

STANDARDS COMMITTEE

Agenda Item 22

Brighton & Hove City Council

Subject: Complaints Update
Date of Meeting: 17 January 2011
Report of: Monitoring Officer
Contact Officer: Name: **Brian Foley** Tel: **293109**
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 the 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 This paper gives information about active Standards complaints and recently completed cases.
- 1.3 There is a brief update on complaints dealt with 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 With regard to timescales for complaints Standards for England recommend:
 - Assessments should on average be completed within 20 working days.
 - Review panels should be held within 65 working days.

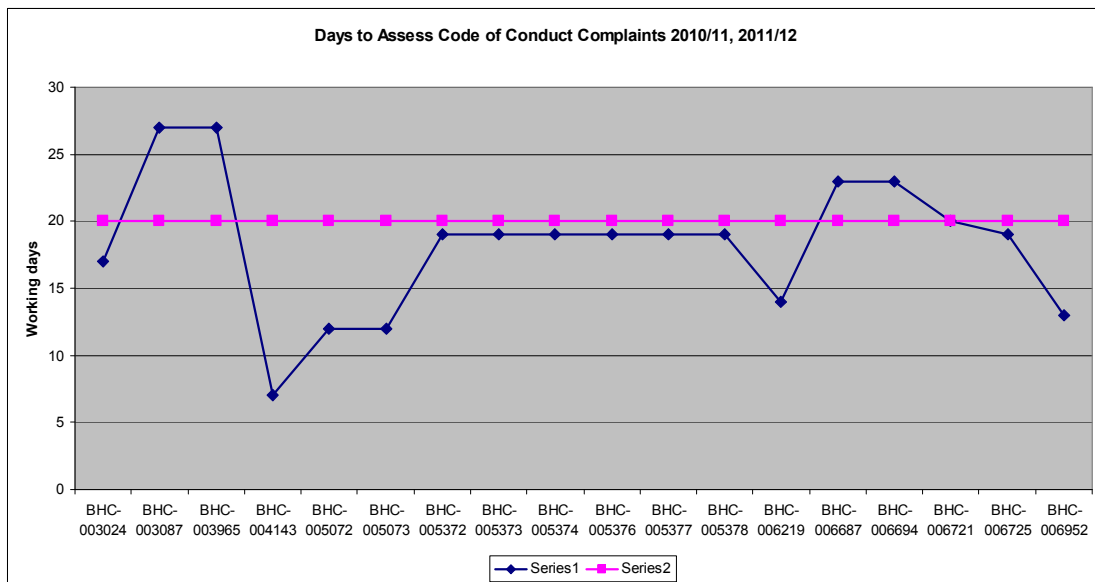
- Investigations should be completed within 130 working days from the date of assessment.

3.3 Table 1 below shows the number of working days taken to assess each complaint dealt with under the Local Assessment procedure during the council years 2010/11 and 2011/12.

3.4 There were twelve complaints in 2010/11. The average time to assess was 18 working days.

3.5 There have been six complaints in 2011/12. The average time to assess has been 19 working days.

Table 1



3.6 The complaints raised in 2010/11 resulted in three cases being referred to the Monitoring Officer for investigation. Two of those have been determined with a finding of no breach of the code of conduct. A third has yet to be determined.

3.7 In 2011/12 there has been one case referred to the monitoring officer for investigation. This case is about to be determined.

3.8 In 2011/12 one case was referred to the Monitoring Officer for alternative action.

3.9 In 2011/12 the decision of the Standards Committee Assessment Panel was that no action should be taken on the four remaining complaints.

3.10 Details of the cases follow below.

3.11 **Summary of active complaints about member conduct and cases where decisions have not previously been reported.**

3.11.1 **Complaints where Standards Committee Assessment Panel decided to refer the complaint to the Monitoring Officer for Investigation**

Complaint 1

Case Number: **BHC- 005373 B**

Complainant: Member of the public

Date of complaint: 07 March 2011

Date of Assessment Panel: 31 March 2011

Total number of working days to assess: 19

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.
- Paragraph 5
You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

Referred to the Monitoring Officer for Investigation.

Outcome:

Yet to be determined

Complaint 2

Case Number: **BHC- 005376**

Complainant: Member of the public

Date of complaint: 07 March 2011

Date of Assessment Panel: 31 March 2011

Total number of working days to assess: 19

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.
- Paragraph 5
You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

Referred to the Monitoring Officer for investigation.

Outcome:

Apart from the complainant, no other person had complained about photographs being taken. She was invited to confirm if any persons seated in the gallery would be willing to act as witnesses. None were forthcoming. The Panel also heard from the former member who admitted taking the photograph on the spur of the moment.

The Panel decided there was insufficient evidence to reach a finding that there has been a breach of Paragraph 3(1).

The Panel concluded there had been no breach of Paragraph 5.

The Panel recommended that at the beginning of public meetings of the Authority, clear guidance should be given by the Chair on the use of all recording devices during the meeting.

Complaint 3

Case Number: **BHC- 006219**

Complainant: Elected member

Date of complaint: 06 July 2011

Date of Assessment Panel: 25 July 2011

Total number of working days to assess: 14

Allegation: It was alleged that a Member had breached the following sections of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.
- Paragraph 3(2)(a)
You must not do anything which may cause your authority to breach any of the equality enactments.
- Paragraph 5
You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

Referred to the Monitoring Officer for investigation.

Outcome:

- (1) On the alleged breach of paragraphs 3(1) and 3(2), the Panel reiterates the findings of the Consideration Panel that there has been no breach of the Code;
- (2) On paragraph 5, the Panel considered carefully the finely balanced arguments presented. The Panel considered that the sole issue was the action of the leaflets given to the travellers. This action was a breach of the Code of Conduct. The Panel unanimously accepted the Investigating Officer's reasoning as detailed in the report.

