

Subject: Complaints Update – January 2014
Date of Meeting: 21 January 2014
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 This paper updates the Audit and Standards Committee on allegations about Member conduct following the last report to Audit and Standards Committee on 19 November 2013.
- 1.2 This paper contains information on enquiries made by the Local Government Ombudsman about complaints she has received about services provided by the council.

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

- One complaint has been referred for investigation.
- One complaint has been received and is awaiting a decision on how to progress the complaint.

3.1.2 Closed complaints:

- a. One complaint that was resolved by Local Resolution in the form of an apology issued by the Member to a member of the public.
- b. An investigation into a complaint that was made up of four separate but very similar complaints against a Member resulted in a Hearing Panel deciding that the Member had brought her office or authority into disrepute but that she had not treated other with disrespect and

nor had she breached the requirement to not cause the Local Authority to breach any of its equalities duties.

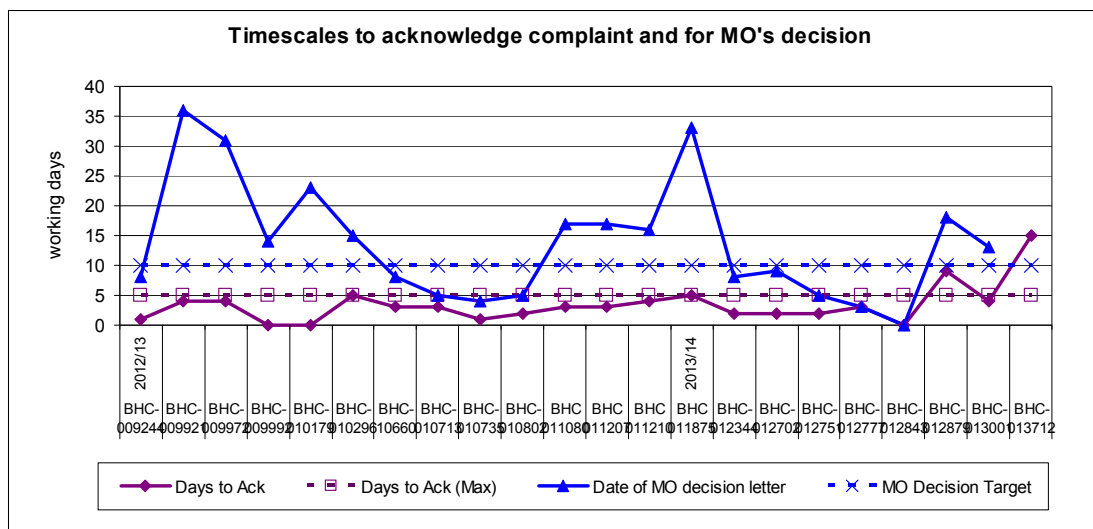
A copy of the decision notice is included in Appendix 1.

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. To date all complaints except two have been acknowledged within 5 working days.

3.2.2 It is our intention that the complainant will normally be informed within 10 working days how the matter will be dealt with. The process for dealing with complaints about member conduct is subject to review.

3.2.3 Consultations on individual cases with the Independent Persons take place promptly and have proven to be valuable. The Monitoring Officer will continue to ensure decisions are reached within the 10 day timescale whenever possible.



Local Government Ombudsman

3.3 Table 1 in Appendix 2 shows that the Council has received 113 enquiries from the Local Government Ombudsman in the period reported. Table 2 summarises the Ombudsman decisions in respect of those complaints.

3.4 Members of the public may approach the Ombudsman at any time but usually the Ombudsman will require that the person completes the council's complaint procedure before they will consider the matter.

3.5 Of the 113 complaints the Ombudsman's investigations found that there was some level of fault in 11 cases. These fall under the headings:

Maladministration Causing Injustice, Discontinue Investigation Injustice Remedied and Local Settlement.

