular attention when the complaint was first looked at. Indeed, in both cases that proceeded to “review” the second Independent Person raised issues or demonstrated insights into the case from a different perspective, and it is believed that these, when fed back to the complainant, would have underlined the impartiality and integrity of the Arrangements.

3.14. Outcome of allegations

2017/18

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

2018/19

Rejected (not related to Code, or covered by another process)	1
Rejected (trivial, no public interest in pursuing, vexatious)	1

Rejected (no potential breach of Code disclosed)	4
Informal resolution (no breach, reparation desirable)	0
Informal resolution (low level breach, undesirable to take further)	2
Standards hearing (outcome of ‘no breach’)	0
Standards hearing (outcome of ‘breach’)	0

3.15. Some further detail is to be found in the Appendix. One serious breach of the Code of Conduct was established amongst the 14 allegations. The Councillor found to have breached the Code by (i) failing to show respect; (ii) failing to show leadership and (iii) bringing the Authority into disrepute. This matter has received media attention, and it is not the focus of this report to comment upon individual cases. Since 2012 the law has removed any power to impose sanctions on Elected Members who are found to have breached the Code of Conduct. It follows that whatever power attaches to the Standards regime to expose misconduct, offer restorative justice and guide the behaviour of Elected Members derives from:

- (i) The willingness of Elected Members to reflect upon their own behaviour in cases where they are so inclined; or
- (ii) The public power of censure that attaches to cases that are progressed to Standards Hearing subcommittee.

3.16. 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)

3.17. 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.

3.18. 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.

3.19. **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
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.