

Standards Committee – 18th July 2016

Review of Elected Member Complaints 2015/16

Summary of report:

The report is to provide information to Elected Members in respect of complaints received by the Monitoring Officer concerning allegations made about breaches of the Council Code of Conduct by Elected Members 2015/16.

Background papers:

None

Recommendation:

1. To note the content of the report and Appendices

1.0 Background

- 1.1 The Arrangements for Dealing with Complaints against Elected Members was approved by Walsall Council at an extraordinary meeting of the Council on 25th June 2012. This has been update since that date.
- 1.2 Under the arrangements for dealing with complaints the monitoring officer has been given delegated authority to every complaint brought against elected members under the Council code of conduct. The monitoring officer will review every complaint, and after consultation with the councils Independent Person, will take a decision as to whether or not the complaint merits formal investigation. It is envisaged under the arrangements that this will normally take 20 working days to determine following receipt of a complaint.
- 1.3 There is no right of appeal against this decision, and to date no complainant has ever raised an issue regarding this. The only possible right challenge therefore in respect of this would be by way of judicial review of the monitoring officer's decision.
- 1.4 Over the past 12 months the Council has received in total ten complaints alleging that elected members have breached the Council Code of Conduct. These complaints have been reviewed and there have been findings in relation to of the cases that there was no breach of the code of conduct as alleged.
- 1.5 Out of the complaints were in relation to elected members showing a lack of respect. One of those complaints related to member behaviour in a committee meeting. As Monitoring Officer I would expect some complaints to arise out of committee meetings due to the adversarial nature of such meetings.

- 1.6 There was one anonymous document received in the post with regards to alleged wrongdoing. This document did not specify what the complaint was about; it was just a series of allegations circulating on social media. The document did not constitute a complaint about an elected member acting in their capacity as a councillor therefore the code of conduct did not apply in any event.
- 1.7 Whilst to date there has been no complaint about a lack of appeal against the Monitoring Officer's decision this part of the procedure should be kept under review. However this would add more expense and complexity to the procedure. One of the reasons for the abolition of the Standards Board for England and the changes to the standards regime was to streamline the process of investigating complaints, and save resources. The current regime is quicker and more efficient in dealing with complaints. There is therefore a balance that needs to be struck.
- 1.8 The Independent Person role has kept an element of independence to the complaints process and provided effective challenge and scrutiny to the decision making process. The Independent Person is crucial to the review of complaints. The council has two Independent Persons who assist the council with the complaints process.
- 1.9 Elected Member behaviour in relation to meetings has only featured in one case. This is a reduction from last year where there were three such complaints made to the Monitoring Officer. It has to be remembered that council meetings are open to the public, apart from a few limited circumstances, and in some meetings such as planning and licensing members of the public may have an active role to play. It is therefore important that elected members maintain a high standard behaviour in meetings. If they fall below the standards of behaviour expected it is for the chair of the meeting to deal with such behaviour in the first instance. However if behaviour is persistent or serious the matter should be dealt with under the council code of conduct should a complaint be made. Passion is an integral part of politics and debate can sometimes be heated and vigorous however there is still a line that should not be crossed. Whilst the Standards Board for England has been abolished regard should still be had to the case reviews it produced and the guidance it has given on standards matters. The Standards Board for England gave a wider margin for elected member behaviour in debate and did not want standards to fetter the passion of politics. Elected Members have consistently fully cooperated with investigations, and the Group Leaders of parties have fully supported the Monitoring Officer in his role.
- 1.10 In Walsall with the narrow numerical margins between the political groups there is probably more tension in council meetings, which has lead to heated debate in the chamber over the last six months. It is also a feature in campaigning for election to the office of councillor. The Monitoring Officer received one formal complaint about election leaflets this year, and a number of informal complaint in respect of election leaflets. It has to be remembered that an elected member campaigns for office in a personal capacity therefore their actions in relation to campaigning will normally fall outside of the scope of the standards regime under the Localism Act 2011. The Monitoring Officer will write to all of the group leaders and independent members about this.

1.11 There have been two official complaints about use of social media, and a number of informal enquiries about this. The Monitoring Officer has therefore produced a guide for councillors in respect of the use of Social Media which was approved by Council on the 23rd May 2016. Councillors will be offered further training in relation to this subject later on in the year.

1.12 Elected Member conduct remains of a high standard as the total number of complaints for 2015/16 would seem to indicate. The nature of the complaints made have also not been of significant gravity even if proven. There has also been a slight reduction in the total number of official complaints.

2.0 Resource and legal considerations:

2.1 None directly related to this report. The complaints procedure is being managed within Legal and Democratic Services from existing resources. If there is a considerable increase in complaints or the council receives a very serious and complex complaint, consideration may need to be given to outsourcing some work if the demand cannot be met from existing resources.

3.0 Performance and Risk Management issues:

3.1 Performance and risk management are a feature of all council functions. It is important that council policies and procedures are reviewed and updated on a regular basis. If the council fails to do this there is an increased risk that the council will be subject to legal challenge or litigation.

3.2 In terms of performance it is important that both Elected Members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the council delivers services.

4.0 Equality Implications:

4.1 In maintaining up to date policies and procedures the council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes that elected members and officers observe equalities. It is important that complaints are dealt with in a fair and transparent manner.

5.0 Consultation:

5.1 There is no requirement to consult on this report.

Author:

Tony Cox
Head of Legal and Democratic Services
☎ 01922 654822 ✉ coxt@walsall.gov.uk