

# AUDIT & STANDARDS COMMITTEE

Brighton & Hove City Council

**Subject:** Complaints Update  
**Date of Meeting:** 16 April 2013  
**Report of:** Monitoring Officer  
**Contact Officer:** Name: **Brian Foley** Tel: **293109**  
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**Wards Affected:** All

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This paper updates the Audit and Standards Committee on allegations about member conduct following the last report to Audit and Standards Committee on 22 January 2013.
- 1.2 A summary of the decisions for complaints that have been closed are set out in Appendix 1.

### 2. RECOMMENDATION:

- 2.1 That the Committee note the report.

### 3. RELEVANT BACKGROUND INFORMATION

- 3.1 The current status of Code of Conduct complaints is:
  - 3.1.1 Open complaints
    - At the time of writing there are no current ongoing complaints.
  - 3.1.2 Closed complaints
    - An investigation into a complaint that a member failed to act impartially and was unprofessional when chairing a meeting with members of the public has been concluded. The Panel reached the decision that there had been no breach of the Code of Conduct.
    - The Deputy Monitoring Officer decided not to investigate a complaint from a member of the public that two of his ward councillors were not responding to his communications.
    - The Monitoring Officer decided that a complaint alleging that a councillor had intimidated and abused a member of the public could

not be investigated. The Monitoring Officer concluded that the member had not been acting in their role as a councillor at the time of the alleged incident and therefore the code of conduct for members could not be applied.

- The Monitoring Officer decided that two complaints about remarks of a potentially homophobic nature written by a councillor in a Facebook exchange which caused offense to the complainants could be closed if a suitable apology was provided and accepted. An apology was duly offered and accepted.

3.2 The Council's performance in dealing with individual complaints is illustrated in the chart below.

3.2.1 Complaints about Member conduct should be acknowledged as soon as possible and within a maximum of 5 working days.

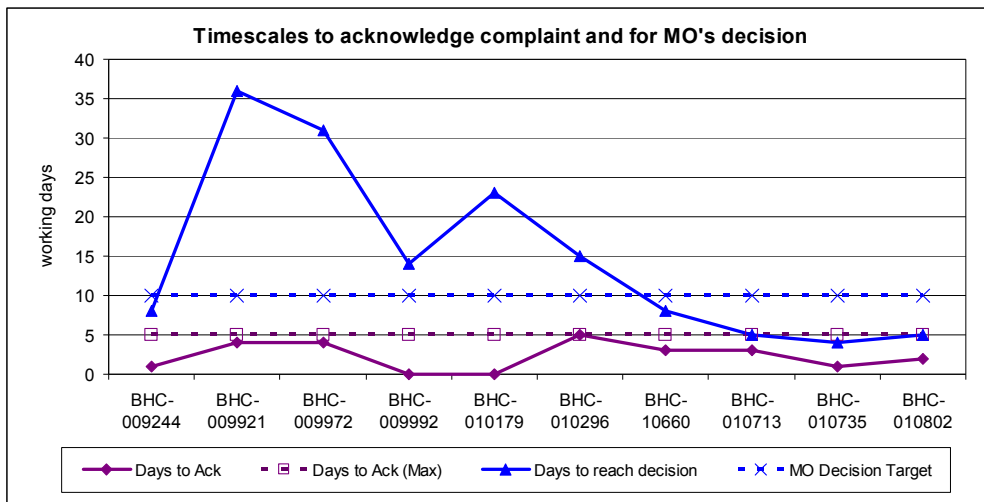
Comment: To date all complaints have been acknowledged within 5 working days.

3.2.2 The complainant will normally be informed within 10 working days how the matter will be dealt with.

Comment: The Monitoring Officer has reviewed the decision making process and this has had the effect of achieving decisions within the 10 day timescale.

3.2.3 The whole complaint process should be completed within 65 working days from the date of receipt to date of hearing.

Comment: The most recent investigation took 65 working days from referral for investigation to production of the Final Report. However the overall time taken was 116 working days.



#### **4. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 4.1 The costs of complaints in terms of administration and compensation awards (where appropriate) are met within the allocated budget. There were no compensation awards in the period covered by the report.

*Finance Officer Consulted: Anne Silley Date: 20/03/2013*

##### Legal Implications:

- 4.2 The Council's arrangements under which complaints about Member conduct are investigated and decided conform with the relevant provisions of the Localism Act 2011 and local procedures agreed by Full Council in July 2012.

*Lawyer Consulted: Oliver Dixon Date: 20/03/2013*

##### 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

<b>Audit &amp; Standards Complaint</b>	
<b>Reference Number</b>	<b>BHC-009921</b>
<b>Date Received</b>	<b>08/10/2012</b>
<b>Days to Acknowledge</b>	<b>4 days</b>
<b>Days to reach decision to investigate</b>	<b>36 days</b>
<b>Days to conclude</b>	<b>116 days</b>
<b>Complainant</b>	
	<b>Member of the Public</b>
<b>Summary of Complaint</b>	
<p>The complaint concerned a series of allegation about the way that a councillor chaired a meeting. The councillor was alleged to have acted in a way that was described as lacking impartiality or professionalism.</p>	
<b>Section of Code of Conduct that applies</b>	
<p><b>Paragraph 3(1).</b> You must treat others with respect</p>	
<b>Summary of the Standards Panel decision</b>	
<p>The Panel read the report by the Monitoring Officer, and after close questioning of the report they concurred with the Monitoring Officer's conclusion and reasons that there had been no breach of the Code of Conduct.</p> <p>The investigation concluded that four of the six allegations made could not be substantiated and there had not been a breach of the code of conduct in respect of those issues. Furthermore, it concluded that whilst two remaining issues could on a balance of probabilities be substantiated the councillor's actions had not amounted to a breach of the code of conduct in that the councillor had not acted disrespectfully towards the complainant.</p>	

