

AGENDA

Meeting: Standards Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham,
SN15 1ER
Date: Wednesday 9 October 2013
Time: 2.00 pm

Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Desna Allen	Cllr Howard Marshall
Cllr Allison Bucknell	Cllr John Noeken (Vice Chairman)
Cllr Trevor Carbin	Cllr Paul Oatway QPM
Cllr Terry Chivers	Cllr Horace Prickett
Cllr Howard Greenman	Cllr Ian Tomes
Cllr Julian Johnson (Chairman)	Cllr Christopher Williams

Substitutes:

Cllr Rosemary Brown	Cllr George Jeans
Cllr Chris Caswill	Cllr Simon Killane
Cllr Ernie Clark	Cllr Sheila Parker
Cllr Mary Douglas	Cllr Pip Ridout
Cllr Dennis Drewett	Cllr John Walsh
Cllr Russell Hawker	Cllr Roy While
Cllr Chris Hurst	

Non-Elected Non-Voting Members:

Mr Philip Gill MBE JP
Mr Paul Neale
Mr John Scragg
Miss Pam Turner

Part 1

Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes**

To confirm the minutes of the meeting held on 10 July 2013 (To follow)

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation and Questions**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so **at least 10 minutes prior to the meeting**. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of the agenda **no later than 5pm on Wednesday 02 October 2013**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Standards Hearing Sub-Committee** (*Pages 1 - 14*)

To receive the minutes of the meeting of the Standards Hearing Sub-Committee on 30 July 2013 as approved by the Sub-Committee on 03 September 2013.

7 **Review of the Effectiveness of the Code of Conduct and Complaints Procedure** (*Pages 15 - 42*)

To consider the report of the Monitoring Officer.

8 **The Local Government Ombudsman's Annual Letter for the Year Ended 31 March 2013** (*Pages 43 - 64*)

To consider the annual letter of the Local Government Ombudsman dated 16 July 2013.

Also attached are pages 1-19 of the Annual Report and Accounts. The full report can be found at <http://www.lgo.org.uk/publications/annual-report/>

9 **Status Report on Complaints Under the Code of Conduct**

The Monitoring Officer will report the current status of Complaints under the Code of Conduct at the meeting.

10 **Update on Dispensations for Voting on the Council Tax and Budget**

The Monitoring Officer will provide an oral update to the Committee on the latest position.

11 **Forward Plan** (*Pages 65 - 66*)

To note the contents of the Forward Plan.

12 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

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STANDARDS HEARING SUB-COMMITTEE DECISION NOTICE

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 30 JULY 2013 AT THE COUNCIL CHAMBER - CIVIC CENTRE, ST STEPHENS PLACE, TROWBRIDGE. BA14 8AH.

Present:

Cllr Desna Allen, John Noeken and Cllr Roy While

Also Present:

Mr Colin Malcolm - Independent Person (Monitoring Officer and Sub-Committee)
Caroline Baynes - Independent Person (Subject Member)

Ian Gibbons - Monitoring Officer and Legal Adviser to the Sub-Committee

Frank Cain, Head of Legal - representing the Investigating Officer
Roger Wiltshire - Investigating Officer

Mr Ian Taylor - Complainant

Cllr Russell Hawker - Subject Member

Kieran Elliott - Senior Democratic Services Officer

Sam Bath - Democratic Services Officer

Legal Assistant - Aimee Fuller, Trainee Solicitor

Witnesses in attendance:

Ian Taylor - Complainant
Stephen Andrews, Westbury Town Councillor
Keith Harvey, Clerk, Westbury Town Council
Gordon King, Westbury Town Councillor

1 **Election of Chairman**

Nominations for a Chairman of the Standards Sub-Committee were sought and it was,

Resolved:

To elect Councillor Roy While as Chairman.

2 **Chairman's Welcome, Introduction and Announcements**

The Chairman welcomed the parties to the meeting, explained the purpose of the meeting and asked those present to introduce themselves.

3 **Declarations of Interest**

There were no declarations of interest.

4 **Exclusion of the Press and Public**

The Chairman invited representations from the parties on whether the hearing should be conducted in public or closed session.

The investigating officer, through Mr Cain, indicated that he took a neutral stance on this issue.

Cllr Hawker, as the subject member, was not concerned either way.

The Complainant said he preferred the matter being heard in public.

Having regard to these representations and advice from the Monitoring Officer the Sub-Committee decided in the interests of openness and transparency that the hearing should proceed in public.

5 **Minutes of the Sub-Committee on 10 April 2013**

The Sub-Committee

RESOLVED:

To accept the minutes.

6 **Standards Committee Hearing regarding the alleged conduct of Councillor Russell Hawker of Westbury Town Council**

Procedure

The Chairman confirmed that the hearing would be conducted in accordance with the Council's Arrangements for dealing with Code of Conduct Complaints, a copy of which had been circulated with the papers. The Chairman outlined the order of the hearing from paragraph 8 of the procedure.

Documents

The Chairman obtained confirmation from the parties that they had all the documentation that was before the Sub-Committee:

- (1) Agenda report and appendices;
- (2) Bundle A - Alleged Breaches, Chronology and Witness Statements
- (3) Bundle B – Index of Documentary Exhibits
- (4) Bundle C – Index of Legal Documents

Monitoring Officer's Report

The Chairman invited the Monitoring Officer to introduce the complaint. Mr Gibbons explained the complaint and relevant background, as set out in his report, including the outcome of the preliminary hearing on 20 March 2013 and the hearing on 10 April 2013.

Mr Gibbons confirmed that the hearing would proceed on the basis of the determinations made at the preliminary hearing on 20 March, in particular that the matters would be considered against the Town Council's former code of conduct but under the new arrangements. It was noted that in his email of 29 July 2013 to the Sub-Committee Members Cllr Hawker had withdrawn his objection in respect of the hearing proceeding to deal with the matter under the old code of conduct.

Mr Gibbons then outlined the approach he would be advising the Sub-Committee to take in making its decision on the matter.

Preliminary Issues

Cllr Hawker sought a further adjournment of a few weeks to enable him to prepare his case properly. He proposed that the case against him should be presented and witnesses called. The proceedings to that point should be written up and he should then be given the opportunity to respond.

Cllr Hawker set out the history of the case from his perspective and made submissions in support of his request for an adjournment. Mr Cain made

submissions in response whilst agreeing to abide by the decision of the Sub-Committee on this issue.

The Monitoring Officer drew the Sub-Committee's attention to the decision of the previous Sub-Committee on 10 April 2013 when Cllr Hawker had been granted an adjournment. The Sub-Committee had made it clear on that occasion that any further adjournment was highly unlikely to be granted.

Having considered the request and given their views, without retiring, the Sub-Committee felt that Cllr Hawker had been given sufficient time to prepare and had submitted a wealth of information in support of his case. They decided, therefore, that the hearing should proceed.

The Sub-Committee determined that all the witnesses to be called by the investigating officer, apart from the Complainant, should withdraw at the close of Mr Cain's opening statement to ensure that their evidence was not influenced by what they had heard from earlier witnesses.

Substantive Complaint

Mr Cain presented the case on behalf of the Investigating Officer. He outlined the relevant facts, law and guidance and then called the Complainant, Mr Taylor, as his first witness. The other witnesses, Mr Andrews, Mr Harvey and Mr King withdrew.

The Chairman confirmed that all statements would be taken as read, unless indicated otherwise.

Mr Cain took Mr Taylor through his evidence drawing his attention to material documents in the Documentary Exhibits Bundle.

The Complainant made an opening statement in accordance with paragraph 8.7 of the hearing procedure.

Following a brief adjournment at 1.15 pm Cllr Hawker was given the opportunity to ask questions of the Investigating Officer and the Complainant. Members of the Sub-Committee followed with their questions.

The hearing was adjourned for lunch at 1.45 pm and resumed at 2.10 pm.

Mr Andrews, Mr Harvey and Mr King subsequently gave their evidence and responded to questions from Cllr Hawker and members of the Sub-Committee.

The investigating officer's case concluded at 2.55 pm.

Cllr Hawker indicated that he was unsure how to proceed with the presentation of his case and was offered the opportunity to discuss this with Caroline Baynes, the Independent Person (Subject Member).

Mr Gibbons confirmed that the Sub-Committee would in any event be taking into account the detailed written submissions from Cllr Hawker e.g. his revised

submission of 14 November 2012, as well as his witness statements and all other material documents.

An adjournment was, therefore, given to enable Cllr Hawker to consult with the Independent Person.

Upon the hearing resuming at 3.25 pm the Complainant made a request to leave, but on advice from the Monitoring Officer and the Sub-Committee he agreed to stay.

Cllr Hawker made his opening statement during which he set out in detail his response to the complaint. He stood by the truth of what he said on the various occasions covered by the complaint and considered that he was justified in saying these things. Consequently he denied that he had breached the Code of Conduct.

Cllr Hawker handed up the four witness statements he had circulated previously by email of 29 July 2013 - Mr M. Hawkins; Mr.J. Parker; Mr. C. Finbow and Mr. D. Windess.

Cllr Hawker concluded his opening statement at 4.10 pm and then responded to questions from Mr. Cain and members of the Sub-Committee.

