



WARDS AFFECTED
All

Leicester
City Council

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

14th October 2015

COUNCIL

21st January 2016

**ANNUAL REPORT OF STANDARDS COMMITTEE JULY 2013 – JUNE 2015 - ANALYSIS OF
CASES REFERRED**

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1. This is the annual report of the Standards Committee following the change of legislation which took effect on 1st July 2012. 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 2 years since the last annual report, covering the period 1st July 2013 to 30th June 2015. This report does not purport to deal with the other work undertaken by the Standards Committee in the relevant year (such as the policies it has commissioned, the reviews it has undertaken or the themes it has explored)

2. RECOMMENDATIONS

- 2.1. For Standards Committee to note the report and make any amendments
- 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 2013 to 30th June 2014	7
No. of complaints lodged 1st July 2014 to 30th June 2015	9

2013/14

- 3.3. In the period July 2013 to June 2014 seven complaints were lodged. In the comparable twelve month preceding this there were twelve complaints lodged (an average of one per month). The twelve month figures to June 2014 therefore indicate a 42% reduction in complaints.
- 3.4. The seven cases to June 2014 involved eight allegations of Councillor misconduct because one of the complaints was leveled at two Councillors simultaneously (i.e. alleging the same misconduct against both Ward Councillors).
- 3.5. The total number of different Councillors complained-about was six. Two Councillors attracted two complaints each. Conversely, this demonstrates that 48 out of 54 Councillors did not attract an allegation of misconduct.

2014/15

- 3.6. In the period July 2014 to June 2015 nine complaints were lodged. In the comparable twelve month preceding this there were seven complaints lodged. The twelve month figures to June 2015 therefore indicate a 28.5% increase in complaints.
- 3.7. The nine cases to June 2015 involved twelve allegations of Councillor misconduct because two of the complaints were leveled at more than one Councillor simultaneously (i.e. alleging the same misconduct against several Councillors).
- 3.8. The total number of different Councillors complained-about was ten. One Councillor attracted two complaints. Conversely, this demonstrates that 44 out of 54 Councillors did not attract an allegation of misconduct.

3.9. Source of Complaints

2013/14

Complaints from members of the public	6
Complaints from other Councillors	1

2014/15

Complaints from members of the public	6
Complaints from other Councillors	2
Complaint from staff member	1

3.10. Nature of allegations

(This may be greater than the number of complaints, where a complainant has complained about more than one Councillor within the same complaint)

2013/14

Behaviour	1
Unhelpfulness	5
Declarations/Bias	1
Abuse of position	1

- 3.11. The single most common theme for complaints was alleged Councillor ‘unhelpfulness’. This contrasts with the previous year when the dominant theme was ‘misbehaviour’ (though those figures were arguably skewed because of a proliferation of complaints between the two same Councillors).
- 3.12. 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

2014/15

Behaviour	8
Unhelpfulness	4

- 3.13. The theme of ‘behaviour’ predominated in the twelve allegations made in the relevant year.

3.14. Route

2013/14

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

- 3.15. Six of the seven complaints (86%) 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. The vast bulk of the complaint work is therefore 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.
- 3.16. Of these six cases, one 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 one case 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 indeed to explore other avenues which may not have received particular attention when the complaint was first looked at.
- 3.17. One of the seven 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. 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.

2014/15

Dealt with by M.O.	1
Dealt with by M.O. and I.P	6
Dealt with after 'Review' by M.O. and second I.P	2
Proceeded to Independent Investigation	0
Proceeded to Standards Hearing	0

- 3.18. 100% of cases were dealt with by the Monitoring Officer and Independent Person (nine cases) during 2014/15.
- 3.19. Of these 9 cases two entailed a request for a "Review". In both cases the outcome did not change after the Review.
- 3.20. No cases proceeded to Independent Investigation
- 3.21. No cases proceeded to come to the attention of the Standards Advisory Board

3.22. Outcome of allegations

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

2013/14

Rejected (not related to Code, or covered by another process)	0
Rejected (trivial, no public interest in pursuing, vexatious)	3
Informal resolution (no breach, reparation desirable)	1
Informal resolution (low level breach, undesirable to take further)	3
Independent Investigation (outcome of 'no breach')	1
Independent Investigation ('breach' outcome)	0

- 3.23. No serious breaches of the Code of Conduct were established amongst the seven complaints. The three cases referred to above which involved low level breaches (leading to an outcome of “informal resolution”) were all in the category alleging “unhelpfulness”. The papers revealed some support for the allegations that the Subject Members had failed to properly deal with the constituent’s matter, but not in such a way as to have been willful, or in such a way as to have resulted in significant harm. As such, those cases were not pursued and some form of remedial action was recommended (e.g. an apology and/or an offer to deal with the substantive matter).
- 3.24. In one of the three cases mentioned above the Subject Member repeatedly failed to act upon the recommendation of informal resolution (which does not require their consent) despite numerous reminders from the Monitoring Officer. This ultimately led to his being summoned to a meeting with the Chair of the Standards Committee (attended by the Monitoring Officer and the Independent Person) and told that such non-compliance could lead to a fresh complaint being lodged, this time with the Monitoring Officer as the complainant. This yielded the desired outcome and prompted a revision to the ‘Arrangements’ to account for future cases where non-compliance may occur.
- 3.25. In the case considered by the Standards Advisory Board during the relevant period of this report 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 recommendations might reflect any useful learning from those investigations, or indeed might 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.

2014/15

Rejected (not related to Code, or covered by another process)	2
Rejected (trivial, no public interest in pursuing, vexatious)	9
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

- 3.26. Perhaps of remark for 2014/15 is the fact that although there were more complaints lodged in 2014/15 than in the previous year (nine as opposed to seven) none of them were deemed to have met the threshold for evidencing even a low level breach of the Code of Conduct.

3.27. 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)

- 3.28. 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.
- 3.29. 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.

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.