

**Subject:** Complaints Update  
**Date of Meeting:** 25 June 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 16 April 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 Active complaints

- At the time of writing there is one complaint yet to be resolved.

3.1.2 Closed complaints

- a. A member of the public alleged that a councillor consistently failed to consult with the applicant on the location of a proposed development and alleged the councillor provided misleading information to the Planning Committee. After consulting with an Independent Person the Monitoring Officer decided not to investigate the complaint because a councillor is under no obligation to support an application and no material had been provided to support the allegation that misleading information had been given to the planning committee. The actual reasons for refusal were clearly outlined in the notes of the Planning Committee.

- b. A member of the public alleged that a councillor failed to declare an interest at a Planning Committee meeting and made an inaccurate outburst during that meeting. After consulting with an Independent Person the Monitoring Officer decided not to investigate the complaint because no evidence was available to suggest the councillor should have declared an interest in the application and to have refrained from voting. The minutes of the meeting gave no suggestion there had been an outburst from the councillor and given the passage of time it was considered unlikely that any independent witness would be able to give a wholly reliable account of what was said at the meeting.

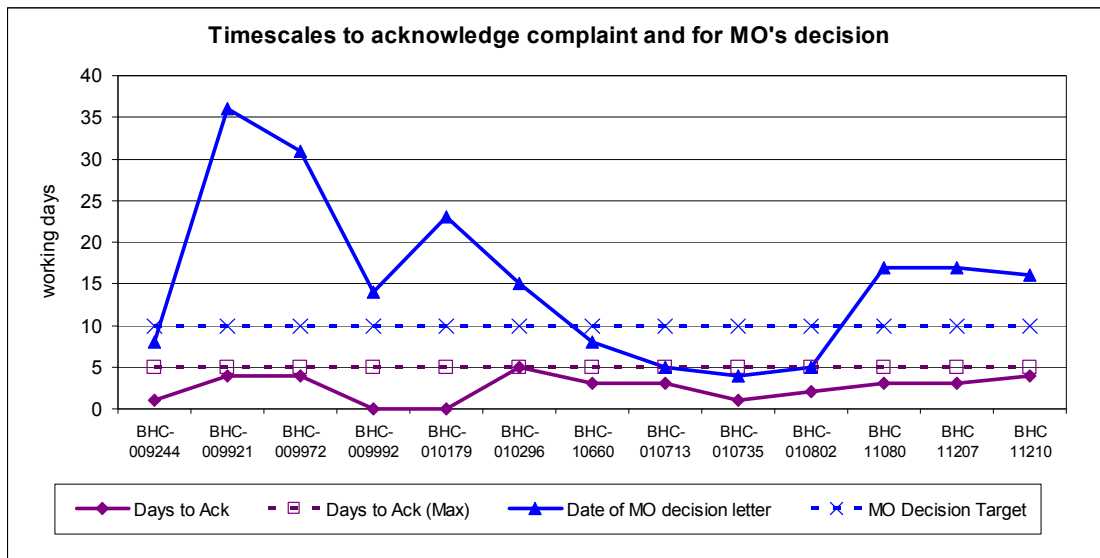
3.2 The Council's performance in dealing with individual complaints is illustrated in the chart below.

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 will continue to try to ensure decisions are reached within the 10 day timescale.



#### **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: 23/05/2013*

##### 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: 23/05/2013*

##### 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-011180</b>
<b>Date Received</b>	<b>19/03/2013</b>
<b>Days to Acknowledge</b>	<b>3 days</b>
<b>Days to reach decision</b>	<b>17 days</b>
<b>Days to conclude</b>	<b>17 days</b>
<b>Complainant</b>	
	<b>Member of the Public</b>
<p><b>Decision Notice</b></p> <p>A member of the public submitted a complaint relating to a series of six planning applications dating from 2006.</p> <p>It was alleged that a councillor had consistently refused to consult with the applicant or to visit the site of the proposed development and would not reply to any correspondence on the subject. It was alleged that there had been liaison between the councillor and a neighbour who was a clerical officer at the council up until two or three years ago. It was alleged this led to the application being placed before the Planning Sub-Committee and that misleading information was presented regarding the proposed location of the development which in turn was the reason planning permission was refused.</p> <p>Under Brighton &amp; Hove City Council's arrangements for dealing with breaches of the Member's Code of Conduct the Monitoring Officer is required to consider the complaints and, after consultation with an Independent Person, take a decision as to whether the complaint merits formal investigation. An 'Independent Person' in this instance is a person who has been appointed under the provision of the Localism Act 2011 who is not an elected Councillor and has no connection to the Council.</p> <p>The Monitoring Officer reached the view that the issues raised should not be investigated for the reasons that follow.</p> <p>A failure to respond to communications does not constitute a breach of the Code of Conduct.</p> <p>If a councillor receives letters of objection to a planning application it is to be expected that the councillor will refer those letters to the Head of Development Control and this may have a bearing on the application being placed before the Planning Sub-Committee. This does not represent a breach of the Code of Conduct.</p> <p>No material has been provided to suggest the councillor presented misleading information to the Planning Committee. The reasons for refusing the application were clearly set out in the minutes and these relate to a failure to enhance the positive qualities of the neighbourhood, a lack of private usable amenity space and a failure to achieve an acceptable level of sustainability.</p> <p>The Monitoring Officer's final comment was that any investigation in to the allegations would be hampered by the significant time that had passed.</p>	

The decision not to investigate was exclusively based on whether the actions of the member could amount to a breach of the code of conduct, whether it was in the public interest to investigate the complaint and whether to do so would be proportionate in the circumstances. It was not based on the relative merits of the planning application.

## Appendix 2

<b>Audit &amp; Standards Complaint</b>	
<b>Reference Number</b>	<b>BHC-011207</b>
<b>Date Received</b>	<b>19/03/2013</b>
<b>Days to Acknowledge</b>	<b>3 days</b>
<b>Days to reach decision</b>	<b>17 days</b>
<b>Days to conclude</b>	<b>17 days</b>
<b>Complainant</b>	<b>Member of the Public</b>
<b>Decision Notice</b>	
<p>A member of the public submitted a complaint alleging that a councillor failed to declare an interest at a Planning Sub Committee meeting and made an inaccurate outburst at the meeting. The date of the meeting was 20 July 2011.</p> <p>Under Brighton &amp; Hove City Council's arrangements for dealing with breaches of the Member's Code of Conduct the Monitoring Officer is required to consider the complaints and, after consultation with an Independent Person, take a decision as to whether the complaint merits formal investigation. An 'Independent Person' in this instance is a person who has been appointed under the provision of the Localism Act 2011 who is not an elected Councillor and has no connection to the Council.</p> <p>The Monitoring Officer reached the view that the issues raised should not be investigated for the reasons that follow.</p> <p>No evidence was presented to suggest that the councillor was required under the code of conduct to declare an interest in the application and to refrain from voting. The minutes of the meeting do not indicate that the councillor made an inappropriate outburst. Given the passage of time it is unlikely that independent witnesses could give a wholly reliable account of what was said at the meeting.</p> <p>The decision not to investigate was exclusively based on whether the actions of the member could amount to a breach of the code of conduct, whether it was in the public interest to investigate the complaint and whether to do so would be proportionate in the circumstances. It was not based on the relative merits of the planning application.</p>	