Following concluding statements from the Complainant, Mr Cain and Cllr Hawker the Sub-Committee retired at 6.15 pm to County Hall, Trowbridge for their deliberations. Both Independent Persons, the Monitoring Officer, Democratic Services Officers and Legal Assistant were also present during the deliberations. These concluded at 9.00 pm when the parties were called in for the announcement of the Sub-Committee's decision.

Independent Persons

The Sub-Committee consulted both Independent Persons during the course of their deliberations. Their views are summarised as follows:

Colin Malcolm (Monitoring Officer and Sub- Committee):

- The Sub-Committee had all the relevant documents before them and were briefed by the Monitoring Officer about the nature of the proceedings, how they might wish to receive statements and evidence from the parties, and how they might tackle the decision making process.
- The Chairman explained to all parties how the hearing would be conducted.
- The decision to proceed notwithstanding the Subject Member's request for a postponement was fair.
- The Subject Member was given timely and helpful advice about what to include and a structure for his evidence by the Monitoring Officer and the

Chairman of the Sub-Committee, who were notably accommodating in supporting the Subject Member's presentation of his views.

- With the assistance of the Monitoring Officer and Chairman of the Sub-Committee, the Subject Member's position and view of his and others' behaviour during the events in question, together with the nature of his regrets, were made perfectly clear and were carefully probed by the Sub-Committee. Notwithstanding the refusal to grant the Subject Member's request for a postponement, he clearly articulated his case and that, as a consequence, the hearing was a fair and balanced process throughout.
- In conclusion, Mr Malcolm was satisfied that the hearing was conducted in a fair and balanced manner and that, in their deliberations, the Sub-Committee paid due attention to all of the material placed before them in reaching their conclusions.

Caroline Baynes (Subject Member)

- The Monitoring Officer set out a very helpful introduction, which put the day's hearing into context and outlined the process to be followed, and the matters that needed to be determined. This included outlining the various legal tests that might come into play.
- In relation to the Subject Member's request for a postponement the Sub-Committee's views were given openly, transparently and with cogent reasons given. Caroline Baynes was satisfied that the application was properly and fairly considered.
- The members of the Sub-Committee showed considerable patience in dealing with an unrepresented and ill-prepared Subject Member. The Subject Member himself had a very difficult job to listen, question and summarise his defence and justification, which was of some complexity, however he competently articulated and explained the points he wished to raise. The Sub-Committee demonstrated that they fully understood the issues involved.
- Sufficient time was made available to Cllr Hawker throughout the day to allow him to collect his thoughts and for him to speak to Caroline Baynes confidentially.
- The adversarial approach adopted in questioning witnesses seemed to be counter-productive and added little to the hearing.
- The non-attendance of some witnesses meant that their evidence could not be tested, however this did not appear to be critical and did not affect

the outcome of the hearing.

- Unfortunately, the quasi-legal nature of Sub-Committee hearings can cause some difficulties when, as in this case, only one side is legally represented. Caroline Baynes was satisfied that all assistance was offered to the Subject Member, but the case took longer, and progress was slower because he was not represented. The Monitoring Officer outlining the process and the meticulous questioning by the Chairman and other members of the Sub-Committee mitigated any disadvantage that the Subject Member may have suffered in not being represented.
- In conclusion, Caroline Bayne's view was that the hearing was fair and that the Subject Member had the opportunity to present his case fully and that it was considered carefully by the Sub-Committee.

Decision

Having considered carefully all the written and oral evidence before them, the submissions made by and on behalf of the parties, the views of the Independent Persons, and advice from the Monitoring Officer on the relevant law and guidance, the Sub-Committee decided as follows:

The Sub-Committee rejected Cllr Hawker's submissions that the investigation was biased and unfair. They were satisfied that the investigation had been carried out thoroughly and fairly and thanked the investigating officer for his work on the case.

1. Allegation - Laverton launch event - 21 October 2011

That on the 21 October 2011 at Westbury Cllr Hawker failed to treat a member of the public (namely Mr John (Ian) Taylor) with respect by publicly criticising the member of the public in such a way that the member of the public was able to be identified at an invitation only event when the purpose of the meeting was to celebrate an event and therefore criticism was not expected and the member of the public had no opportunity to reply.

The Sub-Committee found that:

- The Laverton launch event held on the 21 October 2011 was an official event of Westbury Town Council.
- Cllr Hawker attended the Laverton launch event in his capacity as a Westbury Town Councillor and Chairman of the Laverton Institute Trust Management Committee (LITMC).
- Cllr Hawker addressed the Laverton launch event in his capacity as Chairman of the LITMC and a member of Westbury Town Council.

The Sub-Committee were therefore satisfied that Cllr Hawker was acting in his official capacity in accordance with paragraph 2(1) of the Code of Conduct and the Code applied.

The Sub-Committee found further that:

- During his speech Cllr Hawker did not refer to Mr Taylor by name, but Mr Taylor could be identified from Cllr Hawker's comments.
- Cllr Hawker's speech was critical of Mr Taylor and his actions in relation to the Laverton Project, alleging that he had applied for the wrong funding and had caused delay and disruption to the Project.
- Cllr Hawker's speech caused some upset.

The Sub-Committee took into account the context in which Cllr Hawker made his speech. Mr Taylor had been inactive from the Laverton Management Committee since 31 March 2009 when a serious illness had caused him to resign. At the time of the launch event, to which he had been cordially invited, he was still recovering from intensive treatment he had received for his illness. The Sub-Committee were satisfied that he was there as a member of the public.

The Sub-Committee concluded that in these circumstances, having regard particularly to the nature and purpose of the event, and the fact that Mr Taylor was not in a position to respond, Cllr Hawker's critical remarks were inappropriate and offensive. As the chairman on that occasion he should have known better. This amounted to a failure to treat Mr Taylor with respect.

The Sub-Committee considered Cllr Hawker's contention that he had not been disrespectful as he had been justified in saying what he did because it was the truth, which he had sought to establish in his case. The Sub-Committee determined that it was not necessary in the circumstances of this case to establish the truth or otherwise of the comments that were made. They were of the view that making such comments in these circumstances was inappropriate and disrespectful irrespective of whether they were true or not. The Sub-Committee were not satisfied in any event that Cllr Hawker had made out his case as to justification and truth as it was clear to them from the evidence that Mr Taylor was not solely responsible for the outcome of the Project.

The Sub-Committee went on to consider the effect of Article 10 of the European Convention on Human Rights. The Monitoring Officer advised them on the relevant law, including the decision of the High Court in *R (on the application of Calver) v Adjudication Panel for Wales*, which had been referred to during the hearing.

The Sub-Committee considered Cllr Hawker's submission that if he was acting in his official capacity the enhanced protection for political expression should apply, and further it was clear that the Laverton Project was business of the council which had been a matter of considerable political debate.

The Sub-Committee had regard to the nature and purpose of the event, which from Mr Taylor's perspective, as a member of the public, was a social, non-political function to which he had been cordially invited. Within this context the Sub-Committee concluded that the comments made by Cllr Hawker in his speech did not amount to political expression and the higher level of protection did not apply. The Sub-Committee further concluded on balance that interference with Cllr Hawker's right to freedom of expression by finding a breach of the Code of Conduct and imposing a sanction was necessary and proportionate in the circumstances of this case to protect the reputation and rights of the Complainant.

The Sub-Committee therefore determined that the allegation was substantiated and found:

Breach - failure to treat with respect - paragraph 3(1) of the Code of Conduct.

2. Allegation - Westbury Town Forum Postings - 22 October 2011

That on the 22 October 2011 at Westbury Cllr Hawker failed to treat a member of the public (namely Mr John (Ian) Taylor) with respect by posting on the Westbury forum a summary of events at the invitation only meeting including the comments *There was also a focus on those who did their best to kill off the project, just so that people remember who those brass necked individuals are (given that they had the brass neck to attend the event)* and within the chain of that publication identified the member of the public as the person being referred to.

The Sub-Committee noted that Cllr Hawker posted his comments on the Westbury Town Forum within 24 hours of the Laverton launch event and his comments were closely linked with that event. Taking the content of the posts overall the Sub-Committee concluded that Cllr Hawker gave the impression that he was acting as a representative of Westbury Town Council, and by virtue of paragraph 2(1)(b) of the Code was acting in his official capacity, notwithstanding the disclaimer at the foot of his posts. The Code therefore applied.

The comments made explicitly about Mr Taylor in the posts were highly offensive, given particularly that he had been invited to the event. They amounted to a personal attack on an individual member of the public and were disrespectful.

As the comments were so closely linked with the events of the previous day the Sub-Committee did not consider that it was necessary in these circumstances to determine the truth or otherwise of the statements nor whether Cllr Hawker was justified in making them. Even if they had considered it necessary they were not satisfied on a balance of probabilities that Cllr Hawker had established his case.

In relation to Article 10, given the nature and content of the posts and their close proximity to the Laverton event the Sub-Committee determined that these were not political expression and that interference with Cllr Hawker's right to freedom of expression by a finding of breach and sanction under the Code was necessary and proportionate.

The Sub-Committee therefore determined that the allegation was substantiated and found:

Breach - failure to treat with respect - paragraph 3(1) of the Code of Conduct.