<b>Audit &amp; Standards Complaint</b>	
<b>Reference Number</b>	<b>BHC-010660</b>
<b>Date Received</b>	<b>09/01/2013</b>
<b>Days to Acknowledge</b>	<b>3 days</b>
<b>Days to reach decision to investigate</b>	<b>8 days</b>
<b>Complainant</b>	
	<b>Member of the Public</b>
<b>Summary of Complaint</b>	
The complainant stated that he had contacted two of his ward councillors about many different matters but they simply refused to respond.	
<b>Section of Code of Conduct that applies</b>	
<b>Paragraph 3(1).</b> You must treat others with respect	
<b>Summary of the Deputy Monitoring Officer's decision</b>	
<p>The Deputy Monitoring Officer was asked to consider the complaint given that the Monitoring Officer had previously given advice to the two members.</p> <p>Having carefully reviewed the complaint and having consulted with an Independent Person, the Deputy Monitoring Officer reached the view that the issues raised could not amount to a breach of the Code of Conduct.</p> <p>The Deputy Monitoring Officer said the Council had responded thoroughly to the issues raised. In such circumstances it has the right to make a decision that no more resources should be committed to an issue just because a person demands it. Within this context local councillors were advised that they were under no obligation to respond if they chose not to. Consequently, the members' decision not to respond did not constitute a breach of the Code of Conduct.</p> <p>The decision not to investigate the complaint about the members conduct was exclusively based on whether the actions of the member referred to could amount to a breach of the Council's Code of Conduct for members, whether it was in the public interest to investigate the complaint and whether it would be proportionate in the circumstances. It was not based on the relative merits of the issues that the complainant wished to consult with them about.</p>	

<b>Audit &amp; Standards Complaint</b>	
<b>S&amp;C Reference Number</b>	<b>BHC-0010713</b>
<b>Date Received</b>	<b>21/01/2013</b>
<b>Days to Acknowledge</b>	<b>3 days</b>
<b>Days for Monitoring Officer to reply</b>	<b>5 days</b>
<b>Complainant</b>	<b>Member of the Public</b>
<b>Summary of Complaint</b>	
A member of the public alleged that a councillor had been both abusive and intimidating.	
<b>Section of Code of Conduct that applies</b>	
<b>Paragraph 3(1)</b> You must treat others with respect	
<b>Summary of the Monitoring Officer's decision</b>	
<p>The complaint against the councillor alleged that the complainant had been intimidated, abused and terrorised by the councillor for a second time. The complainant stated the matter had been reported to the Police.</p> <p>Having carefully reviewed the complaint and having consulted with an Independent Person, the Monitoring Officer reached the view that the issues raised could not amount to a breach of the Code of Conduct</p> <p>It appeared to the Monitoring Officer from the information provided, that the councillor was acting as a concerned parent and although it was true the subject member is a councillor, the complaint did not provide any evidence or indeed suggestion that the subject member was acting in their capacity as a councillor during the time of the alleged altercation. The code of conduct for members cannot be applied if an elected member is not acting in their role as a councillor at the time of an incident. The conclusion therefore reached was that there has not been a breach of the Code of Conduct for Members.</p> <p>However, the Monitoring Officer wrote to the councillor with a reminder that as an elected representative it is expected that they should not behave in such a way as to draw complaints to themselves as this has a direct bearing on the requirement that a councillor should maintain their integrity at all times.</p> <p>The decision not to investigate the complaint was exclusively based on whether the actions of the member referred to could amount to a breach of the Council's Code of Conduct for members, whether it is in the public interest to investigate the complaint and whether it would be proportionate in the circumstances. It was not based on the specifics of the allegations that were made.</p>	

<b>Audit &amp; Standards Case</b>	
<b>S&amp;C Reference Number</b>	<b>BHC-0010735, &amp; BHC-0010802</b>
<b>Date Received</b>	<b>23/01/2013, &amp; 02/04/2013</b>
<b>Days to Acknowledge</b>	<b>1 days, &amp; 2 days</b>
<b>Days for Monitoring Officer to reply</b>	<b>4 days, &amp; 5 days</b>
<b>Complainant</b>	<b>Members of the Public</b>
<b>Summary of Complaint</b>	
<p>The Council received two very similar complaints about remarks of a potentially homophobic nature written by a councillor in a Facebook exchange which caused offense to the recipients.</p>	
<b>Section of Code of Conduct that applies</b>	
<p><b>Paragraph 3(1)</b> You must treat others with respect</p>	
<b>Summary of the Monitoring Officer's decision</b>	
<p>Having carefully reviewed the complaint and having consulted with an Independent Person the council's Monitoring Officer explained that an option existed to seek to resolve the complaint. The Monitoring Officer explained he would prefer in the first instance to see if it is possible to resolve the complaint but that the option of investigating the complaint remained open.</p> <p>The councillor was willing to write a letter of apology to the person(s) making the complaint(s) and was prepared to extend that apology to anyone else who may have been offended by the remarks made.</p> <p>The complainant replied that a suitable apology would be an acceptable way of resolving the complaint.</p> <p>An apology was duly issued and accepted.</p>	