

READING BOROUGH COUNCIL

REPORT BY EXECUTIVE DIRECTOR OF RESOURCES

TO:	STANDARDS COMMITTEE		
DATE:	10 MARCH 2021		
TITLE:	INVESTIGATION OF COMPLAINTS 2019/20		
LEAD COUNCILLOR:	CLLR ELLIE EMBERSON	PORTFOLIO:	CORPORATE AND CONSUMER
SERVICE:		WARDS:	ALL
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 In the absence of a Standards Committee meeting in 2020, which would ordinarily have received the Annual Report on complaints statistics, this report outlines the number, type of complaints and their disposal in financial year 2019/20.
- 1.2 This report also outlines the Council's response on one complaint which took 14 months to resolve. The issues raised by this complaint are presented to the Committee to consider, together with observations from the Monitoring Officer on ways to ensure the smooth running of complaints in future cases.
- 1.3 The current arrangements for dealing with complaints are assessed in accordance with the recommendations of the Committee for Standards in Public Life. Members are asked to consider whether further work is necessary to revise the Council's arrangements for dealing with Complaints against councillors.

2. RECOMMENDED ACTION

Standards Committee is asked:

- 2.1 To note the Complaints received in financial year 2019/2020
- 2.2 To note the Monitoring Officer's observations in the complaint brought by Mr Collie against Cllr Tony Page
- 2.3 To consider possible amendments to the Council's arrangements for dealing with complaints against councillors
- 2.4 To ask the Monitoring Officer to produce a revised set of arrangements for dealing with complaints and to present it to a future meeting of the Standards Committee.

3. POLICY CONTEXT

- 3.1 The Council has established six corporate priorities (which were refreshed in Spring 2019) and cover the period 2018-21. These priorities are:
 - Securing the economic success of Reading
 - Improving access to decent housing to meet local needs
 - Protecting and enhancing the lives of vulnerable adults and children

- Keeping Reading's environment clean, green and safe
- Promoting health, education, culture & wellbeing
- Ensuring the Council is fit for the future

3.2 Full details of the Council's plan and the actions which will deliver these priorities are published on the Council's website. These priorities and the Corporate Plan demonstrate how the Council meets its legal obligation to be efficient, effective and economical. This report concerns good governance in the Council, confidence in local democratic systems and their accountability and is relevant to the Corporate Priority, "Ensuring the Council is fit for the Future".

3.3 The Localism Act requires all councils to have a local Member Code of Conduct. It also requires councils to put in place arrangements under which allegations can be investigated and arrangements under which decisions on allegations can be made. Currently the Council's arrangements are set out in Article 9 of the Constitution (which describes the remit of the Standards Committee). These arrangements have been in place since May 2013.

4 COMPLAINTS IN THE FINANCIAL YEAR 2019/2020

4.1 Reports to the Standards Committee are usually made annually to update the Committee on the number of complaints made and other issues. This did not happen in 2020. When the Coronavirus Pandemic required the Council to change its decision making process in spring 2020, the Standards Committee was one of those committees which has temporarily stood down whilst Policy Committee assumed the majority of Council functions under the Constitution's emergency provisions.

4.2 Annex A to this report contains a list of 10 complaints that were made to the Monitoring Officer in financial year 2019/20. These complaints contain a mixture of Code of Conduct related items and other issues which have been raised when members of the public were not happy with a councillor's performance.

4.3 The list in Annex A is anonymised (save for one matter which is discussed later in this report). There is a public interest in the operation of a complaints procedure, that not every matter should be made public. Hence, details of councillors and members of the public are redacted in this summary. This encourages resolution of matters at the earliest stage possible, in the quickest timescale and with the least formality. This practice is consistent with Standards Committee proceedings elsewhere. If a serious matter is brought before the Committee, the Committee item would usually proceed as a Part 2 matter until the Committee had weighed up the public interest in publicity and taken into account whether the subject councillor was proven to have breached the Code or not.

