

Subject:	Annual Review of Standards-Related Matters, including Member Complaints		
Date of Meeting:	3rd February 2022 25 th January 2022 - Audit & Standards Committee		
Report of:	Monitoring Officer		
Contact Officer:	Name:	Victoria Simpson, Senior Lawyer – Corporate Law	Tel: 01273 294687
	Email:	Victoria.Simpson@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 To report on Standards-related matters, including by providing an annual review of the complaints that Members have breached the Code of Conduct for Members which were received in during 2021.

2. RECOMMENDATIONS**Audit & Standards Committee:**

- 2.1 That the Members of the Committee which has delegated responsibility for oversight of member conduct note the contents of this Report and refer it to full Council for its consideration.

Full Council:

- 2.1 That full Council note the Report and direct such actions as it considers appropriate.

3. CONTEXT

- 3.1 Members will be aware that the Council is required by the Localism Act 2011 to have in place arrangements for dealing with complaints against elected and co-opted Members. In a context where local authorities have a good amount of discretion as to how those arrangements may look, this Council dedicates resource on regularly reviewing those arrangements, most recently by updating the Code of Conduct for Members, the Procedure for dealing with complaints and a key Guidance generated for Members to consider in July 2021.
- 3.2 Audit & Standards Committee has delegated authority for this area, including for leading in discharging the statutory requirement that the Council maintain and promote high standards of conduct by Members. That Committee receives

quarterly reports on complaints and is appraised of the training and briefings which are offered to Members. Nonetheless the number of complaints received in continues to rise, hence the recommendation that this Annual Review be referred to full Council, so that it may be considered by all elected Members of the Council.

4. UPDATE ON CURRENT & RECENT COMPLAINTS

Complaints previously reported to Audit & Standards Committee

- 4.1 **Complaint L 2021** has now been determined following an external investigation which concluded that there was insufficient evidence that the member had acted as alleged, and that in any case the member who was the subject of the complaint was not considered to be acting in that capacity at the relevant time. The Monitoring Officer consulted with the Independent Person and - having determined that there was no public interest in pursuing the matter further and given the parties the opportunity to make representations - decided to resolve this complaint informally, without referring it to a Panel. **Complaint M 2021** has also been referred for formal investigation by external investigators, who have prepared a draft Report which they have reviewed and updated having first circulated it to the parties for comment. An update will be given to Committee when available.
- 4.2 **Complaint V 2021** was referred to in the report of September 2021 as a multi layered complaint against three members at the same ward which alleged misconduct across the delivery of their functions. A significant volume of information was received in and when the complainant submitted significant further evidence alleging additional breaches by the same ward members, a decision was made to review that complaint (**V 2021 plus**) alongside the previous one. All the matters complained of were ultimately resolved by a decision to take no action at preliminary assessment stage. The detailed reasons given drew attention amongst to relevant provisions in the Guidance for Members on Correspondence.
- 4.3 **Complaint W 2021** was as previously reported a complaint about social media comments made by a member about council officers. As the complainant was an officer of the council, that complaint was determined via a separate process. However a complaint about the same social media post and its alleged lack of respect for officers was later received from a member of the public: **F1 2021**. That complaint is still at preliminary assessment stage and progress will be reported in due course.
- 4.4 **Complaints X, Y, Z, A1 and B1** were previously reported as having been made by the same complainant against different members on different grounds but in the context of the same overall topic. The complaints alleged failures to respond to communications (Y & B1), alleged issues with the content of responses which were provided (A1 & X) and a data protection issue (Z). All of the complaints have been resolved at preliminary assessment stage having been considered individually on their merits except for complaint X which will be the subject of a further update in due course.
- 4.5 **Complaint C1** concerned responses by two elected members to a social media post. A decision was made by the Monitoring Officer to take no action in relation to this complaint at preliminary assessment stage, having agreed with the Independent Person that progressing the complaint to formal investigation would

not be both proportionate and necessary in the public interest given the nature of the complaint and the conduct complained of. **Complaint D1** was made as a result of a member self-reporting in relation to comments published on their social media page by a third party. The decision was again made not to take any action at preliminary assessment stage, having been noted that the member concerned took prompt steps once they were alerted to the issue.

New complaints received in since the last Update

- 4.6 **Complaint E1** concerns a complaint made by one elected member about another's conduct and remains at preliminary assessment at time of writing.
- 4.7 **Complaint G1** concerned a comment made by an elected member at a council meeting about a third party. That was resolved by a decision to resolve the complaint informally, the member concerned having taken the opportunity to communicate directly to the complainant their intended meaning and to apologise for any lack of clarity.
- 4.8 A decision was made not to progress a complaint that a member had made defamatory comments after it has been assigned the complaint number **H1**. This decision was made by the Monitoring Officer when the complainant did not provide clarification or evidence when requested.
- 4.9 **Complaint I1** concerned allegations about a member's alleged activities in their ward which described in general terms. Although the complaint was not substantiated or clarified following a request, late communications have been received from the complainant and as a result this complaint remains at preliminary assessment stage.
- 4.10 Three recent (unconnected) complaints are awaiting initial consideration at preliminary assessment stage by one of the council's Independent Persons. **Complaint J1** concerns a member's alleged conduct when attending an external event, while **K1** concerns a different member's comments on social media, allegedly about a complainant who previously made an unsuccessful complaint to the Ombudsman. **Complaint L1** alleges a failure to respond to constituent emails.
- 4.11 **Complaints M1** and **N1** relate to the same conduct by a member on social media in conversation with another individual and a decision was made to deal with them together. Those remain at preliminary assessment stage. **Complaint O1** relates to comments made about Council officers by a member and their conduct generally and also remains at preliminary assessment stage. **Complaint P1** has been received in very recently, and also alleges breaches of the Code when dealing with stakeholders on social media. It too remains at preliminary assessment stage.

