

Brighton & Hove City Council

Audit & Standards Committee

Agenda Item 12

Subject: Standards Update

Date of meeting: 28 June 2022

Report of: Monitoring Officer

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Ward(s) affected: All

For general release

1 Purpose of the report and policy context

1.1 To provide Committee with a quarterly update on member complaints and on Standards-related matters.

2 Recommendations

2.1 That Committee notes the information in this Report.

3 Context

Background

3.1 Members are aware of the provisions in the Localism Act 2011 which require the Council to maintain arrangements for reviewing and determining complaints that elected and co-opted members have breached the Council's Code of Conduct for Members. This Report provides information on this and related matters in order to assist the Committee in discharging its delegated responsibilities to promote and maintain high standards of conduct by members of the authority.

Member complaints: the challenges

3.2 A key aim of the regular Update Reports is to provide reassurance regarding the progression of complaints which the Council has received and which it has either determined recently or is in the process of considering. In this context, Members' attention has been consistently drawn to the challenges of an increase in complaints against elected members in recent months, both from members of the public and other stakeholders and from other elected members. This upswing has posed resourcing issues.

3.3 In response, and as verbally reported to the last Committee, the Monitoring Officer convened an informal cross party meeting of three members of the Council's Audit & Standards Committee and one of the Council's two Independents Persons. This cross party meeting provided a forum for an informal discussion about eighteen outstanding complaints, as well as allowing the Monitoring Officer to discharge the requirement in the Council's Procedure that he consult with one of the Independent Persons before making a decision at preliminary assessment stage. While decisions regarding what steps if any to take at preliminary assessment stage remain with the Council's Monitoring Officer, this exercise was considered to be a helpful step. Most (although not all) of the progress reported below was made subsequent to that informal meeting, in accordance with the preferences indicated unanimously by the cross party meeting.

4 Member complaints previously reported to this Committee

4.1 Complaint **M/2021** remains at preliminary assessment stage, following the circulation of a draft Report to the complainant (themselves an elected councillor) and the subject member by external investigators.

4.2 As previously reported, complaints **F1 and O1/2021** concerned different comments made by the same member about Council officers via social media. The progression of that complaint was impeded by the relevant subject member's unwillingness to engage with the complaints process. The matters complained of have now both been assessed as having potential to amount to a breach of the requirement in the Code of Conduct for Members that members treat others (including but not only officers) with respect. The Monitoring Officer's view has been communicated to the subject member, who has been asked to apologise for their comments and to delete them. At the deadline for publication of this Report, a response was awaited from the subject member to this suggestion that the matter be resolved in this way, via informal resolution. It will be the subject of a further report to this Committee.

4.4 Complaint **I/2021** alleged misconduct by a councillor in their ward which was robustly denied, despite multiple assertions over time by the complainant that they did have evidence that the events complained of had taken place. This complaint has now been determined by the Monitoring Officer on the basis that it should not be progressed to formal investigation as there was not, in fact, sufficient evidence to support that complaint. That outcome at preliminary assessment stage has been notified to both parties.

4.5 Complaints **M1 and N1/2021** (made by the same complainant, although directed differently) make the same allegation against a single elected member, namely that they failed to treat the complainant with respect during an interchange on social media. The Monitoring Officer agreed with the Independent Person that informal resolution would be the best outcome on the facts and so (much as in complaints F1 and O1/2021 above) the subject member has been approached and informed of the view taken, and asked to apologise and delete the conversation. Again: a further update will be provided in due course.