3. Allegation - Town Council meeting - 7 November 2011

The Sub-Committee found the facts as set out in paragraph 6.12 of the investigation report and agreed with the investigating officer's finding that Cllr Hawker was acting in his official capacity but no breach of the Code of Conduct had occurred on this occasion.

No breach

4. Allegation - Email to Westbury Town Council staff - 24 November 2011

That on 24 November 2011 Cllr Hawker failed to treat a member of the public (namely Mr John (Ian) Taylor) with respect in that he published to staff at Westbury Town Council an email which he stated that the member of the public was "*a bare faced liar*", "*deceived the Council throughout his involvement in the Laverton project*". The email also claimed that the complainant had trashed the business plan by *a string of lies and his own muddles and nonsense*"

The Sub-Committee agreed that the Investigating Officer was entitled to include this allegation as part of the case to be met by the Subject Member even though it did not form part of the original complaint. It was a matter that came to light in the course of the investigation and related to the subject matter of the complaint.

The Sub-Committee accepted the Investigating Officer's reasoning and conclusion, as set out in paragraph 6.15 of his report, that Cllr Hawker was acting in his official capacity when he sent the email of 24 November 2011 to Mr Harvey.

The Sub-Committee considered that the content of the email in so far as it related to Mr Taylor was offensive and in the nature of an excessive personal attack upon his character. They did not consider that it was necessary in this instance to determine the truth or otherwise of the statement, though they were not in any event satisfied that these comments were justified. Further, the Sub-Committee did not regard them as political expression attracting the higher level of protection. However, while the comments were clearly inappropriate and unhelpful the Sub-Committee

took into account the fact that they were not intended for public consumption and on that basis decided that there was no breach of the Code in this instance.

No Breach

5. Allegation - Email to GIG - 25 and 26 November 2011

That on the 25 and 26 November 2011 Cllr Hawker failed to treat a member of the public (namely Mr John (Ian) Taylor) with respect in that he published a group email (GIG) which stated that the Committee “*was being hoodwinked by a fraudster*” in such a way that it was apparent to the recipients that he was referring to the member of the public as the fraudster.

The Sub-Committee accepted the Investigating Officer’s reasoning and conclusion in paragraph 6.16 of his report that Cllr Hawker was acting in his official capacity when he wrote the emails to the General Interest Group (GIG).

The Sub-Committee further agreed with the Investigating Officer’s conclusion in paragraph 7.18 of his report that the words used were a personal attack on Mr Taylor that were damaging to his reputation.

The Sub-Committee decided that it was not necessary for them to determine the truth or otherwise of the comments that were made. They were of the view that making such comments in these circumstances was inappropriate and disrespectful irrespective of whether they were true or not. However, the Sub-Committee were not satisfied in any event that Cllr Hawker was justified in making these comments.

The Sub-Committee agreed that the comments about Mr Taylor, when viewed in the context of this exchange of emails and particularly the nature and status of the GIG, did not constitute political expression and did not therefore attract the higher level of protection.

The Sub-Committee therefore concluded that this allegation was substantiated and that Cllr Hawker had been disrespectful in breach of the Code.

Breach - failure to treat with respect - paragraph 3(1) of the Code of Conduct.

6. Allegation - Letter to Editor, White Horse News - 6 December 2011

The Sub-Committee felt that the language in Cllr Hawker’s letter that was published in the newspaper was more temperate in tone and content and was written in response to material from Mr Taylor which had been published. The Sub-Committee found that there was no breach of the Code.

No breach.

7. Allegation - Westbury Town Council Meeting on 9 January 2012

The Sub-Committee accepted the conclusion of the Investigating Officer in paragraph 7.20 that there was no conclusive evidence that Cllr Hawker had stated in the meeting that Mr Taylor was lying and no breach of the Code.

No breach.

8. Allegation - Bullying - between 21 October 2011 to 9 January 2012

That between 21 October 2011 and 9 January 2012 behaved in such a way that it amounted to bullying towards Mr John (Ian) Taylor in that the behaviour taken overall is offensive, insulting and humiliating and reflect an attempt to undermine Mr Taylor.

The Sub-Committee firstly considered, on advice from the Monitoring Officer, the definition of bullying that should be applied. They had regard to the definition included in guidance from the former Standards Board for England (at page 52 of the Investigating Officer's report) but noted in particular the helpful comments of the First-Tier Tribunal in case reference LGS/2011/0537, set out at paragraph 4.7 of Cllr Hawker's revised written submission dated 14 November 2012 (A8 Tab 3 of Bundle A). There the Tribunal adopted the narrower Shorter Oxford dictionary definition of bullying as 'to act the bully towards; to intimidate or overawe' and stated that the threshold for a bullying relationship to be proven must be a high one.

On the Sub-Committee's analysis of the events over the period in question and based on their findings, as set out above, there were essentially two sets of inter-related events which had resulted in a finding of disrespect in breach of the Code - those on the 21 and 22 October 2011 and the correspondence with the GIG on 25 and 26 November 2011. Looking at both sets of events the Sub-Committee were satisfied that that there was no evidence of any clear intent on the part of Cllr Hawker to bully Mr Taylor and Mr Taylor was, in their view, capable of looking after himself. The Sub-Committee concluded that, overall, Cllr Hawker's conduct, whilst disrespectful, fell short of bullying.

No breach

Having determined the above breaches of the Code the Sub-Committee heard submissions from Mr Cain and Cllr Hawker on the question of sanctions and then withdrew to consider this part of the case.

Upon returning the Chairman announced that the Sub-Committee had

RESOLVED:

To recommend Westbury Town Council to consider imposing the following sanctions in respect of the breaches of the Code identified above:

- 1. Censure**
- 2. Suitable training and support for Cllr Hawker in connection with his obligations under the Code of Conduct.**

The Chairman concluded the hearing by thanking all parties for their attendance and contributions.

(Duration of meeting: 11.30 am to 9.25 pm)

The Officer who has produced these minutes is Ian Gibbons, Solicitor to the Council and Monitoring Officer direct line 01225 713052, e-mail ian.gibbons@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Wiltshire Council

Standards Committee

9 October 2013

Review of the Effectiveness of the Council's Arrangements under the New Standards Regime

Purpose of Report

1. To review the operation of the new standards regime since it came into effect on 1 July 2012 and to ask the Committee to consider whether any changes need to be made to improve the efficiency and effectiveness of the council's arrangements.

Background

2. The Localism Act 2011 introduced a new standards framework which came into effect on 1 July 2012. Wiltshire Council, as a principal authority, was required under the provisions of the new legislation to make a number of significant changes to its arrangements governing standards of member conduct.
3. Councils were required to adopt a new Code of Conduct with effect from 1 July 2012. The new Code has to broadly reflect 7 principles of conduct in public life, which are set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. At a meeting of Wiltshire Council on 26 June 2012 Wiltshire Council adopted a Code of Conduct which complies with the statutory requirements. The Code of Conduct is attached as Appendix 1.
4. A large proportion of Wiltshire's parish, town and city councils adopted the same Code of Conduct as Wiltshire Council.
5. The Council also adopted new arrangements for dealing with complaints under the Code of Conduct. These are attached as Appendix 2.
6. This report reviews the operation and effectiveness of the new arrangements from 1 July 2012 to date.

Main Considerations for the Committee

Code of Conduct

7. The table attached as Appendix 3 provides a summary of all Code of Conduct complaints received since 1 July 2012 together with details of their assessment and outcome. By way of comparison the table includes an indication of whether the complaint, if proven, could have breached the former statutory Code of Conduct that existed under the previous standards regime.
8. Since 1 July 2012 a total of 34 complaints about member conduct have been considered against the new Code of Conduct. Of these complaints, 3 did not proceed to assessment, 28 were assessed as requiring no further action and 3 complaints are awaiting an assessment decision. Of the 28 complaints that were assessed as requiring

no further action, 13 were capable, if proven, of giving rise to a breach the Code of Conduct that was in place prior to 1 July 2012.

9. Before the new standards regime came into effect the council was receiving on average 50 complaints a year. Most of these were against parish and town councilors and related mainly to allegations of disrespectful conduct and bringing the council into disrepute. To provide some comparison details of complaints received during 2011/12 are contained in Appendix 4.
10. The lack of effective sanctions under the new arrangements may be a factor in the reduced number of complaints we have received.
11. The fact that no complaints have as yet been referred for investigation under the new procedure does not in itself mean that the new arrangements and Code are not working effectively. It could suggest the opposite - that complaints are being appropriately filtered at the assessment stage and limited public resources are not being expended disproportionately on matters that do not warrant investigation. This seems to be consistent with the trend nationally, as referred to below.
12. There is, however, concern that some complaints are not being referred for investigation because the Code of Conduct does not sufficiently define the kind of behaviour that will give rise to a breach. It is then left to determine whether the alleged conduct breaches the 7 principles set out in the Code or the general obligation to promote and support high standards of conduct. This is more difficult to establish. In other words, there is no specific hook against which breach may be established, unlike the former statutory code, which contained specific provisions relating to conduct such as bullying, disrespect, breach of the equality enactments and breach of confidentiality requirements.
13. Wiltshire Council's Code of Conduct requires its councillors and voting co-opted members to have regard to the Council's Behaviour's Framework when carrying out their, but failure to do so will not in itself amount to a breach of the Code.
14. The independent persons appointed by the council, who are involved in a consultative role at the assessment and review stage, are unanimous in their concern that the absence of clear provision on the expected standards of behaviour of elected councillors in the Code is resulting in cases being rejected that might otherwise be going forward for investigation and this may ultimately undermine public confidence in the democratic process.
15. As far as the provisions of the Code concerning the registration and declaration of interests is concerned, the Committee will recall considering a report on this subject at its last meeting in July. The Committee were not minded to make any changes to the Code in respect of the registration and declaration of additional interests over and above the statutory disclosable pecuniary interests, but agreed that the guidance produced by the DCLG 'Openness and transparency on personal interests' should be used to advise and assist councillors in ensuring openness and transparency in transacting council business. A recommendation on this basis will go forward to full council in November.
16. An indication of the wider picture is set out in Appendix 5 – a Code of Conduct Discussion Paper, prepared by Hoey Ainscough Associates Ltd, who provide consultancy services on governance and conduct issues in local government. A number of the trends identified in the discussion paper reflect the experience in Wiltshire.