4.4 Members will note that of the 10 complaints in Annex A:

- 1 complaint was resolved at the filter stage (this might, for instance, include and apology or an explanation of miscommunication or differences in expectation)
- 3 complaints were judged not to engage the Code of Conduct and were rejected at the initial filter stage
- 1 complaint was referred to the Group disciplinary process and resolved
- 1 complaint was referred for investigation (and is discussed later in this report)
- 3 complaints were initially suggested to the Monitoring Officer but the complainant did not proceed to make a complaint or respond to correspondence

- 1 complaint was made about a councillor who was clearly not acting in the capacity of a councillor
- 4.5 It is suggested by the Monitoring Officer that there are no trends or conclusions which can be drawn from this data. The cases which are reported do not highlight any systemic issues of concern for the Council. This is a low level of complaint activity and demonstrates that councillors generally have good relations with the community. The Committee will no doubt wish to consider this for itself.
- 4.6 The other matters which the Committee may wish to consider are:
- The efficacy of a filter stage which allows the Monitoring Officer to discontinue a complaint which clearly has no prospect of engaging the Code of Conduct.
 - Timescales for complaints, but this is dealt with in more detail below.
- 4.7 Notwithstanding the comments made above, and in light of the one complaint which was investigated in the year, there are matters which the Committee may wish to review in order to assure itself that the Council abides by current best practice and can continue to demonstrate good local leadership on standards in public life.

5 COMPLAINT BY MR COLLIE AGAINST CLLR PAGE

- 5.1 This matter is not anonymised for two reasons. First, because the details of the complaint and its outcome have already been put in the public domain by Mr Collie. Secondly, given the length of time taken to investigate the complaint, the Monitoring Officer has indicated to Mr Collie that he would report this matter to the Standards Committee for their oversight and scrutiny.
- 5.2 This matter arose as a result of an exchange between Cllr Page and a third party at the Audit and Governance Committee in September 2019.
- 5.3 Mr Collie's complaint was as follows. Note that the identity of the third party is redacted in this report because the gentleman involved has indicated to the Council that notwithstanding the information in the public domain, such publicity was not sought by him nor was it welcomed.

"I attended the Audit and Governance committee tonight (September 19, 2019), at which Cllr Page was present as an ex-Officio member. I sat in the front row of seats while a local resident, Mr X, put questions to the committee. I did not know him. Mr X was polite in his questioning. At no point did I consider he was rude or abusive. As his time ended, he asked the chairman if he may have an hour with officer Jackie Yates to pursue matters. This was phrased politely but was declined. As Mr X left his position, Cllr Page puffed out his cheeks in a manner I describe as a sneer. He said to Mr X so it could be heard: "Get elected first. You have not got the guts to." He then called Mr X a "coward". I have been told by a third party Mr X responded "piss off" but I did not hear this. This was only after Mr Page's comments".

"I believe Cllr Page has breached 2 sections of the code and possibly a third. He was rude (6.1.2) and in my view he bullied Mr X (6.1.4). He is a senior figure in the council at a committee meeting in front of other councillors and officers while Mr X is a member of the public. There is a clear imbalance of power in that situation.

I would submit Cllr Page may have breached 6.1.6 in that due to his clearly audible comments he may have done something "which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority". He made these comments in front of officers and councillors that Mr X may have future dealings with and therefore have affected their view of him."

- 5.4 I am not producing the entirety of the Investigator's report as the matter has been concluded by Cllr Page accepting the outcome of the report. However, the investigator concluded:

I find that Councillor Page has breached Section 6.1.2 of the Code as he failed to treat Mr X with respect at the Audit & Governance Committee on 19th September 2019 but that the incident, set against the background history, did not amount to bullying. It follows that the allegation that Councillor Page bullied Mr X in breach of Section 6.1.4 is rejected.

- 5.5 This information is provided as background. However, it is not the subject matter of the issue that is presented to your Committee, but the process for dealing with it. Mr Collie complained about the length of time it took to manage this process. As Monitoring Officer, I accept that is a valid challenge to the Council. Complaints should be dealt with swiftly. However, this complaint raises a number of issues and these are set out below for the Committee's consideration.
- 5.6 The complaint which Mr Collie made in September 2019 was not fully investigated and reported back to him until November 2020. This is much longer than the Council would expect in cases of this nature to take and so his complaint about time taken to resolve the matter has been upheld by the Council. There were some unusual circumstances to the case which have probably contributed to the delay, and I outline my observations below.
- 5.7 The complaint involved a third party and the Monitoring Officer was in discussion with him as the third party suggested he may make a formal complaint. In the end this complaint was not forthcoming. Had it been forthcoming, it would have been more appropriate for that complaint to be the one which was actioned. It is not usual that the Council accepts complaints in circumstances such as this where effectively, one person complains on behalf of another person and it is not clear whether that other person has given permission for such a complaint to be laid. Nevertheless, the Monitoring Officer did accept the complaint on this basis.
- 5.8 The latter part of 2019 involved the Monitoring Officer (in his capacity as returning Officer) in dealing with an unscheduled General Election for two parliamentary constituencies, and so it could be accepted that this matter was not progressed during the run up to the election because other matters were a priority. I would acknowledge that this was a matter raised by Mr Collie in November 2019 to the Monitoring Officer, that unless the matter was resolved quickly it would inevitably get delayed by the election.
- 5.9 It seems that an investigator was instructed as early as February 2020 but this was pending a response coming from the Group Leader at Stage 1 of the councillor complaints process.
- 5.10 In March 2020 the country went its first Coronavirus Pandemic lockdown. Officers and councillors had many other matters to attend to and normal business was interrupted with some Services stood down in their entirety and other new Services implemented in short timescales in order to meet the needs of residents. This was an unprecedented event for the Council, the Borough and its residents.
- 5.11 The complaint was picked up again in July 2020 after lockdown. Mr Collie was gracious to acknowledge that the Council had other priorities during the lockdown period and that he had deliberately held off chasing on the matter.
- 5.12 Following Mr Collie's request to the Monitoring Officer for the matter to go to Stage 2 in July 2020, the investigator was requested to proceed, and he carried out his investigations in August and September.
- 5.13 The final report was sent to Mr Graham on 24 September 2020 and thereafter he liaised with the Independent Person on the recommended outcomes. Mr Graham then also liaised with Cllr Page about an apology and training.
- 5.14 The Monitoring Officer admits that there was too much time during this period (24 September - 20 November 2020) when the matter was with him and did not get progressed as quickly as it should have because of other matters.