- 4.6 Complaint **A/2022** also concerned comments by an elected member about a complainant on social media. This too was dealt with in the same way as the four complaints described above, by indicating the Monitoring Officer's view that these complaints did have potential to amount to a breach, and that specific remedial action by the complainant was sought as a necessary step to resolve the complaint informally.
- 4.7 Complaint **K1/2021** alleged disrespect by an elected member at a Committee meeting as well as when posting on social media. The allegations in that very detailed complaint covered some of the same ground as the complaints which had been subject to prior decisions by the Council and then (following a challenge) by the Local Government & Social Care Ombudsman, neither of which considered that any action was merited. A decision has now been made to determine this new complaint on the basis that there is insufficient evidence to support that complaint: a decision which has been communicated to the parties.
- 4.8 Of the fourteen complaints against elected members flagged up in the last Update report as being new, nine of them relate to the social media comments made by a single elected member who did not respond when alerted to the complaints: **E, G, H, I, J, K, L, M & N/2022**. The first of those complaints (**E/2022**) was considered by the Monitoring Officer and those other persons who reviewed it to have potential to amount to a breach of the Code. The subject member concerned has been notified of this and has been asked to apologise for the posts and to delete them within a specified window of time as a means of informally resolving matters in a proportionate way. An update will be provided to this Committee regarding this complaint in due course.
- 4.9 The other nine complaints listed in para 4.8 concerned exchanges made by the same subject member on a single topic affecting perceptions of Brighton & Hove City Council's schools. It was noted that – although some of the posts involved reposting an article in the national press which had been the subject of a correction by the Council – there was no evidence that the article had been reposted after the correction was issued. That said, other communications by that member on the same topic were considered to have potential to give rise to a breach of the Code of Conduct and the subject member was alerted to that. They were at the same time told informed (as were the complainants in all of the matters) that the Monitoring Officer had taken the view at preliminary assessment stage that – although resource challenges had resulted in a decision that a wide-ranging formal investigation was not deemed to be proportionate and necessary in the public interest – the comments by the relevant subject member about a named journalist had been referred for formal investigation. That formal investigation will be the subject of a further report to this Committee in due course.
- 4.10 Complaint **F/2022** concerned the same subject matter as the complaints listed in para 4.8. However it differed insofar as it concerned comments in the press by a different elected member which were considered to use language deemed to be derogatory with potential to cause offense to others. That complaint has been informally resolved, the relevant member having indicated that they had no intention of causing offence. They indicated that they regretted any harm caused and would take steps not to use the terms complained of in future.

- 4.11 A complaint alleging disrespect toward a member of the public exhibited via social media (**B/2022**) has been treated as having been withdrawn and meriting no action, despite the complainant seeking to reverse their previous indication that they did not wish to progress matters.
- 4.12 Notwithstanding the resource directed to this area, some complaints remain outstanding despite efforts to actively progress them up to the deadline for this Report. Complaint **O/2022** – which alleged that an elected member failed to treat a member of the public with respect in a public place – has now been referred to one of the Council’s two Independent Persons, who has been asked to take a view at preliminary assessment stage. Meanwhile efforts to obtain answers to key preliminary enquiries remain ongoing in relation to the two complaints made by different elected members against a third elected member regarding that member’s conduct when acting as Chair at a meeting of one of the Council’s Committees (**C & D/2022** respectively).

Member Complaints received since the last Update in January 2022

- 4.13 Complaint **P/2022** was made by one elected member against another and concerns assertions made in a newspaper article which are alleged to have failed to treat the complainant with respect. That complaint has been referred to the Independent person so that the Monitoring Officer may take their views into account when making his decision at preliminary assessment stage.
- 4.14 Finally, Complaint **Q/2022** concerns allegations of verbal abuse and harassment made by an elected member’s neighbour which are robustly denied. That complaint remains at preliminary assessment stage and will be the subject of further report to this Committee, as will P/2022.

5 Analysis and consideration of alternative options

- 5.1 The Council is obliged under the Localism Act to make arrangements for maintaining high standards of conduct among members and to make arrangements for the investigation of complaints. The current arrangements and the proposals in this Report are considered to be key to discharging these requirements. No alternative proposals are suggested.

6 Community engagement and consultation

- 6.1 No need to consult with the local community has been identified.

7 Conclusion

- 7.1 This Report aims to assist the Committee in discharging its responsibilities for overseeing the standards of conduct at this authority and for reviewing the arrangements in place for the resolution of member complaints.

8 Financial implications

- 8.1 There are no additional financial implications arising from the recommendation in this report. All activity referred to has been, or will be, met from existing budgets.

Name of finance officer consulted: James Hengeveld
Date consulted 20/06/22

9 Legal implications

9.1 These are covered in the body of the Report.

Name of lawyer consulted: Victoria Simpson Date consulted 16.6.22

10 Equalities implications

10.1 No equalities implications have been identified.

11 Sustainability implications

11.1 No sustainability implications have been identified.

12 Other Implications

12.1 No other implications have been identified.

Supporting Documentation

None

