



Leicester  
City Council

**WARDS AFFECTED**  
All

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**STANDARDS COMMITTEE**

**7<sup>th</sup> November 2013**

**COUNCIL**

**21<sup>st</sup> November 2013**

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**ANNUAL REPORT OF STANDARDS COMMITTEE 2012/2013**

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**Report of the Monitoring Officer**

**1. PURPOSE OF REPORT**

- 1.1. This is the first report of the Standards Committee following the change of legislation which took effect on 1<sup>st</sup> July 2012. Council have separately:
- Endorsed constitutional provisions which deal with the structure of the new regime for dealing with member misconduct complaints (i.e. creation, size and term of reference of the Standards Committee and Standards Advisory Board)
  - Approved 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 range of work that has come to the attention of the Standards Committee during the first full year of operation of the new provisions under the Localism Act 2011. Its purpose is to, therefore, review the nature of the cases and complaints that have been made, review the effectiveness of the arrangements for dealing with those complaints to invite commentary upon any further work needed, either to ensure a minimisation for the potential for members to engage in conduct which could form the likely substance of a complaint, or to review the effectiveness of the regime itself, or both.

**2. RECOMMENDATIONS**

- 2.1. To note the report and make any recommendations to the Standards Committee regarding the Standards regime

- 2.2. To endorse the recommendation of the Standards Committee (who considered the report at their meeting on 7<sup>th</sup> November) that in future a 'Monitoring Form' be sent to complainants designed to collect, on a voluntary basis, detail about the complainant's age; ethnicity; gender and disability or other data in line with other monitoring data sought by the Council

### 3. **REPORT**

#### **Principles**

- 3.1.1. The new regime was established on 1<sup>st</sup> July 2012 with the following principles:

- 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**

|   |           |
|---|-----------|
| <b>No. of cases lodged 1<sup>st</sup> July 2012 to 30<sup>th</sup> June 2013</b>          | <b>12</b> |
| <b>Total No. of cases processed 1<sup>st</sup> July 2012 to 30<sup>th</sup> June 2013</b> | <b>16</b> |

- 3.3. During the relevant period 1<sup>st</sup> July 2012 to 30<sup>th</sup> June 2013 there were 16 complaints dealt with. The first four of these were complaints that were initially lodged under the previous standards regime (pre-July 2012) but were not fully concluded by July 30<sup>th</sup> 2012 and were, therefore, finalised under the new regime. It follows that 12 of the 16 complaints were made after July 1<sup>st</sup> 2012, giving an average of one complaint per calendar month referred to the Monitoring Officer. The 16 complaints entailed complaints about 20 Councillors, because four of the complaints were leveled at two sets of Councillors simultaneously (i.e. alleging

the same misconduct against two Councillors arising from the same incident). However the total number of different Councillors complained-about was 12, meaning that some Councillors attracted two or more complaints about them during the period. Conversely, this demonstrates that 42 out of 54 Councillors did not attract an allegation of misconduct.

### 3.4. Source

|  |           |
|--|-----------|
| <b>Complaints from members of the public</b> | <b>11</b> |
| <b>Complaints from other Councillors</b>     | <b>3</b>  |
| <b>Complaints from staff</b>                 | <b>1</b>  |
| <b>Other</b>                                 | <b>1</b>  |

3.5. 11 of the 16 complaints came from a member of the public. Three of the remaining five complaints were Councillor-on-Councillor complaints. One complaint was by a member of staff and one complaint was by a senior professional who works closely with the Council but is not an employee (or, strictly, a member of the public).

### 3.6. Nature

|                          |          |
|--------------------------|----------|
| <b>Behaviour</b>         | <b>7</b> |
| <b>Unhelpfulness</b>     | <b>5</b> |
| <b>Declarations</b>      | <b>1</b> |
| <b>Planning Bias</b>     | <b>1</b> |
| <b>Unavailability</b>    | <b>1</b> |
| <b>Abuse of position</b> | <b>1</b> |

3.7. The single most common theme for complaints was alleged Councillor 'behaviour'. It must be noted that four of the seven complaints related to this theme sprang from the same Ward, and involved the same two Councillors.

3.8. The theme of 'unhelpfulness' predominantly involved allegations from constituents that their issues were not being pursued by the elected member from whom they had requested action/support

### 3.9. Route

|   |          |
|---|----------|
| <b>Dealt with by M.O. and I.P</b>                       | <b>8</b> |
| <b>Dealt with after 'Review' by M.O. and second I.P</b> | <b>4</b> |
| <b>Proceeded to Independent Investigation</b>           | <b>4</b> |
| <b>Proceeded to Standards Hearing</b>                   | <b>0</b> |

- 3.10. Twelve of the sixteen complaints (75%) were dealt with by the Monitoring Officer in conjunction with one of the two Independent Persons appointed shortly after 1<sup>st</sup> July 2012. 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. The vast bulk of the complaint work is therefore now dealt with by the Monitoring Officer with the Independent Person and only in the minority of cases where an independent investigation is commissioned, and subsequently reports, does the Standards Advisory Board sit to consider that report.
- 3.11. Of these twelve cases, four 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 each of the four cases taken to review level over the past year, whilst in some of them an additional angle has been considered / explored / explained, the ultimate conclusion in each of those four cases 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 positives both with regard to 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 indeed to explore other avenues which may not have received particular attention when the complaint was first looked at.
- 3.12. Four of the sixteen complaints proceeded to independent investigation meaning that the Monitoring Officer has, on behalf of the Standards Committee, commissioned from an external source a fully independent investigation into the alleged misconduct. This is reserved for more serious complaints, though that is not to say that the independent investigations conclude that misconduct has occurred
- 3.13. The independent investigator’s conclusions are not binding upon the Standards Advisory Board and they must assess whether they agree with the findings of the investigator, or wish to proceed to convene a hearing at which further evidence is given and they hear directly from the complaint, the subject member and any witnesses. In all of the cases considered by the Standards Advisory Board during the relevant period of this report (three

of the four cases – one is due for consideration later in the year), the Board have, after detailed scrutiny of the report, concurred with the independent investigator’s findings of no breach. Even in these cases the Board has taken a broad view of its function and, wherever possible, have recommended practice changes or other feedback to be given either to elected members, officers or any other relevant persons such as to reflect any useful learning from those investigations, or indeed to comment upon the alleged misconduct where it is clear that standards of behaviour which may not have met the threshold for formal findings were still worthy of comment / critique