17. The Committee may wish to consider whether to recommend any changes to the Code of Conduct to address the concerns that have been identified, or, alternatively whether further clarity may be provided through supporting guidance.

Complaints Procedure

18. The absence of any referrals for investigation has meant that we have not yet been able to fully test the effectiveness of the process for dealing with complaints under the new regime. The focus of activity in the last year has been in dealing with cases which were started under the former regime but fell to be dealt with under the new process by virtue of transitional regulations issued in June 2012. These outstanding cases have been determined under the new procedure but against the former statutory code. The process has been challenging, but has generally worked effectively to ensure that all parties have received a fair hearing. All of these cases have now been concluded.
19. The initial assessment process has worked well with complaints being processed efficiently. Subject members have appreciated having the opportunity to respond to complaints at this stage and this has enabled better decisions to be made.
20. There have been 11 review meetings to date. So far all of these have upheld the original decision of the Monitoring Officer.
21. The role of the independent persons has been developed and has provided valuable support to the process in ensuring fairness, openness and transparency, particularly during hearings. Subject members have generally found it helpful to be able to consult an independent person during the process and this has provided a level of support for the subject member, which was not available under the previous regime.
22. The independent persons have commended the Council for the equitable and balanced way in which complaints have been handled since the inception of the new process. Based on their experience of working within the council's arrangements over the past year they have identified a number of areas for further development:
 - Simplifying the process for making complaints;
 - Ensuring that complainants have all the information and support they reasonably need about the process;
 - Streamlining the investigation process;
 - Maximising the opportunity for alternative resolution at the earliest stage;
 - Minimising delay in the process, particularly at the hearing stage, where availability of the parties, witnesses, and members is limited.
 - Providing suitable training and briefings for members involved in reviews and hearings;
 - Increasing emphasis on an inquisitorial rather than adversarial approach to the process and especially at hearings.
 - Rationalising the allocation of independent persons in cases;
 - Complaints tracking.
23. We will be working on these areas in conjunction with the Chairman of the Standards Committee and our independent persons to secure further improvements in the process.
24. An indication of the wider picture on case handling is contained in Appendix 6.

Environmental Considerations

25. None.

Financial Considerations

26. None arising directly from this report.

Legal Implications

27. The council is obliged to meet its statutory requirements regarding the promotion and maintenance of high standards of conduct under the Localism Act 2011. Failure to operate fair and efficient procedures for dealing with complaints may result in legal challenges and costs.

Conclusion and Recommendation

28. The council's arrangements under the new standards regime have generally operated well during the past year. They are yet to be fully tested before a proper assessment of their effectiveness in promoting and maintaining high standards of conduct can be made. In the meantime there are areas identified in this report where potential improvements may be made.

29. The Committee is asked to consider whether any changes need to be made to improve the efficiency and effectiveness of the council's arrangements and to recommend council accordingly.

Ian Gibbons
Solicitor to the Council and Monitoring Officer

Author: Ian Gibbons

Background Papers

Unpublished reports relied upon in the preparation of this report: None.

Appendices:

Appendix 1 - Code of Conduct

Appendix 2 - Statement of Arrangements for dealing with Code of Conduct complaints

Appendix 3 - Summary of complaints received since 1 July 2012

Appendix 4 - Summary of complaints received 2011/12

Appendix 5 - Code of Conduct Discussion Paper

Appendix 6 - Case Handling Discussion Paper

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Part 13

Wiltshire Council Code of Conduct

You are a member or co-opted member of Wiltshire Council and hence you shall have regard to the following principles - **selflessness, integrity, objectivity, accountability, openness, honesty and leadership.**

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example.

Accordingly, when acting in your capacity as a member or co-opted member:

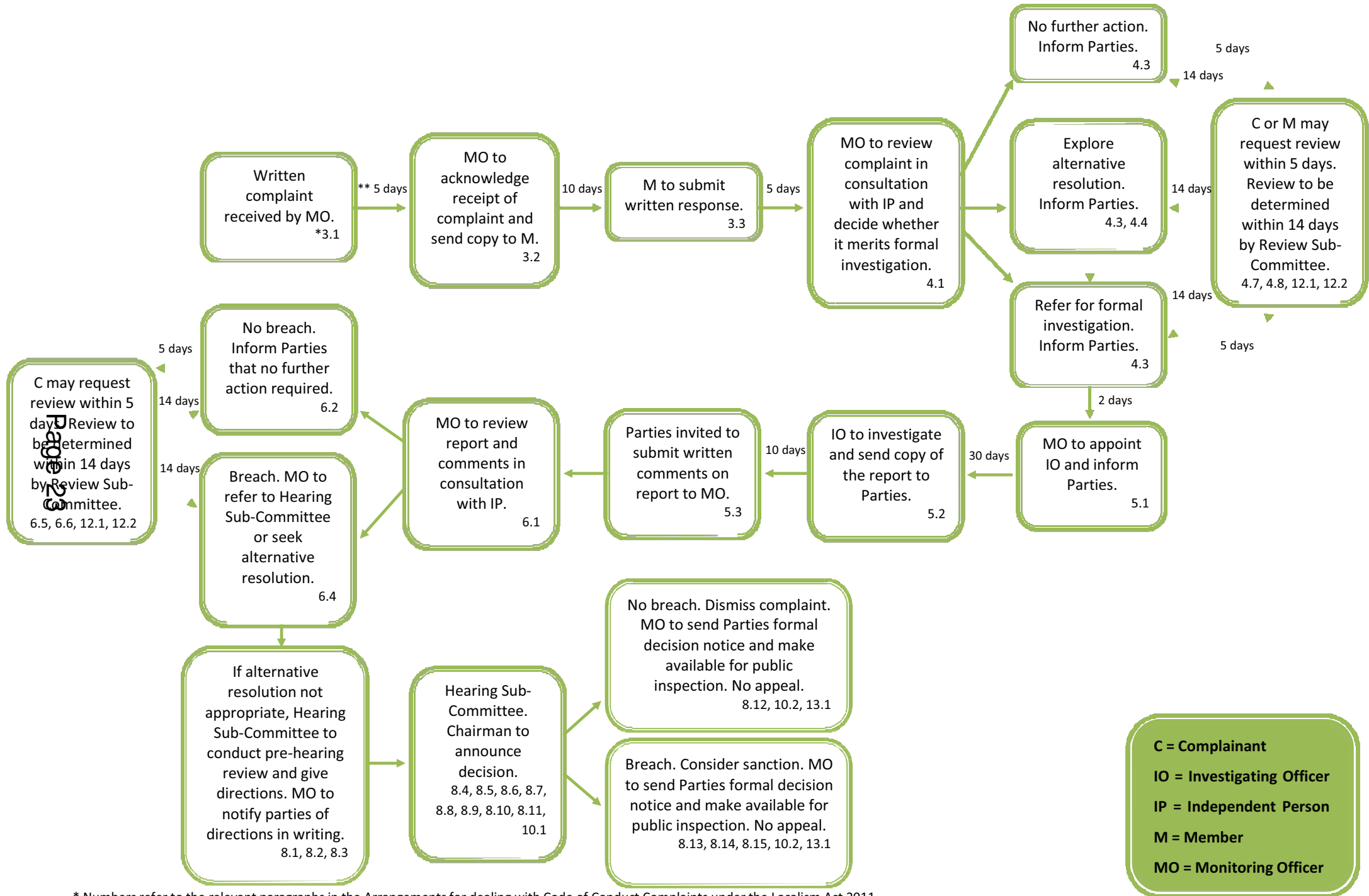
1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and the decisions and actions of your authority, and should be prepared to give reasons for those decisions and actions.
6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
7. 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) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Members of Wiltshire Council will have regard to the Roles and Responsibilities of Wiltshire Councillors according to Appendix 1 and Wiltshire Council Behaviours Framework at Appendix 2.

