

## **Standards Committee – 21 July 2015**

### **Review of Elected Member Complaints 2014/15**

#### **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.

#### **Background papers:**

None

#### **Recommendation:**

1. To note the content of the report

#### **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 25 June 2012.

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. However one complainant has made a complaint to the Local Government Ombudsman after receiving the review of complaint. If complainants are dissatisfied with the outcome of a review they are advised that they can complain to the Local Government Ombudsman. The only other possible right challenge 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 a total 5 complaints alleging that elected members have breached the Council Code of Conduct, this is 6 down on the previous year which is positive. Of the 6 complaints that have been reviewed there was no breach of the code of conduct as alleged.

1.5 One of the complaints was in relation to an elected member showing a lack of respect to officers in a planning meeting. As Monitoring Officer I would expect complaints to arise out of planning committee meetings due to the adversarial nature of such meetings.

1.6 Three complaints alleged partiality/conflict of interests however when reviewed these were not well founded and arose out of a lack of understanding of a Councillor's role in dealing with constituent issues. One complaint alleged breach of confidentiality, and the final complaint alleged improper conduct in relation to a meeting. However on examining the evidence in these complaints no breach of the code of conduct was found to have taken place. A number of complaints arose out of a lack of understanding of a councillor's role.

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. In one case following the review of complaint the complainant made a complaint to the Local Government Ombudsman who decided not to investigate the same as "she cannot see any fault in how the Council made the decision and so cannot criticise the actual decision made." This was a useful external validation of the review process. To allow an appeal from a review 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 currently has two Independent Members who are consulted at every relevant stage of the complaints process. The council has two very good independent members who should be commended for their role in managing the complaints process.

1.9 It is still the case that in Walsall with the narrow numerical margins between the political groups there is probably more tension in council meetings, which can lead to heated debate in the chamber however this has been within acceptable parameters. The Standards Board for England always recognised that politics was passionate and that sometimes this could lead to heated exchanges in council meetings.

1.10 Elected Member conduct remains of a high standard as the total number of complaints for 2014/15 would seem to indicate.

## **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 is 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.

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