### 3.14. Outcome

|  |          |
|--|----------|
| <b>Dismissed (trivial, or not covered by Code)</b>                 | <b>3</b> |
| <b>Dismissed (considered and no “breach” identified)</b>           | <b>6</b> |
| <b>Dismissed after Independent Investigation</b>                   | <b>3</b> |
| <b>Informal resolution (potential breach, remedied informally)</b> | <b>4</b> |

- 3.15. Three complaints were dismissed as either being trivial (complaints lodged alleging the Councillor had failed to act, but lodged within just a few short days of seeking help) or as alleging misconduct when the Councillor was not in fact acting as a Councillor.
- 3.16. The outcome of informal resolution was applied in four of the sixteen cases. Informal resolution always involves the Monitoring Officer making direct contact with the elected member and meeting with them in order, not necessarily to take their version of the events of the complaint (where it is necessary the Arrangements allow for this to be done under the earlier fact finding phase of an investigation), but rather to ask the elected member to reflect upon the alleged behaviour (without necessarily admitting it) and trying to get the elected member to see the complaint from the complainant’s perspective. The application of this outcome has, in the majority of those cases, resulted in the elected member offering an apology to the complainant for any perceived injustice or frustration felt, and taking away some advice by the Monitoring Officer to avoid repetition of such types of complaints in the future. In some cases that advice has been behavioural (such as asking the elected member to stand in the shoes of the complainant and viewing the alleged conduct from that angle, to whether they might have acted differently as a result) and in other cases it has been procedural (pragmatic advice about a step which a Councillor should have taken but failed to do so such as declaring a gift)
- 3.17. It is notable that the majority of the complaints which came from members of the public related in one way or another to the constituent’s frustration at not being given adequate information by the elected member. These were cases where a member of the public had made contact with an elected member with a view to seeking the elected member’s assistance in resolving a matter over which the Council had some operational responsibility. None of these cases resulted in a finding of misconduct of the elected member. However, in some of the other nine cases the Monitoring Officer and Independent Person (and indeed independent investigator through reports) have remarked that simple acts of “customer

care” such as acknowledging with the constituent /member of the public what action the Councillor has taken, when they expect to receive a reply/response from officers, and when they hope to get back to the member of public would have gone a long way to avoiding the need for that complaint to be lodged in the first place

### **Other learning:**

3.18. Other examples of learning from complaints that has extended beyond the immediate complaint:

- One case revealed the need for Leicester City Council to devise some guidance about the use of social media for Councillors specifically. This is on the work programme for the Standards Committee and a draft has been prepared.
- One case resulted in practical changes to the way in which the Council allows elected members to include links to additional websites through their Council profile. It became clear during that investigation that where a member of the public accesses views and opinions of a Councillor, not through their City Council home page, but through a link that appears on the City Council’s home page then they may attribute those views and opinions as being those shared but the local authority. This is, of course, not the case and therefore the change of practice following that investigation was for there to be a disclaimer on the Council’s pages when a hyperlink to Councillor’s own website/link is accessed therefrom.
- One case involved a significant set of rewrites to the previous Planning Code of Practice. Again, whilst no findings of misconduct were supported during that investigation, there were sufficient lessons to be learned about the phraseology of the previous Planning Code and the specificity of some of the procedural guidance given to Councillors who sit on Planning Committee, which have since been revised, refreshed and now leave no room for doubt on those areas

### **Other issues:**

#### **Cost**

3.19. The previous regime for dealing with Member misconduct complaints required each complaint to be assessed by an Assessment subcommittee made up of Elected Members and chaired by an Independent lay member. Reviews were also determined through a Review subcommittee. The new system sees all complaints and reviews filtered through the Monitoring Officer and the Independent Person(s), and only a minority of complaints having active Committee input (25% on current figures). There is therefore a saving of costs in respect of equivalent officer-support time for these Assessment and Review subcommittees, as well as the saving of time of the elected members themselves. Neither is there any cost associated with room bookings, printing etc.

## **Speed**

3.20. The previous regime set the following timeframes:

Complaint received ► Assessment subcommittee (within 4 weeks) ► Review subcommittee (within 6 weeks) ► Investigation (within 3 months) ► Hearing (within 3 months)

3.21. The new process sets the following timeframes:

Complaint received ► Decision by M.O. and I.P (within 4 weeks) ► Review (within 3 weeks) ► Investigation (within 3 months) ► Hearing (within 3 months)

3.22. Not only do the timescales allow for speedier resolution of complaints, but the substantive process itself confers more power upon the Monitoring Officer and Independent Person to undertake basic enquiries, and to seek informal resolution in low-level cases of breach. The figures for 2012/13 (see 3.10) reveal that 75% of cases are dealt with within the four week or seven week windows.

## **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**

| <b>OTHER IMPLICATIONS</b>     | <b>YES/<br/>NO</b> | <b>Paragraph/References<br/>Within the Report</b> |
|-------------------------------|--------------------|---|
| 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.