

STANDARDS COMMITTEE

Agenda Item 5

Brighton & Hove City Council

Subject: *Complaints Update*
Date of Meeting: *17 June 2009*
Report of: *Monitoring Officer*
Contact Officer: Name: **Brian Foley** Tel: **29-3109**
E-mail: brian.foley@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Complaints regarding Member conduct are administered under new arrangements as defined by The Standards Committee (England) Regulations 2008 which came into effect on 08 May 2008. These regulations are derived from the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007
- 1.2 Corporate complaints are dealt with under the Corporate Complaints Procedure at Stage 1, Stage 2 and via the Local Government Ombudsman. The powers of the Ombudsman are set out in the Local Government Act 1974.

2. RECOMMENDATIONS:

- 2.1 The Standards Committee is asked to note the report.

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 The Local Government Act 2000 requires the names of complainants and of Members about whom allegations have been made to be kept confidential.
- 3.2 **Summary of complaints about member conduct:**

Complaints previously reported to Standards Committee

- 3.3 The outcomes of complaints previously reported to Standards Committee were:

Complaint 1

Case Number **SCT047STDS**

Complainant: Member of the public

Date of complaint: 08 July 2008

Date of Assessment Panel: 14 August 2008

Allegation:

The complaints relate to representations made to the Planning Applications Sub-Committee. The complaint alleges the member has breached:

Section 6(a) that *you must not use or attempt to use your position as a Member improperly to confer on, or secure for yourself or any other person an advantage or disadvantage, and*

Section 12(1), *that the member had a prejudicial interest in any business of the authority and failed to withdraw from the room or chamber where a meeting considering the business was being held.*

Decision of Assessment Panel:

Complaint to be investigated.

Outcome:

Complaint withdrawn.

Complaint 2 (This matter was identical to Complaint 1 but from a different member of the public)

Case Number **SCT048STDS**

Complainant: Member of the public

Date of complaint: 20 July 2008

Date of Assessment Panel : 14 August 2008

Date of Determination: 24 October 2008

Allegation:

The complaints relate to representations made to the Planning Applications Sub-Committee. The complaint alleges the member has breached:

Section 6(a) that *you must not use or attempt to use your position as a Member improperly to confer on, or secure for yourself or any other person an advantage or disadvantage, and*

Section 12(1), *that the member had a prejudicial interest in any business of the authority and failed to withdraw from the room or chamber where a meeting considering the business was being held.*

Decision of Assessment Panel:

Complaint to be investigated.

Outcome:

The Panel agreed with the findings within the Investigator's Report and concluded there had been no breach of the code of conduct.

Complaint 3

Case Number **SCT049STDS**

Complainant: Member of the public

Date of complaint: 08 July 2008

Date of Assessment Panel : 14 August 2008

Allegation:

The complaints relate to a decision made by a Planning Applications Sub-Committee. The complaint alleges the member had a personal and prejudicial interest which they failed to declare and failed to withdraw from the room or chamber where the business of the meeting was being considered. It was alleged the member had therefore breached sections 8(2)(a), 9(1), 10(1), and 12(1) of the Code of Conduct.

Decision of Assessment Panel:

An element of the complaint to be investigated.

Outcome:

Complaint withdrawn

Complaint 4 (This matter was identical to Complaint 3 but from a different member of the public)

Case Number **SCT050STDS**

Complainant: Member of the public

Date of complaint: 20 July 2008

Date of Assessment Panel : 14 August 2008

Date of Determination: 24 October 2008

Allegation:

The complaints relate to a decision made by a Planning Applications Sub-Committee. The complaint alleges the member had a personal and prejudicial interest which they failed to declare and failed to withdraw from the room or chamber where the business of the meeting was being considered. It was alleged the member had therefore breached sections 8(2)(a), 9(1), 10(1), and 12(1) of the Code of Conduct.

Decision of Assessment Panel:

An element of the complaint to be investigated.

Outcome: The Panel agreed with the findings within the Investigator's Report and concluded there had been no breach of the code of conduct.

Complaint 5

Case Number **SCT052STDS**

Complainant: An Elected Member

Date of complaint: 12 September 2008

Date of Assessment Panel: 21 October 2008

Allegation:

It was alleged that the Subject Member had breached:

Section 5 of the Code of Conduct which states *"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute"*

Decision of the Assessment Panel:

The Assessment Panel decided that no action should be taken in respect of the complaint.

Complaint 6

Case Number **SCT053STDS**

Complainant: Member of the public

Date of complaint: 16 September 2008

Date of Assessment Panel: 21 October 2008

Allegation:

It was alleged that the Subject Member had breached:

Section 5 of the Code of Conduct which states *"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute"*.

It was further alleged that the Subject Member had breached:

Section 10 of the Code of Conduct in that it was alleged the member had a prejudicial interest in the matter and should therefore not make a public judgement on a planning application yet to be submitted or registered.

Decision of the Assessment Panel:

The Assessment Panel decided that no action should be taken in respect of the complaint.

Complaints 7 - 15

Case Number **SCT 054 STDS to SCT 062 STDS**

Complainant: Members of the public

Date of complaint: 29 - 31 October 2008

Date of Assessment Panel : 11 November 2008

Allegations:

It was alleged that the Subject Member had breached:

Section 5 of the Code of Conduct which states *“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”*, and Section 3(1) of the Code of Conduct which states, *“You must treat others with respect”*.

