

READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	Standards Committee		
DATE:	10 October 2022		
TITLE:	INVESTIGATION OF COMPLAINTS 2021/22		
LEAD COUNCILLOR:	Cllr Liz Terry	PORTFOLIO:	Corporate Services and Resources
SERVICE:	Legal and Democratic	WARDS:	ALL
LEAD OFFICER:	MICHAEL GRAHAM	TEL:	
JOB TITLE:	Assistant Director Legal and Democratic Services	E-MAIL:	michael.graham@reading.gov.uk

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Each year the Standards Committee receives a report on activity in the previous year. This allows members of the Committee to scrutinise the workings of the complaints system.
- 1.2 The last report to Standards Committee in March 2021 reviewed the complaints during the period April 2019 to March 2020 as there was a year missing due to the pandemic. This report brings the statistics up to date for the two years 2020/21 and 2021/22.
- 1.3 The current arrangements for dealing with complaints are also assessed in accordance with the recommendations of the Committee for Standards in Public Life.
- 1.4 Members will note that there is a separate paper at tonight's Committee seeking to implement some further changes to improve complaints handling and transparency of the overall system.

2. RECOMMENDED ACTION

Standards Committee is asked:

- 2.1 To note the Complaints received in years 2020/2021 and 2021/22
- 2.2 To consider any further work which may be necessary to promote high standards of conduct in public life in the Council

3. POLICY CONTEXT

- 3.1 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. A paper is presented this evening to your Committee which outlines further changes to these arrangements.

4 COMPLAINTS IN THE FINANCIAL YEAR 2020/2021 and 2021/22

- 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 was temporarily stood down whilst Policy Committee assumed the majority of Council functions under the Constitution's emergency provisions. The last report was made in March 2021 which dealt with complaints in the year 2019/20.
- 4.2 Annex A to this report contains a list of six complaints that were made to the Monitoring Officer in financial year 2020/21.
- 4.3 Annex B to this report contains a list of seven complaints that were made to the Monitoring Officer in financial year 2021/22.
- 4.4 The lists are anonymised. 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.
- 4.5 If a members is found to have breached the Code then this report will identify that councillor so that there is transparency in the public interest.
- 4.6 Members will note that of the six complaints in Annex A:
- 4 complaints were judged not to engage the Code of Conduct and were rejected at the initial filter stage
 - 1 complaint was already resolved by the councillor and there was no further action
 - 1 complaint was referred to the Group disciplinary process and a breach of the Code was found and training identified
- 4.7 Members will note that of the seven complaints in Annex B:
- 1 complaint was resolved at the filter stage (and advice was given to the councillor)
 - 4 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 but was unresolved before the councillor stood down
 - 1 complaint was found to be trivial and was dismissed with no further action
- 4.8 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.
- 4.9 Members will note that data is now included in the Annex about the timeliness of responses to acknowledge and answer complaints.

5 COMMITTEE ON STANDARDS IN PUBLIC LIFE

5.0 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.

5.1 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 new model Code from the LGA (on the agenda this evening) also includes these provisions. Members are being asked if they wish to adopt that new model.

5.2 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.

5.3 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.

5.4 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.

5.5 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 has been presented to the Standards Committee annually in the past. 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.

5.6 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. New arrangements are on the agenda tonight for members to consider.

5.7 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. The Berkshire Monitoring Officers have indicated a willingness to recruit a shared panel for all the Berkshire unitary authorities.

5.8 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.

5.9 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.

- 5.10 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 current complaint procedure is accessible on the Council's website. The new proposed arrangements will also be on the website.

- 5.11 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.

- 5.12 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.

- 5.13 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.

- 5.14 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.

- 5.15 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.

6. OPTIONS

6.1 The Committee is asked:

- (a) To note the Complaints received in financial years 2020/2021 and 2021/2022
- (b) To consider any further actions which are appropriate to improve standards in public life within the Council

7. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

7.1 The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).

7.2 There is nothing within this report which is of relevance for the Council's strategic priority of Climate Change.

8. COMMUNITY ENGAGEMENT AND INFORMATION

8.1 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".

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

9. EQUALITY IMPACT ASSESSMENT

9.1 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.

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

10 LEGAL IMPLICATIONS

10.1 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.

11. FINANCIAL IMPLICATIONS

11.1 There are no direct financial implications arising from this report.

12. BACKGROUND PAPERS

12.1 There are none

Councillor Complaints received between 1 April 2020 - 31 March 2021

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.