- 5.15 By 20 November 2020 Cllr Page had written to the third party to apologise.
- 5.16 Once Cllr Page had apologised, The Monitoring Officer then wrote to Mr Collie with the outcome of the complaint. Mr Collie had chased the Monitoring Officer on 23 November and then he corresponded with him between 24 and 25 November about the outcome of the complaint and the way it should be handled and publicised.
- 5.17 In reviewing this timescale, the Committee may wish to consider:
- Should one person be allowed to make a complaint on behalf of another unless that other person consents?
 - Does the Monitoring Officer need to have discretion in the arrangements for dealing with complaints to decide not to handle complaints in these, or similar circumstances? If there are matters of overwhelming public interest, should different considerations apply?
 - The arrangements of the Council do not make allowances for timescales or give any indication of what how long stages should take to complete. Should they?
 - Do the present arrangements in the Constitution allow members of the public to understand the process for making a complaint, for its investigation and for its determination? The present arrangements in Article 9 are included as Annex B to this report.

6 COMMITTEE ON STANDARDS IN PUBLIC LIFE

- 6.0 In its January 2019 report into Local Government Ethical Standards, the Committee for Standards in Public Life (CPSL) made 15 best practice recommendations for local authorities. These are detailed below along with commentary on each.

- 6.1 Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

The current Code of Conduct includes reference to bullying. The new model Code from the LGA also includes these provisions. Members are being asked if they wish to adopt that new model.

- 6.2 Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

The new model Code from the LGA also includes these provisions. Members are being asked if they wish to adopt that new model.

- 6.3 Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

The Standards Committee ordinarily reviews the Members' Code of Conduct each year in June/ July. The extent to which it should be subject to public consultation is for members to consider.

- 6.4 An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

The Code of Conduct is easily accessible on the Council's website.

<https://www.reading.gov.uk/council/feedback/make-a-complaint-or-comment/councillor-code-of-conduct/>

- 6.5 Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

The Gifts and Hospitality register is presented to the Standards Committee annually. Councillors' Register of Interests includes a section for declaring gifts and hospitality, which is updated on an ongoing basis and is available on each Councillor's webpage.

- 6.6 Councils should publish a clear and straightforward public interest test against which allegations are filtered.

These arrangements are currently in Article 9 of the Constitution. Members may wish to consider if they are published as separate documents on the Council's website.

- 6.7 Local authorities should have access to at least two Independent Persons.

Reading currently has one independent person. In the event of the need to obtain a second independent person, the Council would seek a suitable person from a neighbouring authority.

- 6.8 An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

The Monitoring Officer consults the Independent Person in accordance with the above recommendation.

- 6.9 Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Where the Monitoring Officer and Independent Person concur with any finding in an investigation report that there has been a serious breach of the local Member Code of Conduct, which requires the application of a sanction the Monitoring Officer may decide at this stage to put the findings directly to the local Standards Committee for their consideration. This will normally include a public report and subsequently the Minutes of the meeting, setting out the information recommended above.

- 6.10 A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

The Council's complaint procedure is accessible on the Council's website.

<https://www.reading.gov.uk/council/feedback/make-a-complaint-or-comment/>

- 6.11 Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Not applicable - there are no parish councils within Reading Borough.

- 6.12 Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Not applicable - there are no parish councils within Reading Borough.

