



Leicester
City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

27th April 2022

COUNCIL

24th November 2022

**BI-ANNUAL REPORT OF STANDARDS COMMITTEE JULY 2019 - JUNE 2021
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 2019 to 30th June 2021. 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 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 1 st July 2019 to 30 th June 2020	3
No. of valid complaints lodged 1 st July 2020 to 30 th June 2021	4

2019/20

- 3.3. In the period July 2019 to June 2020 three valid complaints were lodged, covering five Elected Members. This means that 50 out of 55 Elected Members did not attract an allegation of misconduct that year.

2020/21

- 3.4. In the period July 2020 to June 2021 four valid complaints were lodged covering three Elected Members (one Elected Member was complained about twice). This means that 52 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 16 actual referrals were made to the Monitoring Officer in 2019/20 and 14 such referrals were made in 2020/21. It follows that of these 30 “contacts” only 7 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) if 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. In terms of total activity, it is perhaps relevant to note that from March 2020 through to 2022 the country was in various forms of lockdown, and the manner of interaction between Councillors and their constituents (or each other) was radically altered, principally from in-person to virtual engagement.

3.9. Source of Complaints

2019/20

Complaints from members of the public	2
Complaint from staff member (neighboring LA)	1

2020/21

Complaints from members of the public	4
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3.10. Nature of allegations

2019/20

Behaviour (discrimination)	1
Disrespect/bullying	1
Breach of confidentiality	1

2020/21

Behaviour (discrimination)	1
Unhelpfulness	2
Disrespect	1

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

2019/20

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Externally investigated and withdrawn	1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

2020/21

Dealt with by I.P. and M.O.	4
Dealt with after 'Review' by M.O. and second I.P	0
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 which is convened throughout the year.

3.14. One case 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 the case referred for Review 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.

- 3.15. The Independent Persons were also involved in many of the 30 cases received during these two years, in concluding with the Monitoring Officer that a complaint is not “valid” (see paragraph 3.5)

3.16. Outcome of allegations

2019/20

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

2020/21

Rejected (not related to Code, or covered by another process)	0
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

3.17. It is perhaps of remark that nationally the behaviour of Councillors, and Elected politicians generally, did attract considerable publicity and attention during the pandemic. The move to remote meetings led, in some Authorities, to a degree of confusion and even chaos. Equally, the radical and unprecedented adjustments to business practices led to allegations of less-than-transparent decision-making by public agencies. It is the experience of the Monitoring Officer that the City Council’s Elected Members adjusted very well to those changes, allowing both Council business and constituency business to proceed with minimum disruption.

3.18. 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)

3.19. 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.

3.20. 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.

3.21. **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.

3.22 **The future**

Nationally, there have been attempts the reform ethical standards regimes across England, and Leicester City Council will consider its own changes to the Code in 2022.

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.