

Subject: Complaints Update**Date of Meeting: 29 March 2011****Report of: Monitoring Officer****Contact Officer:** Name: Brian Foley **Tel:** 29-3109

E-mail: brian.foley@brighton-hove.gov.uk

Wards Affected: All**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Complaints regarding Member conduct are administered under the arrangements as defined by The Standards Committee (England) Regulations 2008 which came into effect on 08 May 2008. These regulations are derived from the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007.
- 1.2 This paper gives information about active Standards complaints and recently completed cases.
- 1.3 Corporate complaints are dealt with under the Corporate Complaints Procedure at Stage 1, Stage 2 and via the Local Government Ombudsman. The powers of the Ombudsman are set out in the Local Government Act 1974.
- 1.4 This report contains a brief summary of corporate complaint activity.

2. RECOMMENDATIONS:

- 2.1 The Standards Committee is asked to note the report.

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 The Local Government Act 2000 requires the names of complainants and of Members about whom allegations have been made to be kept confidential.
- 3.2 With regard to timescales for complaints Standards for England recommend:
 - Assessments should on average be completed within 20 working days.
 - Review panels should be held within 65 working days.
 - Investigations should be completed within 130 working days from the date of assessment.
- 3.3 Table 1 below shows the number of working days taken to assess each complaint dealt with under the Local Assessment procedure. Since the

introduction in May 2008 the Standards Committee have assessed 42 complaints at an average of 17 days per case.

Table 1

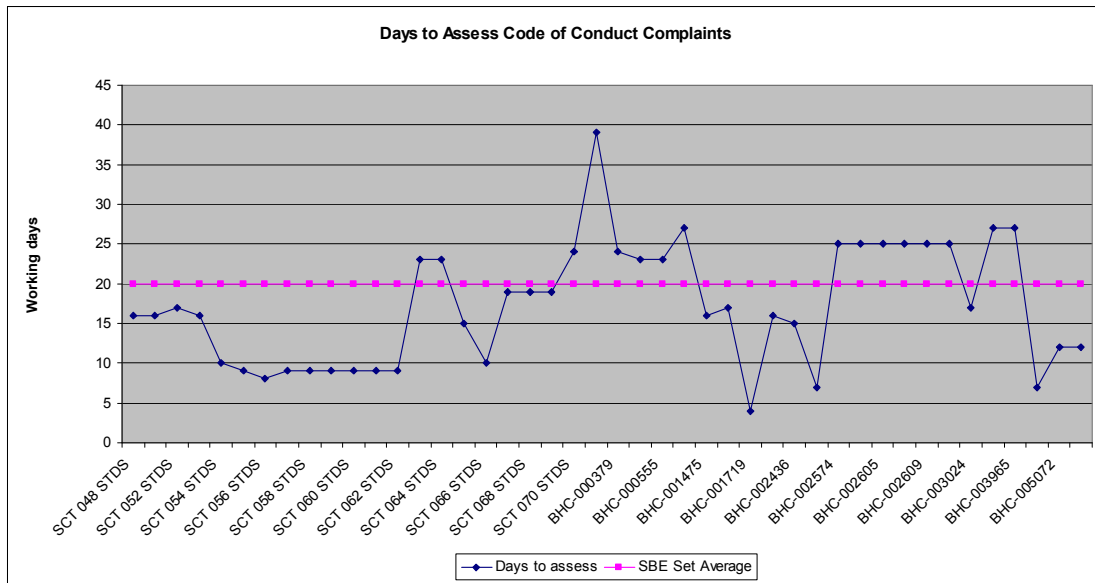
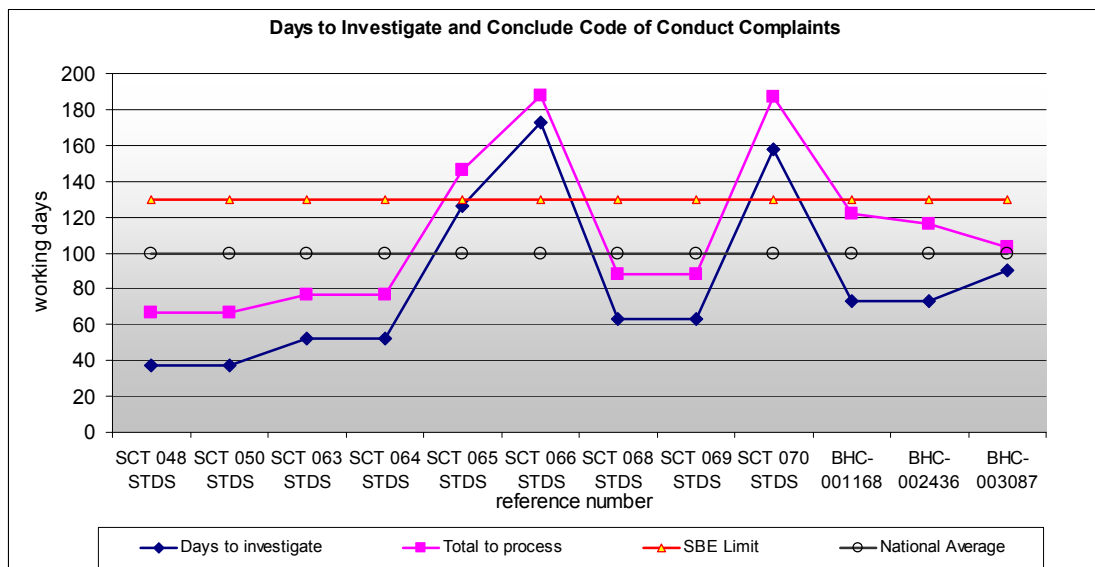