5. MEMBER COMPLAINTS – ANNUAL REVIEW

- 5.1 The data and observations provided in [Appendix 1](#) provide information on the upward trend both in terms of the volume of complaints made about elected members and their complexity. They also provide a brief outline of the steps which have been taken thus far to mitigate the situation.

- 5.2 The increase in complaints during this last year and the one before may well be linked to the additional pressures experienced during the pandemic and the challenges specific to the changing ways in which Council members communicate with their stakeholders, many of which have themselves been under significant pressure. Either way, the increase in complaints is notable. It moreover generates a resource burden which is unhelpful in the context of ongoing pressures, not least because it diverts focus and uses up time which all concerned could invest more productively.
- 5.3 As well as diverting member and officer time, the upward trend also impacts on the Council's two Independent Persons with whom the Monitoring Officer is required to consult at key stages in the process. The Independent Persons' input is very much valued, for (as well as being a legal requirement) it provides the opportunity for a fresh perspective from someone from outside the Council. The fact that both of the Council's current Independent Persons are experienced professionals with working lives outside of the Council enhances the input they provide. It also means that they have other commitments.
- 5.4 Members will be aware that - since the passing of the Localism Act 2010 – Standards Committees have no power to suspend a Member and may only censure a Member or take measures such as recommending training or other steps which the subject Member is free to accept or reject. Notwithstanding this, local authorities are nonetheless obliged to have in place arrangements for dealing with complaints against elected members.
- 5.5 Members will know that only rarely do member complaints culminate in a full Panel hearing and that resolving matters at an early stage where possible - even where there is an arguable breach – can often be the best way of moving forward in a context where options are limited. While the Monitoring Officer has discretion to resolve complaints informally at any point in the process (having first consulted with one of the Independent Persons), the process of doing so is resource-intensive. This is because it involves liaising with all parties (with communication between the complainant, the subject member and other stakeholders, as well as the Independent Person and the Monitoring Officer), while ensuring the process is visibly fair to all stakeholders. Under the revised arrangements, informal resolution must be actively explored at each juncture in the process. While this approach is considered to be appropriate, it is time-intensive.
- 5.6 A further factor is Members' willingness to co-operate with the process, which can vary significantly. Where a Member is unresponsive or fails to engage this causes unnecessary and avoidable delay, whether or not there is a formal investigation.
- 5.7 Members from all of the Party Groups as well as Independent Members have been the subject of complaints. It is therefore recommended that this Report be put to full Council so it may note the data and observations provided at Appendix 1 as well as the steps which have already been taken in the key areas of communication and training, with a view to considering best steps of addressing the trend.

6. MEMBER TRAINING

- 6.1 An update in training being offered to Members is also listed in Appendix 1.

7 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 7.1 The Council is obliged under the Localism Act to make arrangements for maintaining high standards of conduct among members and to make arrangements for the investigation of complaints. Those arrangements in place have recently been subject to a root and branch review and – in a context where a programme of training has been put in place – there no additional steps which are considered to offer a solution.

8. COMMUNITY ENGAGEMENT & CONSULTATION

- 8.1 Reviews of the Council's Standards arrangements have been carried out by its elected Members assisted by officers and the Council's Independent Persons, whose familiarity with process in this area has been helpful. The local community has not as yet been consulted or provided input. This is an option for future reviews.

9. CONCLUSION

- 9.1 Members are asked to note the contents of this Report, which aims to assist the Council in discharging its responsibilities for overseeing that high standards of conduct are maintained in a way which is compliant with local requirements.

10. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 10.1 There are no additional financial implications arising from the recommendations in this report. All activity referred to has been, or will be, met from existing budgets.

Finance Officer Consulted: Nigel Manvell

Date: 23/12/21

Legal Implications:

- 10.2 These are covered in the body of the Report.

Lawyer Consulted: Victoria Simpson

Date: 16/12/21

Equalities Implications:

- 10.3 There are no equalities implications arising from this Report, which concerns arrangements which have been developed with the need to ensure the Council and its members discharge their responsibilities with appropriate regard for equalities considerations.

Sustainability Implications:

- 10.4 No sustainability implications have been identified

Other implications:

10.5 No significant other implications have been identified as arising from this Report

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 – key data on complaints received in during 2021

Background Documents:

None