Registering and declaring pecuniary and non-pecuniary interests

8. You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband of wife, or as if you were civil partners.
9. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register.
10. If an interest has not been entered onto the authority's register you must disclose the interest to any meeting of authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.
11. Following any disclosure of an interest which is not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
12. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

Annex 2 – Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011 – Overview



C = Complainant
IO = Investigating Officer
IP = Independent Person
M = Member
MO = Monitoring Officer

* Numbers refer to the relevant paragraphs in the Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011
 ** Days refer to working days

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**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
from 1 July 2013 to date**

Appendix 3

Reference	Brief description	Decision	Reasons for outcome	Potential to breach the old Code of Conduct
16/12	A Councillor at a meeting of the council acted in an aggressive and bullying manner when introducing a non agenda item; the councillor spoke indiscreetly on council matters and staff in a public place; the councillor has a criminal record	No further action	The complainant did not show the councillor's actions in relation to the first two allegations were capable of breaking the Code of Conduct. Further to this, the councillor had apologised for his behaviour at the meeting. In relation to the third allegation – spent convictions do not stop someone becoming a councillor.	Yes
17/12	A Councillor failed to act in the public interest, and improperly conferred an advantage on a friend or close associate, by refusing to condemn abusive language allegedly directed at another member of the council and members of the public.	No further action	The complaint did not meet the initial tests as the councillor had resigned and was no longer a member of the council.	Yes
18/12	The complainant has alleged that a councillor, in e-mail correspondence with the complainant, breached the principles of selflessness and leadership required by the Code of Conduct on the grounds the tone of e-mails were dismissive and condescending.	No further action	The Councillor offered a reasonable explanation of the issues raised in the complaint, and no further action should be taken.	No
19/12	A Councillor failed to investigate a complaint made against another councillor and failed to ensure another complaint related to setting speed limits was investigated	No further action	One councillor is not responsible for the actions of another councillor; the setting of a speed limit is an operational matter, not a Code of Conduct matter, and a complaint should be made through the corporate	No

**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
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			complaints process.	
20/12	That at a meeting of the Council, a Councillor failed to declare an interest in a pressure group and participated in the meeting.	No further action	Membership of the pressure group was not an interest that had to be declared under the Code of Conduct introduced on the 1 st July 2012.	Yes
21/12	A Councillor failed to declare an interest in meetings which took place between March 2010 and February 2011, and failed to declare a trusteeship in the register of interests.	No further action	The meetings took place over 18 months prior to the complaint being made; the complaints procedure sets a time limit of 20 days in which to make a complaint; it was considered the complaint was politically motivated; a trusteeship does not have to be declared in the register of interest.	Yes
22/12	A Councillor promoted development proposals outside the proper processes of the council, circumvented proper processes and allowed her personal animosity towards the complainant to compromise the Council's duties towards the community.	No further action	The complaint, if proven, would be capable of breaching the parish council's code of conduct. However, the Councillor has offered a reasonable explanation of the issues raised in the complaint, and that it would not therefore represent an effective use of public resources to put this matter forward for investigation.	Yes

**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
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23/12	A Councillor promoted development proposals outside the proper processes of the council, circumvented proper processes and allowed his personal animosity towards the complainant to compromise the Council's duties towards the community.	No further action	The complaint, if proven, would be capable of breaching the parish council's code of conduct. However, the Councillor has offered a reasonable explanation of the issues raised in the complaint, and that it would not therefore represent an effective use of public resources to put this matter forward for investigation.	Yes
24/12	A Councillor failed to take into account the views of parishioners, called sub-committee meetings of the Council without notifying all the members, failed to follow Council standing orders in dealing with complaints and failed to chair a meeting correctly.	No further action	Alleged failure to follow proper procedural requirements is a procedural. Failure to take the views of parishioners into account is a matter for the proper democratic processes. The complaint as presented does not meet the initial tests.	No
25/12	A Councillor failed to take into account the views of parishioners, called sub-committee meetings of the Council without notifying all the members and failed to follow Council standing orders in dealing with complaints.	No further action	The subject member had resigned at the time of the complaint. An alleged failure to follow proper procedural requirements is a procedural matter which falls outside the Code.	No
26/12	At a Council meeting a Councillor made comments which cast doubt on the professional integrity of a witness and conferred a disadvantage on the complainant.	No further action	The complaint, if proven, would be capable of breaching the Council's code of conduct. However, there is no evidence that the Councillor <i>improperly</i> conferred a disadvantage on the complainant, nor is there any evidence that he made his decision on grounds other than the merits of the information that was before the Committee. Further, the Councillor	Yes

**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
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			has provided an unreserved apology.	
27/12	At a Council meeting a Councillor unfairly influenced other committee members and demonstrated bias.	No further action	Members must not approach a decision with a closed mind such that they have predetermined that decision. No evidence of predetermination was provided.	No
28/12	At a Council meeting a Councillor unfairly influenced other committee members and demonstrated bias (a different Councillor to that in 27/12).	No further action	Members must not approach a decision with a closed mind such that they have predetermined that decision. No evidence of predetermination was provided	No
29/12	At a Council meeting a Councillor interrupted a member of the public who was speaking and did not allow her the allotted time to speak. That the Councillor bullied and intimidated the complainant when he was speaking and interrupted a third member of the public when he was speaking.	No further action	None of the matters set out in the complaint would be capable, if proven, of breaching the Code of Conduct.	Yes
30/12	Concerns about how a planning decision was reached.	Not applicable	The meeting about which the allegations refer did not take place.	Not applicable
31/12	A Councillor did not contact the complainants about concerns relating to a club, of which the complainants are members, prior to the matter being discussed at a meeting of the parish council.	No further action	The Councillor is not a member of the parish council, and he was not formally representing the Council at the meeting.	No
32/12	A councillor acted in a disrespectful and discriminatory manner.	No further action	The complainants did not provide a copy of the relevant Code of Conduct nor identify which paragraphs they considered to have been breached. The complaint was assessed against	Yes

**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
from 1 July 2013 to date**

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			the general principles of conduct for councillors established in the Localism Act 2011 and found to be not capable of breaching the general principles.	
33/12	A Councillor failed to answer questions regarding a complaint about operational issues in breach of paragraphs 4 and 5 of the Code of Conduct.	No further action	Operational matters are the responsibility of officers and it is not appropriate to use the Code of Conduct to pursue a complaint about operational decisions.	No
34/12	A Councillor failed to answer questions regarding a complaint about operational issues in breach of paragraphs 4 and 5 of the attached Code of Conduct (a different Councillor to that in 33/12).	No further action	Operational matters are the responsibility of officers and it is not appropriate to use the Code of Conduct to pursue a complaint about operational decisions.	No
01/13	Allegations a councillor was abusive during an exchange in the street and leaked confidential information in the exchange	No further action	The councillor was neither on council business nor acting in their role of councillor at the time. Also, the councillor did not have access to the information allegedly leaked.	No; for the same reasons
02/13	Allegations a councillor was abusive during an exchange in the street and leaked confidential information in the exchange (same councillor as above but different complainant)	Not applicable	The complainant failed to respond to letters and request for information	Not applicable
03/13	A councillor breached paragraphs – 1, 2, 5 and 6 of the Code of Conduct.	No further action	The councillor did not have a disclosable pecuniary interest; did not have a personal interest that needed to be declared; the councillors actions did not improperly confer advantage or disadvantage	No
04/13	A councillor (same council as above, but second councillor) breached paragraphs – 1, 2, 5 and 6 of the Code of Conduct	No further action	The councillor did not have a disclosable pecuniary interest; did not have a personal interest that needed to be declared; the councillors actions	No

**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
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			did not improperly confer advantage or disadvantage	
05/13	A councillor (same council as above, but third councillor) breached paragraphs – 1, 2, 5 and 6 of the Code of Conduct.	No further action	The councillor did not have a disclosable pecuniary interest; did not have a personal interest that needed to be declared; the councillors actions did not improperly confer advantage or disadvantage	No
06/13	Failure to treat with respect; bullying (as specifies in the previous, model code of conduct)	No further action	Against the relatively limited criteria set out in the Code of Conduct the Monitoring Officer was unable to conclude that if proven, the Councillor's behaviour was capable of breaching the Code of Conduct.	Yes
07/13	Paragraphs 1, 5 and 6 of the code (see attached) and acted in an intimidating way	No further action	The councillor was neither on council business nor acting in their role of councillor at the time. No personal interest was established.	No
08/13	The councillor demonstrated bias, intimidation, an inaccurate interpretation of the law, and that he falsely represented facts and failed to stop and have withdrawn, offensive comments	No further action	The actions did not breach the current code of conduct. The councillor in question had not stood for re-election and was no longer a member	Yes
09/13	Planning irregularities, including favouring applications made by relatives and discussing applications outside formal meetings	Not applicable	Complainant failed to provide relevant Code of Conduct and confirmation of the alleged breach	Not applicable
10/13	Representing a personal view as the view of the council and making abusive comments during a phone call	No further action	The complaint was withdrawn following informal resolution between the parties	Yes
11/13	Using their position as a councillor to promote and advantage their own view	No further action	The councillor was neither on council business nor acting in their role of councillor at the time.	No
12/13	Not declaring a personal interest and	No further action	Complaint withdrawn	Yes

**Assessment of Code of Conduct complaints for Wiltshire Parish, Town, City and Unitary Councils
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	making biased and incorrect statements to give an advantage			
13/13	Sending email which were vindictive, offensive, defamatory and caused harassment	No decision as yet	Further information requested but not been received	Yes
14/13	Paragraphs 1 and 5 of the code (see attached) and failure to declare a disclosable pecuniary interest	No decision as yet	Case being considered	Yes
15/13	Bullied via comments on a social media site	No decision as yet	Case being considered	Yes

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Appendix 4

Extract from Annual Report of the (former) Standards Committee 2011/12

Meetings

The following standards committee and sub-committees meetings were held (figures in brackets are for 2010/11):

Standards committee*	7(6)
Assessment sub-committee	14(13)
Review sub-committee	7(4)
Consideration sub-committee	3(8)
Hearing*	3(7)
Dispensation sub-committee*	3(10)

Meetings marked * are usually public meetings. Agenda, papers and minutes are on the Wiltshire Council web site (www.wiltshire.gov.uk).