Table 2



3.4 The Standards Committee have referred 12 cases for investigation. Table 2 shows the number of days to carryout the investigation and the working days to complete the complaint process; that is from the date the complaint was received to the date of determination.

3.5 The average time taken to complete complaints referred for investigation has been 110 working days. This average has been affected by a case which was determined after 356 working days.

3.6 **Summary of active complaints about member conduct and cases where decisions have not previously been reported.**

3.6.1 **Complaints where Standards Committee Assessment Panel decided to refer the complaint to the Monitoring Officer for Investigation**

Complaint 1

Case Number: **BHC- 003087**

Complainant: Member of the public

Date of complaint: 09 May 2010

Date of Assessment Panel: 15 June 2010

Total number of working days to assess: 27

Date of Consideration Panel: 09

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

Paragraph 4(a): You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature

Decision of Assessment Panel:

Referred to the Monitoring Officer for investigation.

Outcome:

No Breach of the Code of Conduct

Summary of the Reasons for the Decision:

The substance of the complaint was that the councillor had repeated to a third party details of a telephone conversation regarding a confidential allegation. It was alleged that by doing so a likely investigation would be prejudiced. The Panel were satisfied that the information given to the councillor was already being widely circulated and was in the public domain. The subject of the allegation was already aware of the content of the allegation and the member knew this to be the case. There was therefore no reason for the councillor to have believed, nor any grounds on which she ought reasonably be aware that the information was of a confidential nature.

3.7 **Complaints where the decision of the Standards Committee Assessment Panel was to take 'other action'**

Complaints 2 and 3

Case Number: **BHC- 005072 and BHC-005073**

Complainant: Member of the public

Date of complaint: 25 January 2011

Date of Assessment Panel: 09 February 2011

Total number of working days to assess: 11

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

Paragraph 6(b)(ii) of the Code of Conduct.

You must, when using or authorising the use by others of the resources of your authority ensure that such resources are not used improperly for political purposes (including party political purposes).

Decision of Assessment Panel:

Referred to the Monitoring Officer for alternative action.

Outcome:

The Panel agreed that the use of the council email address on a party leaflet could constitute a breach of the code of conduct. The email address is considered to be a facility provided to members by the Council so they can conduct their ward business. They are not however permitted to use that email address for party business.

