



WARDS AFFECTED
All

Leicester
City Council

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

22nd November 2016

COUNCIL

TBC

ANNUAL REPORT OF STANDARDS COMMITTEE JULY 2015 - JUNE 2016 ANALYSIS OF CASES REFERRED

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1. This is the annual report of the Monitoring officer, dealing with Member complaints for the period 1st July 2015 to 30th June 2016. 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.

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 complaints lodged 1st July 2015 to 30th June 2016	4
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- 3.3. In the period July 2015 to June 2016 four valid complaints were lodged. In the comparable twelve month period preceding this there were nine valid complaints lodged. The twelve month figures to June 2016 therefore indicate a 56% reduction in complaints.
- 3.4. The four cases to June 2016 involved seven allegations of Councillor misconduct because two of the complaints were levelled at multiple Councillors simultaneously (i.e. alleging the same misconduct against more than one Councillor).
- 3.5. The total number of different Councillors complained-about was seven. This means that no single Councillor featured in more than one valid complaint during 2015/16. It also demonstrates that 47 out of 54 Councillors did not attract an allegation of misconduct.

- 3.6. The reference to “valid” complaints is deliberate, and it is to be noted that thirteen actual referrals were lodged with the Monitoring Officer during the relevant period. It follows that nine such referrals were never treated as valid complaints. 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 made against entire Council Chamber because of a particular policy
 - Complaint revealed as false and malicious
 - Complaint more properly resolved through other action instigated by the Monitoring Officer
 - Complaint already properly dealt with through other channels
- 3.7. 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) as appropriate

3.8. Source of Complaints

Complaints from members of the public	4
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- 3.9. It is right to say however than in two of the four complaints lodged the complainant was complaining on behalf of a community or special interest group.

3.10. Nature of allegations

Behaviour	2
Unhelpfulness	1

Abuse of position	1
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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 four complaints

3.12. Route

Concluded between by M.O. and I.P	2
Concluded after 'Review' by M.O. and second I.P	2
Proceeded to Independent Investigation	0
Proceeded to Standards Hearing	0

3.13. 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 anonymised and very brief update at each Standards Committee meeting which is convened throughout the year.

3.14. Of the four 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.

3.15. Outcome of allegations

(As explained earlier, this maps outcomes against the number of allegations, rather than number of complaints)

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)	6
Informal resolution (no breach, reparation desirable)	1
Informal resolution (low level breach, undesirable to take further)	0
Independent Investigation (outcome of 'no breach')	0
Independent Investigation ('breach' outcome)	0

3.16. No serious breaches of the Code of Conduct were established amongst the seven complaints. Some further detail is to be found in the Appendix.

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.

3.22 Cost

No detailed analysis of the cost of operating the complaints regime has been undertaken, and neither would it be easy to do so. However what is clear is that compared to the pre-July 2012 regime the cost is significantly lower. 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.

3.23 Monitoring and evaluation

Following a recommendation from the Standards Committee in 2014/15, we now attempt to collate information regarding the ethnicity, gender and disability profile of complainants. For this year’s report we can glean very little by way of patterns because of the small sample size. Two out of the four complainants chose not to complete the monitoring data. However taking together what was recorded in the monitoring data and the Monitoring Officer’s own knowledge of the cases, it is clear that the complaints regime was accessed by complainants from a diverse ethnic background; from both genders and by people to categorised themselves as being disabled.

- 3.24 At the conclusion of a complaint, an Evaluation Form is sent to the complainant. In the relevant period one form was returned. The Form asks questions concerning the timeliness and clarity of the procedures, as well as a question about satisfaction with the outcome, as well as a free-text box for general comments. In the case in question the complainant commented that (i) the process was unnecessarily bureaucratic and (ii) the outcome was unsatisfactory. However, in the opinion of the Monitoring Officer this particular complaint had features which made this feedback almost inevitable. Fundamentally the complainant

wanted to achieve the reversal of a Planning Decision, and utilised a number of “complaints” to achieve this. It was made very clear to the complainant from the outset that the Member misconduct complaint would never achieve the outcome so desired.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

None

4.2. Legal Implications

None

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.

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