How does local assessment work?

Wiltshire Council Standards Committee is responsible for receiving all complaints about alleged breaches of the code of conduct made against elected members of Wiltshire Council and the town and parish councils and co-opted members. There is an initial assessment stage when the assessment sub-committee of the standards committee meets to consider whether the complaint relates to a local member, if it involves a potential breach of the code and, if it does, whether it should be investigated or dealt with by other action such as training or mediation.

Depending on the outcome, the complainant can appeal against the assessment sub-committee decision. If this happens a review sub-committee, made up of different members of the standards committee from the assessment sub-committee will consider the appeal.

If a complaint is referred for investigation, a consideration sub-committee will consider the monitoring officer's investigation report and determine the next procedural steps in the light of the investigating officer's findings.

Finally the complaint will be considered by a hearing sub-committee, which will hear evidence and representations to determine if there has been a breach of the code and, if so, what sanctions are appropriate.

Complaints 2011/12

Number of complaints received

51 complaints were received between April 2011 and March 2012

The outcome of the complaints that were assessed was:

Action	Numbers
Investigated/under investigation	20
No investigation	28

The complaints that were not assessed fall into the following categories:

Reasons for no assessment	Numbers
Case closed as sufficient details not provided	0
Not a code of conduct complaint	0
Complaint withdrawn	0
Yet to be assessed	3

Breakdown of Code of Conduct Complaints

Paragraph of Code	Number of times cited 2011/12	Number of time proven 2011/12
3(1) – you must treat others with respect	41	
3(2)(a) – you must not do anything which may cause your authority to breach any of the equality enactments	7	
3(2)(b) - You must not bully any person	13	
3(2)(c) – you must not intimidate any person who is or is likely to be a complainant	8	
3(2)(d) – you must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority	10	
4(a) – you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonable to be aware, is of a confidential nature	1	
4(b) – you must not prevent another person from gaining access to information to which that person is entitled by law	3	
5 – you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute	31 20	1
6(a) – 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 disadvantage		
6(b)(i) – You must, when using or authorising the use by others of the resources of your authority, act in accordance with your authority’s reasonable requirements	0	

Paragraph of Code	Number of times cited 2011/12	Number of time proven 2011/12
6(b)(ii) – 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)	0	
6(c) – you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986(a)	0	
8(1)(a) – you have a personal interest in any business of your authority where either it relates to or is likely to affect:	4	
(ii) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;	8	
(ii) any body – (aa) exercising functions of a public nature; (bb) directed towards charitable purposes; (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.	9	
8(2)(a) – you have a personal interest in any business of your authority where either it relates to or is likely to affect a member of your family or any person with whom you have a close association		
9 (1) – subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.		
10 – subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.	13	
12 (1) – subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority you must withdraw from the chamber where a meeting considering the business if being held	0	
12(1)(c) – subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority you must not seek to improperly influence a decision about that business.	1	
13 (1)(b) – subject to paragraph 14, you must, within 28 days of your election or appointment to office register details of your personal interests.	1	

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STANDARDS: ONE YEAR ON

A conference for monitoring officers 1 Oct 2013

Weightmans LLP
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CODES OF CONDUCT DISCUSSION PAPER

Background

This paper sets out our conclusions on the way local codes have been implemented based on the work we have done with a wide range of authorities and then raises some issues for discussion about the way local codes are working.

Types of Code

- Three model codes were produced by national bodies last year - a DCLG codes; an LGA code and a NALC code.
- The NALC code is a simplified variant of the old code and is largely 'rules-based'
- The DCLG and LGA codes move away from this approach and are more 'principles-based'.
- All of the codes we have seen locally have either been the DCLG/LGA code or a variant of the old code/NALC code
- Some codes have sought to combine both the old code and the DCLG/LGA code into a longer code
- Some counties/areas have adopted what they call a local code, the x shire code, but these vary very little from one of the models
- There tends to have been a uniform approach agreed across an area, either for all authorities within a county (including districts and parishes) to adopt the same code, or else for the district and its parishes to adopt one code, with the County adopting another

Provisions within the code

- Where councils have adopted a code based on the old code, they have generally kept it 'as is' but with the addition of statutory provisions relating to DPIs
- Where councils have trimmed down the old code, typically they have removed provisions relating to disrepute and disrespect as these were seen as the cause of trivial or vexatious complaints
- Where councils have adopted the DCLG/LGA code 'disrespectful/bullying' behaviour and provisions relating to confidential information seem to be the areas where gaps are most clearly felt

- Where there are gaps in codes the Nolan Principles are being used instead when assessing whether there has been a breach of the code

Interests provisions

- Most councils have gone beyond the statutory minimum provisions of the DPIs and included a section on 'other interests' in their code
- These tend to reflect the old 'prejudicial interest' tests as to whether you have an interest but there is no standard practice as to what they are called, and sometimes inconsistency can even occur within the same code
- For these 'other interests' there is no consistency across authorities as to whether you merely declare them; declare, speak and withdraw; or declare and withdraw without speaking
- Where councils have not included 'other interests' but have simply adopted the minimal DPI requirements, this is always where the DCLG or LGA code has been adopted
- In these cases, members do not understand the consequences and are surprised that they no longer have to declare interests relating to other family members or friends, but say that they would do so anyway regardless of whether the code requires it
- Provisions on DPIs are interpreted differently from authority to authority
- Members tend still to talk in terms of personal and prejudicial interests regardless of what their code calls them although they are also familiar with the term DPIs
- Many councils have included additional registration requirements beyond DPIs to include membership of outside organisations

Issues for discussion

- Do you recognise this picture?
- Do you think your new code is better/worse/about the same as the old code and why?
- Have you encountered any gaps when it comes to trying to deal with behaviour?
- How aware of the changes are your members? Do they think it better/worse/about the same?
- How is the new code working with regard to parish behaviour?
- Are your interests provisions effective and understood by members?
- Do you expect to revise your code soon?
- If so, do you expect this to be done across your county or do you expect to see greater divergence across the area as people identify different requirements?

STANDARDS: ONE YEAR ON

A conference for monitoring officers 1 Oct 2013

Weightmans LLP
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CASE HANDLING DISCUSSION PAPER

Background

The Localism Act standards arrangements have now been in place for just over a year. We have worked with a large number of councils over that period, both in looking at their processes in theory and in helping them with advice on live cases in practice.

This paper reflects our experience of some of the good and bad practice we have seen over that time and raises some points for discussion as to whether it reflects your experience and how you might ensure your processes meet your requirements.

Assessment of complaints

Comments

- Most councils have delegated this decision to the monitoring officer though a small minority have retained a sub-committee to make the decision
- Most MOs consult the Independent Person before reaching a decision even though this is not a legal requirement
- Most MOs who have had the power delegated to them have the power to refer sensitive/high profile cases to a committee – some procedures lay out circumstances, some simply say it is at the MO's discretion
- Most councils have built in three possible outcomes – no further action; investigate; or 'informal resolution'. We have seen one procedure with a 'fourth option' as allowed under the legislation – a finding of breach without investigation.
- Most councils see informal resolution as the preferred route, with some councils saying to us that they expect to investigate nothing or hardly anything
- Informal resolution tends to be just that – more formal mediation between parties is rarely envisaged or budgeted for
- Most councils notify the subject member once a complaint is received, though a few will only tell the member once the assessment decision has been made
- Where the subject member is notified, some councils do it simply 'for information' but others explicitly invite comments before an assessment decision is reached
- The number of complaints does not on the face of it appear to have diminished nor does the type of complaints – some councils report more than in previous years; some fewer; and some about the same
- More cases are being 'filtered out' at this stage and there seem to be far fewer investigations taking place

Issues

- Where does your council sit against this picture?
- Do you feel your arrangements for filtering cases are working well?
- Where your IP is being consulted, have there been differences of opinion? If so how have these been resolved?
- What sorts of cases have been referred on to the standards committee to take the decision and have they shared your conclusion?
- Where you are telling/not telling the member up front have there been any advantages/disadvantages to this?
- Is informal resolution working well at this point? Are there times when it hasn't worked? Or cases where it is inappropriate?
- Are you treating parish cases the same or are they more/less likely to go down a particular route?