- 3.6 There has been one complaint which resulted in a finding of Maladministration Causing Injustice. The council were prepared to act quickly to remedy that injustice. Improvements were made to the transition process for vulnerable people moving from another Council which will ensure appropriate community care services are promptly put in place.
- 3.7 There have been eight cases where the Ombudsman has discontinued their investigation because the injustice has been remedied. Individual remedies were put in place for these cases which include providing mediation to resolve a care planning issue for a young person, making modest financial compensation payments, rehearing appeal panels, and meeting additional educational needs. In one case the council acted proactively to ensure contractors gave accurate advice about asbestos in residents' homes.
- 3.8 There were two complaints where the Ombudsman recommended the complaint should be resolved by Local Settlement. The council responds positively to the recommendations of the Ombudsman. In these two cases modest compensation payments were made. These cases did not suggest a need for wider service improvements.

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.

Finance Officer Consulted: Anne Silley Date: 09 January 2014

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 Audit & Standards Committee in September 2012, as amended in April 2013.

Lawyer Consulted: Oliver Dixon Date: 09 January 2014

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. Decision Letter for Complaint against Councillor Barnett
2. Local Government Ombudsman complaints

Documents in Members' Rooms

1. None

Background Documents

1. None

Appendix 1 – Decision Letter for Complaint against Councillor Barnett



**Brighton & Hove
City Council**

Case Ref No: **BHC-012702, 012751, 012777, 012843**

**STANDARDS PANEL HEARING
DECISION NOTICE**

DATE OF HEARING:	19 December 2013
SUBJECT MATTER:	Hearing of Allegation that a Councillor has failed to comply with the Code of Conduct for Members
COMPLAINANT:	3 Members of the Public and a Council Staff Group
CHAIR:	Councillor Deane
HEARING PANEL MEMBERS:	Councillors Deane, A. Norman and Summers
INDEPENDENT PERSON AND CO-OPTED MEMBER:	Dr Lel Meleyal
INVESTIGATING OFFICER:	Brian Foley, Standards & Complaints Manager
DEMOCRATIC SERVICES OFFICER:	Mark Wall, Head of Democratic Services

THE DECISION

The Panel determined that:

(1) Councillor Barnett did NOT fail to comply with paragraph 3(1) of the Council's Code of Conduct for Members ('You must treat others with respect').

(2) Councillor Barnett did NOT fail to comply with paragraph 3(2)(a) of the Council's Code of Conduct for Members ('You must not do anything which may cause your

authority to breach any of its equality duties (in particular as set out in the Equality Act 2010'); and

(3) Councillor Barnett DID fail to comply with paragraph 5 of the Council's Code of Conduct for Members ('You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute').

REASONS FOR THE DECISION

With regard to the decision over whether Councillor Barnett brought her office into disrepute, this was difficult and the Panel spent a great deal of time considering the point in fine detail. We find that on balance, there was a very fine line, which resulted in a breach of paragraph 5 of the Code of Conduct. We accept that this was inadvertent and that it was not intended to cause offence.

We are also mindful of the work that Councillor Barnett has done and continues to do in her community, including with residents from a BME background, such as the Bangladeshi Women's Community.

We have also taken into account the fact that Councillor Barnett has agreed to apologise and to undertake equalities training, and offered to meet with members of the BME Workers Forum. We support those proposals and would recommend them to Councillor Barnett with the help of the Authority.

Finally, the case has highlighted the need for training and awareness raising among all councillors on equalities issues. We therefore recommend that equalities training be a mandatory part of Member Development training.

RELEVANT SECTIONS OF THE CODE OF CONDUCT

Para 3(1): You must treat others with respect;

Para 3(2)(a): You must not do anything which may cause your authority to breach any of its equality duties (in particular as set out in the Equality Act 2010);

Para 5: You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

RIGHT OF APPEAL

There is a right of appeal for the complainants and the subject Member against the decision of the Standards Panel. This is without prejudice to the right of the complainant to refer the matter to the Local Government Ombudsman.

If any of these persons wishes to exercise this right, they should write to the council's Monitoring Officer*, stating they wish to appeal the Standards Panel decision, with

reasons for doing so. A request for an appeal must be received within 10 working days of 19 December 2013.

