

AUDIT & STANDARDS COMMITTEE

Agenda Item 32

Brighton & Hove City Council

Subject: Complaints Update
Date of Meeting: 25 September 2012
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 The Localism Act 2011 has required the Council to adopt new arrangements for dealing with complaints about a breach of the Code of Conduct by Council and Parish Council Members. Those arrangements replace the previous process administered under the Standards Committee (England) Regulations 2008.
- 1.2 The process for dealing with complaints of misconduct and the actions which may be taken against a Member under the new arrangements are the subject of a separate paper.
- 1.3 This paper updates the Audit and Standards Committee on allegations about member conduct following the last report to Audit and Standards Committee on 26 June 2012. Cases which have been closed are summarised in Appendix 1.

2. RECOMMENDATION:

- 2.1 That the Committee note the report.

3. RELEVANT BACKGROUND INFORMATION

- 3.1 The timescales for dealing with complaints as set out in the new arrangements are as follow:
 - Complaints about Member conduct should be acknowledged as soon as possible and within a maximum of 5 working days.
 - The complainant should be informed within 10 working days how the matter will be dealt with.

- The whole complaint process should be completed within 65 working days from the date of receipt to date of hearing.
- 3.2 The Transitional Arrangements set out under the Localism Act required that any complaint dealt with under the Standards Committee (England) Regulations 2008 which had not been concluded by 01 July 2012 should be dealt with under the new Localism Act arrangements.
- 3.3 There are two complaints which fall into this category; the outcome of one case is recorded in the Appendix. The second case has yet to be concluded.
- 3.4 There has been one complaint received after the Standards Regulations ceased to operate but before the new arrangements could be adopted. The outcome of this complaint is also recorded in the Appendix.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

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

Finance Officer Consulted: Anne Silley Date: 24 August 2012

Legal Implications:

- 4.2 The report is for noting only. The statutory framework under which complaints about Member conduct are dealt with are covered in the body of the report. The transitional arrangements referred to in paragraph 3.2 above are set out in the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012: SI 2012/1463

Lawyer Consulted: Oliver Dixon Date: 30 August 2012

Equalities Implications:

- 4.3 There are no Equalities implications

Sustainability Implications:

- 4.4 There are no Sustainability implications

Crime & Disorder Implications:

- 4.5 There are no Crime and Disorder implications

Risk and Opportunity Management Implications:

- 4.6 There are no Risk and Opportunity Management implications

Corporate / Citywide Implications:

- 4.7 There are no Corporate or Citywide implications

SUPPORTING DOCUMENTATION

Appendices:

1. Summary of the decisions for complaints that have been concluded.

Documents In Members' Rooms

1. None

Background Documents

1. None

Appendix 1 - Summary of the decisions for complaints that have been concluded.

Audit & Standards Case	1
S&C Reference Number	BHC-005373
Date Received	11/03/2011
Days to Acknowledge	1 day
Days for Monitoring Officer to reply	
Complainant	Member of the Public
Summary of Complaint	
<p>The Complaint concerned an allegation about inappropriate dancing at the end of a Council Budget Meeting.</p>	
Section of Code of Conduct that applies	
<p>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.</p>	
Summary of / Reason for Decision	
<p>The original Investigating Officer was unable to reach a conclusion on the matter. A second Investigating Officer found there was insufficient evidence to substantiate the allegation. The complainant could not be certain that the person she observed dancing in the way described was the councillor named in the complaint. The councillor accused of the misconduct strenuously denied the allegation and gave a clearly reasoned explanation why it could not have been her. There was circumstantial evidence to suggest that the inappropriate dancing had occurred however it was apparent that the councillor referred to in the allegation was not involved in the incident. The identity of the councillor who had been observed to be dancing inappropriately has not been revealed.</p> <p>Both the complainant and the Member were satisfied that the matter should be brought to a close. The Monitoring Officer concluded that this had been a case of mistaken identity and it would not be in the public interest to try to pursue the matter any further and closed the case.</p>	

Audit & Standards Case	3
S&C Reference Number	BHC-009244
Date Received	30/07/2012
Days to Acknowledge	1 day
Days for Monitoring Officer to reply	10 days
Complainant	Member of the Public
Summary of Complaint	
<p>The complainant stated that a councillor was in breach of contract with the member's party having been the sole councillor to vote against gay marriage. The complainant said that he found the members behaviour highly offensive.</p>	
Section of Code of Conduct that applies	
<p>There was no Code of Conduct in place at time statement was made.</p>	
Summary of Decision	
<p>The Monitoring Officer decided the complaint should not be investigated as a potential breach of the member's code of conduct.</p> <p>At the time the councillor made the statement, the Council had not adopted the new code of conduct. There was therefore no code of conduct in force and consequently it would not be possible to conclude that the member had breached a code of conduct that applies to members.</p> <p>Secondly, The Council, as a public authority, is required to comply with the statutory requirements in the Human Rights Act 1998. Article 10 of schedule 1 to the Act provides, under the title of "Freedom of expression:"</p> <p>"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."</p> <p>The Monitoring Officer decided that the complaint should not be referred for investigation. No views were expressed either way on the rightness or wrongness of the statements made by the member. The Monitoring Officer's role was simply to look at the complaint in the context of the rules then in force as they apply to Members, including the provisions of the Human Rights Act.</p>	