- 6.13 A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

The Council will normally ask a former Monitoring Officer or other senior officer to undertake a standards investigation, where necessary. As the Monitoring Officer has to facilitate the complaints process and advise the Standards Committee it would ordinarily be unwise to conduct the investigation personally. This is common practice in many local authorities.

- 6.14 Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

The Policy Committee acts as the shareholder of the Council's 'arms-length' companies. The Annual Reports are reported to this meeting. Board papers are not published as a matter of course. However, ongoing operational matters are also reported to other Standing Committees of the Council.

- 6.15 Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Part of the local process for investigating complaints about councillors is to refer the matter to the Leader of the Group of the councillor being complained about to identify a local solution. The Monitoring Officer will liaise with Group Leaders over the process to be followed. General issues of councillor conduct are discussed with Group Leaders as and when necessary. No formal structures are in place at the moment. The track record of the Council suggests that there is no current need for such a system.

7. OPTIONS

- 7.1 The Committee is asked:

- (a) To note the Complaints received in financial year 2019/2020
- (b) To note the Monitoring Officer's observations in the complaint brought by Mr Collie against Cllr Tony Page
- (c) To consider possible amendments to the Council's arrangements for dealing with complaints against councillors
- (d) To ask the Monitoring Officer to produce a revised set of arrangements for dealing with complaints and to present it to a future meeting of the Standards Committee.

8. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

- 8.1 The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).
- 8.2 There is nothing within this report which is of relevance for the Council's strategic priority of Climate Change.

9. COMMUNITY ENGAGEMENT AND INFORMATION

- 9.1 Section 138 of the Local Government and Public Involvement in Health Act 2007 places a duty on local authorities to involve local representatives when carrying out "any of its functions" by providing information, consulting or "involving in another way".

- 9.2 It is not anticipated that there will be public consultation on the matters raised by this report.

10. EQUALITY IMPACT ASSESSMENT

- 10.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.2 An Equality Impact Assessment (EIA) is not relevant to this report.

11. LEGAL IMPLICATIONS

- 11.1 The Council is bound to maintain a Councillor Code of Conduct and to publish arrangements to advise residents how complaints can be made under the Code. These implications are covered in the main report.

12. FINANCIAL IMPLICATIONS

- 12.1 There are no direct financial implications arising from this report.

13. BACKGROUND PAPERS

- 13.1 There are none

Councillor Complaints received between 1 April 2019 - 31 March 2020

Complaints are anonymised where there is an early resolution of the complaint. It is in the public interest to ensure that the complaints procedure can operate smoothly with issues which are resolved informally not subject to publicity.

Complaint numbers 4&5 refer to a matter in the public domain and is dealt with earlier in this report.

Ref	Date	Cllrs	Complainant	Brief Details	Outcome
1	8 June 2019	Cllrs A and B	Mr 1	Hiring out parkland for private events and not repairing the damage	Stage 1 complaint carried out by Cllr Brock. Apology given by Cllr A and B re not replying to e-mails and apology accepted.
2	18 June 2019	Cllr C	Mr 2	No contact to e-mails about road marking changes	Complaint resolved at filter stage.
3	6 September 2019	Cllrs D, E and F	Miss 3	Lack of information supplied by the councillors with regards to a proposed development and select door leafleting	Complaint rejected - Insufficient evidence of a breach - no further action
4	19 September 2019	Cllr Page	Mr Collie	Cllr Page behaviour at Audit and Governance Committee	Matter taken to Stage 2. Solicitor appointed by the MO to carry out Stage 2 Investigation. Cllr Page accepted the findings of the investigation and issued an apology.
5	20 September 2019	Cllr Page	Mr X	Cllr Page behaviour at Audit and Governance Committee	No formal complaint received
6	23 January 2020	Cllr A	Ms 5	No contact re parking issue	No formal complaint received
7	23 January 2020	Cllr D	Mr 6	Cllr unwilling or unable to answer any of the questions re a proposed development	Complaint rejected - Insufficient evidence of a breach - no further action
8	4 February 2020	Cllr G	Mr 7	Conflict of Interest between a councillor's role and her professional capacity.	Complaint rejected - Insufficient evidence of a breach - no further action
9	4 February 2020	Cllr B	Ms 8	Relating to a Facebook forum	No response received from the complainant to clarification. No further action taken
10	11	Cllr G	Mrs 9	Cllr not following	Complaint closed - Cllr was

Annex A

Ref	Date	Cllrs	Complainant	Brief Details	Outcome
	February 2020			school's complaint procedure	not acting in her capacity of a councillor