* Address: Brighton & Hove City Council, King's House, Grand Avenue, Hove, BN3 2LS

CONFIRMED AS A TRUE RECORD:

We certify that the decision this document records was made in accordance with the Council's procedure for determining an allegation that a Member has failed to comply with the Code of Conduct for Members

Proper Officer:

Signed:

A handwritten signature in black ink, appearing to be 'S. J. ...', written over a horizontal line.

Date:

20 December 2013

Appendix 2 – Local Government Ombudsman complaints

Table 1

Service Area	Quarter 1, 12/13	Quarter 2, 12/13	Quarter 3, 12/13	Quarter 4, 12/13	Quarter 1, 13/14	Quarter 2, 13/14	Quarter 3, 13/14
Adult Services							
Adults Provider	0	0	0	0	0	0	0
Community Services	0	0	1	0	0	0	0
ASC Assessment	0	0	0	0	0	0	0
Mental Health Assessment	0	0	0	1	0	0	0
CLDT	0	0	0	0	1	0	0
Planned Response	1	0	2	2	0	1	0
Total	1	0	3	3	1	1	0
Assistant Chief Executive							
CPPC	0	0	2	0	0	0	0
Tourism	0	0	0	0	1	0	0
Total	0	0	2	0	1	0	0
Children's Services							
Children's Disability service	0	0	0	0	0	0	1
Children In Care	1	0	1	0	1	0	0
ACAS	0	1	1	0	1	1	0
Child Protection Conf.	1	0	0	1	0	0	1
Children In Need	0	0	1	0	0	2	0
Total	2	1	3	1	2	3	2
Environment, Development and Housing							
City Infrastructure							
City Clean	1	0	1	0	1	2	1
City Parks	0	0	0	0	0	1	0
Sustainable Transport	0	1	2	1	2	1	2
Housing							
Housing Services	1	0	6	4	2	1	1
Housing Strategy	2	4	1	1	3	2	2
Repairs & Maintenance	0	1	2	0	1	0	0
Planning & Public Protection							
City Planning	0	3	1	2	0	3	2
Public Safety	1	0	1	0	0	1	1
Total	5	9	14	8	9	11	9
Finance and Resources							
City Services	0	0	0	0	0	0	0
Benefits & Revenues	1	0	1	1	4	2	2
Finance Units	0	0	0	0	0	0	0
Project & Financial Services	0	0	1	0	0	0	0
Property & Design	0	0	0	0	0	1	0
Total	1	0	2	1	4	3	2
Legal & Democratic Services	0	0	0	0	0	0	0

Public Health	0	0	0	0	0	0	0
Schools, Skills & Learning							
Admissions	0	1	1	0	0	2	0
School Transport	0	0	1	0	0	1	0
SEN	1	0	1	1	0	0	0
Total	1	1	3	1	0	3	0
TOTAL	10	11	27	14	17	21	13

Table 2

LGO Decision	Quarter 1, 12/13	Quarter 2, 12/13	Quarter 3, 12/13	Quarter 4, 12/13	Quarter 1, 13/14	Quarter 2, 13/14	Quarter 3, 13/14
Discontinue investigation injustice remedied	0	1	5	1	1	0	0
Discontinuing Investigation	7	4	5	9	4	1	0
Investigation complete, Report issued	0	0	0	0	0	0	0
Investigation complete, satisfied with LA actions	0	0	0	0	1	2	1
Local Settlement	0	0	1	1	0	0	0
Maladministration Causing Injustice	0	0	0	0	1	0	0
Maladministration No Injustice	0	0	0	0	1	0	0
No Maladministration	2	1	3	0	1	2	0
Not to initiate investigation	1	4	12	2	5	12	4
Outside Jurisdiction	0	1	1	1	3	1	1
Withdrawn	0	0	0	0	0	1	1
No decision	0	0	0	0	0	2	6
TOTAL	10	11	27	14	17	21	13