'Other action'

Comments

- 'Other action' (i.e. not investigating) seems to be most popular route for case handling
- Some councils have it twice in their procedures – once at the initial decision-making stage and then again, after investigation, if it seems a better route than holding a hearing
- In some councils, the complainant is given a say on whether this route is acceptable. This is particularly so when it is considered as an option post-investigation
- In most councils, the IP's views are also sought on the acceptability of this route
- This course often involves working with senior figures in the political group to find a resolution or goes in parallel with party disciplinary action
- Standards committees tend not to be consulted before this course is pursued

Issues

- Where does your council sit against this picture?
- How effective is other action proving to be?
- Where the views of the complainant or IP are being sought, do they have a 'veto' or are they merely being consulted? How have you dealt with differences of opinions?
- What if the resolution by 'other action' doesn't work or the subject member refuses to cooperate – are you then taking cases to the next stage or closing them down?
- What role have the political groups played in your council in terms of dealing with their own members? Has this course of action been effective where you have an independent councillor?
- Has this course of action proved effective for dealing with parish cases?
- Is the use of other action sufficiently transparent for the public/media? Does it need to be?

Investigations

Comments

- Fewer cases going for formal investigation but there is still a significant number
- Presumption against investigation is partly driven by costs and partly by perception that sanctions are ineffective at the end of the process
- Some councils have said to us informally they don't intend to investigate anything
- Where cases are investigated they naturally tend to be the more serious matters Some processes have two forms of investigation – a quick 'desktop' investigation where views are simply sought from the complainant and subject member; or a more in-depth investigation
- Pressure from councils to minimise costs and do cases more quickly than in the past
- Similar mixture to previously of cases being done in-house or outsourced
- There are few cases of the police looking at DPI cases, but there are some, though none seem to have led to a councillor being formally charged

Issues

- How does your authority look against this picture?
- What types of cases have been investigated?
- Where matters are being investigated, how are you managing expectations and balancing the issues of being cheaper and quicker against the appearance that you are only dealing with more serious matters?

Standards committees and hearings

Comments

- Nearly all councils refer matters to a committee for hearing. We have seen one procedure where the MO can also issue a sanction without reference to the committee at an early stage
- It is a mixed picture as to whether there is a dedicated standards committee or whether the function is performed by a wider committee such as audit and governance
- It is a mixed picture as to whether the committee conforms with political proportionality rules or whether the political proportionality rules have been waived by council to ensure all-party representation
- Some standards committees also have kept 'independent members' although this is not true for the majority of committees. Similarly some have kept parish representatives on.
- The independent standards committee members tend not to be the IPs though they are in a handful of cases and in a handful of cases, the committee is chaired by an independent
- Standards committees have struggled with access to information provisions and some have resorted to having closed hearings which has led to difficulties with the media
- Councils have typically included a similar range of sanctions in their provisions – censure, removal from committee/appointment, withdrawal of resources/access/contact with certain officers. In nearly all cases all sanctions are subject to ratification by full council and/or the political group
- Parishes are struggling to understand that the standards committee is making the finding of fact but is simply making recommendations to them as to sanction and it is for the parish council to sanction

- There have been some cases of parishes wanting tougher sanctions than those recommended and facing legal challenge on their powers
- There has been a big increase in media/public campaigns to get councils to 'sack' members or force members to resign following a finding of censure or an apology
- There has been increased media concerns about the transparency and/or 'politicisation' of the process

Issues

- How does your council compare to the above?
- Why did you keep/not keep independent representation on the committee?
- Where you have independent members, is this proving worthwhile?
- Have sanctions proved effective?
- How have you dealt with 'serial offenders'/parish sanctions?
- Has the issue of hearings in public/private been an issue?
- Has media handling been an issue?

The independent person

Comments

- Most councils have only one or two IPs – usually a lead and substitute - with one IP allocated per case. A minority of councils have several and either work on a rotating principle or allocate them different roles in the process.
- A lot of councils kept an old 'independent member', often working in parallel with a new person as part of transition
- The 'one year cut-off' imposed in regulations last year if they were reappointed after a certain date led to some confusion and was widely seen as unjust
- Most IPs are not on the standards committee
- Most councils involve their IP throughout the process, though a few only involve them where the law requires it
- Some councils allow the complainant equal access as the subject member to the views of the IP.
- IPs generally struggle to know what views they are expected to give to the subject member without being seen to become their advocate or get drawn into the dispute or else simply duplicating the role of the MO.

Issues

- How does your council compare to this picture?
- Has the role of the IP been effective during the year?
- Do you/they have a clear understanding of the role and their relationship to the MO and standards committee?
- How has their role of giving views to the subject member worked in practice?
- Has the complainant been given equal access? What have been the advantages/disadvantages of that approach?

16 July 2013

By email

Mr Carlton Brand
Corporate Director
Wiltshire Council

Dear Mr Brand

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2013. This year we have only presented the total number of complaints received and will not be providing the more detailed information that we have offered in previous years.

The reason for this is that we changed our business processes during the course of 2012/13 and therefore would not be able to provide you with a consistent set of data for the entire year.

In 2012/13 we received 63 complaints about your local authority. This compares to the following average number (recognising considerable population variations between authorities of a similar type):

District/Borough Councils-	10 complaints
Unitary Authorities-	36 complaints
Metropolitan Councils-	49 complaints
County Councils-	54 complaints
London Boroughs-	79 complaints

Future development of annual review letters

We remain committed to sharing information about your council's performance and will be providing more detailed information in next year's letters. We want to ensure that the data we provide is relevant and helps local authorities to continuously improve the way they handle complaints from the public and have today launched a consultation on the future format of our annual letters.

I encourage you to respond and highlight how you think our data can best support local accountability and service improvements. The consultation can be found by going to www.surveymonkey.com/s/annualletters

LGO governance arrangements

As part of the work to prepare LGO for the challenges of the future we have refreshed our governance arrangements and have a new executive team structure made up of Heather Lees, the Commission Operating Officer, and our two Executive Directors Nigel Ellis and Michael King. The Executive team are responsible for the day to day management of LGO.

Since November 2012 Anne Seex, my fellow Local Government Ombudsman, has been on sick leave. We have quickly adapted to working with a single Ombudsman and we have formally taken the view that this is the appropriate structure with which to operate in the future. Our sponsor department is conducting a review to enable us to develop our future governance arrangements. Our delegations have been amended so that investigators are able to make decisions on my behalf on all local authority and adult social care complaints in England.

Publishing decisions

Last year we wrote to explain that we would be publishing the final decision on all complaints on our website. We consider this to be an important step in increasing our transparency and accountability and we are the first public sector ombudsman to do this. Publication will apply to all complaints received after the 1 April 2013 with the first decisions appearing on our website over the coming weeks. I hope that your authority will also find this development to be useful and use the decisions on complaints about all local authorities as a tool to identify potential improvement to your own service.

Assessment Code

Earlier in the year we introduced an assessment code that helps us to determine the circumstances where we will investigate a complaint. We apply this code during our initial assessment of all new complaints. Details of the code can be found at:

www.lgo.org.uk/making-a-complaint/how-we-will-deal-with-your-complaint/assessment-code

Annual Report and Accounts

Today we have also published *Raising the Standards*, our Annual Report and Accounts for 2012/13. It details what we have done over the last 12 months to improve our own performance, to drive up standards in the complaints system and to improve the performance of public services. The report can be found on our website at www.lgo.org.uk

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

Annual Report & Accounts 2012-13



Raising the standards

Commission for
Local Administration
in England

Local Government Ombudsman

Annual Report & Accounts 2012-13

Presented to Parliament pursuant to Section 23A(3A) of the Local Government Act 1974 as amended by Section 170(1) (5) of the Local Government and Public Involvement in Health Act 2007; and Section 34S(5) of the Local Government Act 1974 as amended by the Health Act 2009 Section 35, Schedule 5, Part 1, paragraphs 1 and 2.



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Foreword



I am pleased to present the Annual Report and Accounts for the Commission for Local Administration in England for the year ended 31 March 2013.


It is no exaggeration to say that 2012-13 has been the most turbulent year in the history of the Local Government Ombudsman (LGO). A combination of financial pressures, transformational change and public scrutiny of our service has tested leadership and management at all levels and required the continued commitment of our staff in a period of great uncertainty.

In 2012-13 we continued to deliver a comprehensive LGO service, responding to over 90,000 contacts from the public and handling over 10,000 complaints with a reduction in funding of over £2 million, representing a real-terms cut of 13.5% in this year alone. We achieved an ambitious Transformation Plan to introduce a new business model, restructure management and consolidate corporate functions onto one site ahead of schedule and well within budget.

In April 2012 we attended our accountability hearing before the Communities and Local Government Select Committee and many of the issues they raised have now been addressed in our business plan for 2012-13 and others will be completed during 2013-14. This included an independent external evaluation of the service led by Richard Thomas CBE, which gave a positive reinforcement of the transformation we have undergone and confirmed our continued efforts to ensure impartiality and public accountability.

As Chair of the Commission I would like to thank my fellow Commission members for their support and welcome two new independent members of the Audit and Remuneration Committees, Sir Jon Shortridge and David Liggins. I would also thank outgoing members Lucinda Bolton and Eugene Sullivan.