In considering an appropriate sanction, the Panel noted:

- a. The Councillor's previous record of good service,
- b. Her co-operation with the process of investigation,
- c. Her compliance with the Code since the events giving rise to the determination,
- d. Her immediate action in withdrawing the leaflet.

The Panel therefore imposed no sanction.

3.12 Complaints where the decision of the Standards Committee Assessment Panel was to take 'other action'

Complaint 4

Case Number: **BHC- 006952**

Complainant: Member of the public

Date of complaint: 05 October 2011

Date of Assessment Panel: 21 October 2011

Total number of working days to assess: 13

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.

Decision of Assessment Panel:

Referred to the Monitoring Officer for Alternative Action.

Outcome:

The Panel requested that the Monitoring Officer arrange for a training session to be made available to all members which pays particular reference to communication between elected members and members of the public. The training will pay due regard to a member's right to freedom of speech but will examine where the line should be drawn between respectful and disrespectful communications with fellow councillors and members of the public.

The Panel requires that the member attend this training. The member has confirmed he will do so.

3.13 Complaints where the decision of the Standards Committee Assessment Panel was to take no further action

Complaint 5

Case Number: **BHC- 006694**

Complainant: Member of the public

Date of complaint: 02 September 2011

Date of Assessment Panel: 04 October 2011

Total number of working days to assess: 23

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.

Decision of Assessment Panel:

No action should be taken on the allegation.

Outcome:

The Panel commented that they thought it is good practice to acknowledge receipt of correspondence.

Complaint 6

Case Number: **BHC- 006687**

Complainant: Member of the public

Date of complaint: 02 September 2011

Date of Assessment Panel: 04 October 2011

Total number of working days to assess: 23

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.

Decision of Assessment Panel:

No action should be taken on the allegation.

Outcome:

The Panel commented that they thought it is good practice to acknowledge receipt of correspondence. The Panel noted that the Councillor had asked an officer to reply on her behalf. They thought it would have been appropriate to have informed the complainant that his correspondence was being dealt with in this way.

Complaint 7

Case Number: **BHC- 006721**

Complainant: Member of the public

Date of complaint: 07 September 2011

Date of Assessment Panel: 04 October 2011

Total number of working days to assess: 20

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 5

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

No action should be taken on the allegation.

Outcome:

The Panel concluded that the information provided by the complainant was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the Panel is taking no further action on this complaint.

No additional information was provided.

Complaint 8

Case Number: **BHC- 006721**

Complainant: Member of the public

Date of complaint: 08 September 2011

Date of Assessment Panel: 04 October 2011

Total number of working days to assess: 19

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 5

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

No action should be taken on the allegation.

Outcome:

The Panel concluded that the information provided by the complainant was insufficient to make a decision as to whether the complaint should be

referred for investigation or other action. So unless, or until, further information is received, the Panel is taking no further action on this complaint.

No additional information was provided.

3.14 Complaints where a decision of the Standards Committee Assessment Panel is pending

There are no cases falling into this category.

3.15 The Local Government Ombudsman complaints 2011/12

	Maladministration causing injustice	Discontinue investigation	Local Settlement	No Maladministration	Not to initiate investigation	Outside Jurisdiction	Not yet determined	Total
Adult Assessment				1	1		1	3
Adults Provider				1			3	4
Children and Families		3		1	1		9	14
City Infrastructure		2		2	1		3	8
City Services		2	1	1		2	4	10
Housing and Social Inclusion	1	4	1	1	2	2	1	12
Planning & Public Protection		2		4	1		2	9
Resource Units		1						1
Tourism & Leisure					1			1
	1	14	2	11	7	4	23	62

3.15.1 The above table shows the number of complaint investigations carried out by the Local Government Ombudsman from April 2011 to the end of December 2011.

3.15.2 There has been a reduction in complaints referred for investigation compared to the corresponding period in the previous year from 85 to 62 cases.

3.15.3 However, more than a third of cases have not yet been concluded by the Ombudsman so a comparison of outcomes is not yet available.

3.15.4 The Ombudsman has found maladministration causing injustice in respect of a complaint about the excessive delay in repairing serious damage to a flat. The Council has put in place a number of procedural improvements to prevent similar problems happening again. A significant level of compensation has been agreed.

3.15.5 Eleven complaints resulted in findings of no maladministration.

- 3.15.6 Two complaints (5% of the determined cases) have been settled by Local Settlement, which is a considerable reduction compared to 13% in the same period last year.
- 3.15.7 In total the council have paid £3600 in compensation at the recommendation of the Ombudsman to the end of December.
- 3.15.8 The greatest proportion of complaints investigated related to education and children's social care complaints. This is because matters relating to schools admissions are invariably investigated by the Ombudsman with no referral to the Local Authority's complaint procedure. This sometimes happens for cases brought about children's social care.

4. CONSULTATION

- 4.1 There has been no consultation

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The costs of complaints in terms of administration and compensation are met within the allocated budget.

Finance Officer Consulted: Anne Silley Date: 16/12/2011

Legal Implications:

- 5.2 There are no legal implications

Lawyer Consulted: Liz Woodley Date:

Equalities Implications:

- 5.3 There are no Equalities implications

Sustainability Implications:

- 5.4 There are no Sustainability implications

Crime & Disorder Implications:

- 5.5 There are no Crime and Disorder implications

Risk and Opportunity Management Implications:

- 5.6 There are no Risk and Opportunity Management implications

Corporate / Citywide Implications:

- 5.7 There are no Corporate or Citywide implications

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents In Members' Rooms

1. None

Background Documents

1. None