The improper use of email addresses is a matter recently discussed at Standards Committee and it is noted that it is an issue which affects many members. The Panel have therefore asked the Monitoring Officer to issue guidance on the proper use of email addresses to all members. The Monitoring Officer has agreed to do so.

3.8 Complaints where the decision of the Standards Committee Assessment Panel was to take no further action

Complaint 2 and 3 (part 2)

Case Number: **BHC- 005072, BHC-005073**

Complainant: Member of the public

Date of complaint: 25 January 2011

Date of Assessment Panel: 09 February 2011

Total number of working days to assess: 11

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

Paragraph 6(a) of the Code of Conduct.

You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or a disadvantage

Decision of Assessment Panel:

No further action.

Summary of Reasons for the Decision

The Panel were of the view that use of a party leaflet to bring to the electorate's attention to a matter of local interest could not be a breach of the code. The Panel similarly reasoned that the councillors were entitled to present their own views in the leaflet and to encourage others to make their views known to the Council.

The Panel considered the possible motives the councillors may have had for their particular view. It was decided there was no indication that the councillors were seeking to secure an advantage for themselves or any other persons.

No review requested

3.9 Complaints where a decision of the Standards Committee Assessment Panel is pending

There are six new cases pending, each has been raised by members of the public. The complaints relate to paragraphs 3(1) and 5 of the code of conduct. The outcome of these complaints will be reported in the next complaints update.

3.10 Recommendations arising from complaints considered

3.10.1 The Panel have recommended that all members receive guidance on the use of council email addresses on party political documents.

3.11 Summary of complaints received under the corporate complaints procedures, first half year 2010/11

3.11.1 Members of the public have referred 44 complaints to the Local Government Ombudsman investigations team in the first nine months of 2010/11 compared to 67 in total in the previous year. The Ombudsman has concluded their work on 38 cases.

3.11.2 Fourteen cases (38.4%) have resulted in a local settlement compared to 25% in 2009/10.

3.11.3 The Council has paid £4878.20 in costs as a result of complaints dealt with by the Ombudsman compared to £1721.00 in 2009/10.

3.11.4 There have been 14 findings of No Maladministration (38.4%) compared to 48% in 2009/10.

3.11.5 The remaining cases have either been outside the Ombudsman's jurisdiction or have been closed at the Ombudsman's discretion

Corporate Stage One and Two Complaints

3.11.6 The following table shows the numbers of complaints for each directorate during 2009/10 and compares this to the first nine months of 2010/11.

3.11.7 There has been an increase in complaints at Stage One and Two about Housing. There is however an increase in the amount of work being carried out on council houses and it is not unreasonable to therefore see a proportionate increase in complaint levels. Complaints about Environment remain lower than in the previous year. The figure in brackets against ASC&H represents the number of Adult Social Care complaints.

	Stage One		Stage Two	
	2009/10	2010/11 Q1,2&3	2009/10	2010/11 Q1,2&3
ASC&H	521	470 (+70)	44	53
CYPT	110	88	13	12
Culture	38	17	1	1
Environment	894	510	74	50
F&R	278	221	20	12
S&G	13	12	0	0
Totals	1854	1318 (+70)	152	128

4. CONSULTATION:

4.1 There has been no consultation.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The costs of complaints are met within the allocated budget.

Finance Officer Consulted: Anne Silley Date: 02 March 2011

Legal Implications:

5.2 There are no legal implications

Lawyer Consulted: Liz Woodley Date: 02 March 2011

Equalities Implications:

5.3 There are no Equalities implications.

Sustainability Implications:

5.4 There are no Sustainability implications.

Crime & Disorder Implications:

5.5 There are no Crime and Disorder implications.

Risk and Opportunity Management Implications:

5.6 There are no Risk and Opportunity Management implications.

Corporate / Citywide Implications:

5.7 There are no Corporate or Citywide implications.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents In Members' Rooms:

1. None

Background Documents:

1. None