Decisions of Assessment Panel: The Assessment Panel decided that no action should be taken in respect of the complaint.

3.4 **Complaints not previously reported to Standards Committee**

Complaint 16

Case Number **SCT063STDS**

Complainant: Elected Member

Date of complaint: 17 November 2008

Date of Assessment Panel: 19 December 2008

Date of Determination: 03 March 2009

Allegation: It was alleged that the Subject Member had breached Section 5 of the Code of Conduct in that they had brought their office into disrepute by pre-determining a planning application.

Decision of Assessment Panel:

The complaint to be investigated.

Outcome: The Panel agreed with the findings within the Investigator’s Report and concluded there had been no pre-determination and no breach of the code of conduct.

Recommendations of the report: That a protocol be introduced that would advise Members on contact with developers pre-application. All Members attending Planning Committee receive training

Complaint 17

Case Number **SCT064STDS**

Complainant: Elected Member

Date of complaint: 17 November 2008

Date of Assessment Panel: 19 December 2008

Date of Determination: 03 March 2009

Allegation: It was alleged that the Subject Member had breached Section 5 of the Code of Conduct in that they had brought their office into disrepute by pre-determining a planning application.

Decision of Assessment Panel:

The complaint to be investigated.

Outcome: The Panel agreed with the findings within the Investigator's Report and concluded there had been no pre-determination and no breach of the code of conduct.

Recommendations of the report: That a protocol be introduced that would advise Members on contact with developers pre-application. All Members attending Planning Committee receive training

Complaints 18 - 24

There are currently a further 7 complaints under consideration.

3.5 Summary of complaints received under the corporate complaints procedures in 2008/09.

3.6 Local Government Ombudsman Complaints

The Ombudsman has provided provisional end of year statistics which will be incorporated into the Ombudsman's published Annual Review. The LGO introduced an Advice Team in April 2008, this has had an impact on the way they now work and they suggest direct comparison with data from previous years may not now always be possible. The LGO Advice Team gives callers a full explanation of the process and possible outcomes. Callers can therefore make more informed decisions about how to proceed. Therefore the LGO believes direct comparison with previous statistics can be difficult or misleading.

The following figures are provided with this information in mind. The data shows that complaint levels have been broadly consistent between 2007/08 and 2008/09. Compensations and re-imbursements paid in respect of LGO complaints rose from £725 in 07/08 to £1925 in 08/09.

		Reports	LS	NM	OD	OJ	Prem	Totals
ASCH	07/08	0	6	18	5	1	4	34
	08/09	0	4	17	2	2	8	33
CYPT	07/08	0	1	3	1	0	0	5
	08/09	0	2	9	1	1	0	13
Culture	07/08	0	0	0	0	0	0	0
	08/09	0	0	0	0	0	0	0
Env	07/08	0	2	13	4	3	6	28
	08/09	0	1	14	3	4	8	30
F&R	07/08	0	0	11	1	2	6	20
	08/09	0	2	3	0	4	6	15
S&G	07/08	0	2	1	0	0	0	3
	08/09	0	1	1	0	1	0	3
Total	07/08	0	11	46	11	6	16	90
	08/09	0	10	44	6	12	22	94

Reports: There have been no formal reports identifying maladministration causing injustice issued by the LGO against the Council.

Local Settlements: Slightly more than 10% of complaints have been resolved by Local Settlement. In such cases the investigation is discontinued because the LGO is satisfied that a suitable action has been agreed by the local authority.

No Maladministration: This accounts for the highest proportion of outcomes and occurs where the LGO concludes their investigation by writing a formal report finding no maladministration by the council.

Ombudsman Discretion: The ombudsman issues a decision letter in which they decide to discontinue the investigation most commonly because there is found to be insufficient injustice to warrant continuing to investigate.

Outside Jurisdiction: These are cases that the LGO is unable to investigate.

Premature Complaints: Complaints that the local authority have not yet had opportunity to consider.

3.7 Corporate Stage One and Two Complaints

The following statistics give information about numbers of complaints for each directorate in 2007/08 and 2008/09. There has been a noticeable increase in Stage One complaints. The increase has mainly been caused by a significant increase in complaints about city clean services over the last six months and from large numbers of complaints about the bus corridor along the A259.

Over the same period complaints escalated to Stage Two have reduced by about a third. This may indicate greater customer satisfaction with the responses received at Stage One.

	Stage One		Stage Two	
	2007/08	2008/09	2007/08	2008/09
CYPT	18	9	1	2
Culture	71	45	0	0
Environment	775	1058	62	42
F&R	315	298	28	19
ASC&H	582	522	54	34
S&G	7	10	0	1
Totals	1768	1942	145	98

4. CONSULTATION:

4.1 There has been no consultation.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no financial implications.

Finance Officer Consulted: Anne Silley

Date: 04/06/2009

5.2 Legal Implications:

There are no legal implications.

Lawyer Consulted: Liz Woodley

Date: 22/05/2009

5.3 Equalities Implications:

There are no equalities implications.

5.4 Sustainability Implications:

There are no sustainability implications.

5.5 Crime & Disorder Implications:

There are no crime and disorder implications.

5.6 Risk and Opportunity Management Implications:

There are no Risk and Opportunity management Implications.

5.7 Corporate / Citywide Implications:

There are no Corporate or Citywide implications.

SUPPORTING DOCUMENTATION

Appendices:

1. None.

Documents In Members' Rooms:

1. None.

Background Documents:

1. None.