No	Date	Complainant	Cllr	Acknowledged	W/Days	Complaint	Outcome	Stage	Date	W/Days
1	27-Aug-20	Reading Golf Club	Cllr A	15-Sep-20	14	Concern over financial interests	No breach of the Code identified	0	15-Sep-20	14
2	14-Oct-20	Ms A	Cllr B	16-Oct-20	3	Complaint about contact	Cllr had dealt with issue. NFA	0	16-Oct-20	3
2	14-Oct-20	Ms A	Cllr C	16-Oct-20	3	Complaint about contact	Cllr had dealt with issue. NFA	0	16-Oct-20	3
3	25-Jan-21	Mrs B	Cllr D	25-Jan-21	1	Contact with complainant's mother in nursing care	No breach of the Code identified	0	15-Feb-21	16
3	25-Jan-21	Mrs B	Cllr C	25-Jan-21	1	Contact with complainant's mother in nursing care	No breach of the Code identified	0	15-Feb-21	16
4	08-Mar-21	Mr C	Cllr D	15-Mar-21	6	Comments made at Planning Committee	No breach of the Code identified	0	30-Apr-21	40
4	08-Mar-21	Mr C	Cllr E	15-Mar-21	6	Comments made at Planning Committee	No breach of the Code identified	0	30-Apr-21	40
4	08-Mar-21	Mr C	Cllr F	15-Mar-21	6	Comments made at Planning Committee	No breach of the Code identified	0	30-Apr-21	40

Annex A - 20/21

No	Date	Complainant	Cllr	Acknowledged	W/Days	Complaint	Outcome	Stage	Date	W/Days
5	10-Mar-21	Mr D	Cllr G	10-Mar-21	1	Inappropriate use of Council resources	Cllr not using council resources. NFA.	0	22-Apr-21	32
6	10-Mar-21	Mr and Mrs E	Cllr D	15-Mar-21	4	Comments made at Planning Committee	No breach of the Code identified	0	30-Apr-21	38
6	10-Mar-21	Mr and Mrs E	Cllr E	15-Mar-21	4	Comments made at Planning Committee	No breach of the Code identified	0	30-Apr-21	38
6	10-Mar-21	Mr and Mrs E	Cllr Rynn	15-Mar-21	4	Comments made at Planning Committee	Disrespect found. Apology given. Training identified.	1	29-Jun-21	80

Councillor Complaints received between 1 April 2021 - 31 March 2022

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.

No	Date	Complainant	Cllr	Acknowledged	W/Days	Complaint	Outcome	Stage	Date	W/Days
1	12-Apr-21	Mr A	Cllr A	22-Apr-21	9	Not flying Union Jack at Council Offices.	No breach of the Code identified	0	22-Apr-21	9
2	14-Apr-21	Cllr B	Cllr C	14-Apr-21	1	Inappropriate use of Council resources	Advice given to Cllr C	0	14-Jul-21	66
3	14-Apr-21	Mr D	Cllr D	14-Apr-21	1	Being blocked on Twitter	No breach of the Code identified	0	26-Apr-21	9
3	14-Apr-21	Mr D	Cllr B	14-Apr-21	1	Being blocked on Twitter	No breach of the Code identified	0	26-Apr-21	9
3	14-Apr-21	Mr D	Cllr E	14-Apr-21	1	Being blocked on Twitter	No breach of the Code identified	0	26-Apr-21	9
3	14-Apr-21	Mr D	Cllr F	14-Apr-21	1	Being blocked on Twitter	No breach of the Code identified	0	26-Apr-21	9
3	14-Apr-21	Mr D	Cllr G	14-Apr-21	1	Being blocked on Twitter	No breach of the Code identified	0	26-Apr-21	9
4	30-Sep-21	Mr E	Cllr A	30-Sep-21	1	Use of language in Policy Committee	Complaint is trivial. NFA.	0	16-Nov-21	34

Annex B - 21/22

No	Date	Complainant	Cllr	Acknowledged	W/Days	Complaint	Outcome	Stage	Date	W/Days
5	14-Dec-21	Mr F	Cllr H	15-Dec-21	2	Failure to respond to correspondence	Referred to Stage 1	1	30-Mar-22	77
6	21-Feb-22	Ms G	Cllr I	21-Feb-22	1	Trying to get the complainant dismissed from her job.	No discernible breach of the Code.	0	16-Jun-22	84
7	03-Mar-22	Various	Cllr J	03-Mar-22	1	Comments made at PAC	No discernible breach of the Code.	0	29-Apr-22	42
7	03-Mar-22	Various	Cllr K	03-Mar-22	1	Comments made at PAC	No discernible breach of the Code.	0	29-Apr-22	42