Local Government Ombudsman Anne Seex has been absent due to ill health since November 2012. We have quickly adapted to working with a single Ombudsman and the



Commission has formally taken the view that this is the appropriate structure to operate with in the future. Our sponsor department, the Department for Communities and Local Government (DCLG), is conducting a review to enable us to develop our future governance arrangements.

The Annual Report focuses upon how we have raised and will continue to raise standards in the delivery of our work; in the way the wider complaints system responds to concerns from the public; and in the way that public services and social care provision are delivered.

Raising our own standards has meant a considerable change for our organisation and especially for the people that work in it. I want to express my thanks to our staff who have supported these changes and who have continued to provide the public with a high

quality service. We have said goodbye to a number of valued colleagues who between them have provided many years of service. A new generation is now stepping up to meet the further challenges ahead.

We can confidently say that the LGO is now fit for purpose and look forward, as we approach our 40th year, to continuing to give the public the service they deserve in future.



Dr Jane Martin
Chair, Commission for Local
Administration in England
Local Government Ombudsman
9 July 2013



Who we are, what we do

the Ombudsman for local public services & social care

We are the Ombudsman for local public services, for social care and for public health.

The Local Government Ombudsman helps to make sure that local public services are accountable to the people that use them by ensuring that local authorities put things right when they go wrong.

This could be where the local authority has failed to provide the level of service that the public can rightly expect to receive. Similarly, it could be where the council has not acted properly in carrying out their functions (which is referred to as maladministration).

We are also the social care Ombudsman, providing a one-stop-shop for complaints about the service provided by all registered social care providers. Our powers to investigate extend to complaints about both publicly and privately funded social care. This means the public has a clear route for redress and do not have to navigate complex processes in what is often a confusing social care system.

Local authorities and social care providers should be able to resolve complaints directly without requiring the public to escalate their complaint to us.

For this reason we normally expect the complaint to be raised with the body concerned before we will look at it. However, the public can feel reassured that there is a fair and independent Ombudsman that they can turn to when their complaint is not resolved.

As a result of resolving complaints and providing a remedy for individual injustice, we gather significant evidence of wider failings in the delivery of public services. If they are not addressed then the public will face the same problems and need to raise the same concerns time and time again. We recognise our role in helping public services learn from complaints and we work closely with partners in the advice sector, in Parliament and in public services to share learning from our work.

The day-to-day management of the LGO is carried out by the Executive Management Team who are accountable to Local Government Ombudsman and Chair of the Commission Dr Jane Martin.

Our values

We will treat people with courtesy, consideration, openness and honesty, and respect their privacy.

In the provision of our services this means we will:

- > be independent, fair and consistent;
- > take full account of what people say to us;
- > establish the facts and communicate accurately, promptly and in plain language;
- > explain fully the reasons for decisions; and
- > treat people with respect and not discriminate on any improper ground.

Our mission is to

provide an independent means of redress to individuals for injustice caused by unfair treatment or service failure by local public services and care providers, and use our learning to promote good public administration and service improvement.



Membership of the Commission



Dr Jane Martin - Chair

- > **Anne Seex**
- > **Dame Julie Mellor DBE**

Dr Jane Martin and Anne Seex are Commissioners for Local Government Administration (Local Government Ombudsmen). Dame Julie Mellor is the Parliamentary Commissioner for Administration and is a member *ex officio* of the Commission.

The Executive Team



Nigel Ellis
Executive
Director



Michael King
Executive
Director



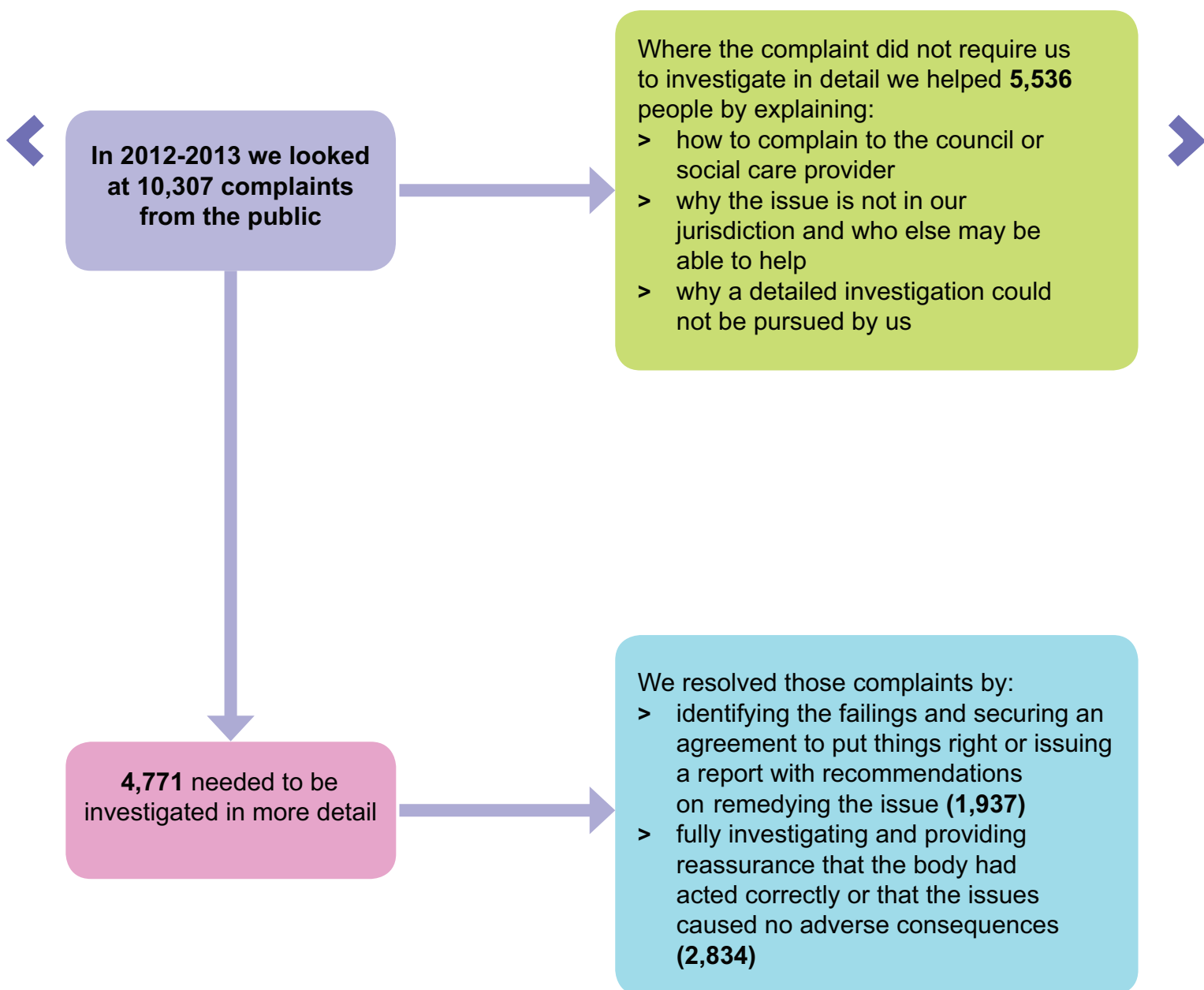
**Heather
Lees**
Commission
Operating
Officer



Raising the standards of the Local Government Ombudsman

Our performance 2012-13

In 2012-13 there was a small decrease of 3.4% in the number of new complaints and enquiries being registered by us. However, we helped 20,186 people who registered a complaint or enquiry about local public services or adult social care. Of these, 10,307 required further consideration. We explain below how we were able to assist.



Our performance in resolving complaints and enquiries is measured by looking at:

- > the speed of our service;
- > our customers' satisfaction with what we do; and
- > the soundness of our decision making.

Speed of service

When people bring their complaints to us they have already spent a considerable amount of time and energy trying to resolve their concerns locally. It is important that we provide a thorough consideration of their complaint in an efficient and timely manner.

Over the last 12 months:

- > 55% of our customers have been advised of the outcome of their complaint within 13 weeks;
- > 85% within 26 weeks; and
- > 97% within 52 weeks.

Whilst we want to complete investigations quickly, the complexity of some issues will mean a longer investigation is needed. During 2012-13 there were 286 cases that took more than 52 weeks to resolve. This figure was higher than we wanted. We have carried out an urgent review to identify and rectify causes of delay. As a result, by the end of the financial year we had just 79 cases that were older than 52 weeks. For 2013-14 we are aiming to have no more than 100 cases taking more than a year to complete.

Strategic objective:

Provide a complaints service direct to the public which is accessible, responsive, consistent and cost effective.

Satisfaction with service

The true measure of the quality of our service to the public is direct feedback. Over the last 12 months we received 63 complaints about our service, down from 101 in the preceding 12 months. Each of those complaints was considered fully by us and in 13 cases we agreed that we had not provided an appropriate level of service. We will continue to work to bring that number down even further but are pleased that the public can feel reassured that, in the vast majority of cases, we provided the highest levels of service.

In March we published a new methodology for measuring customer satisfaction based upon research that compared best practice across other UK Ombudsman schemes. We will seek feedback from the public on every complaint we conclude to understand their views on the decisions we reach. In addition we will also survey a sample of ongoing cases to understand whether we are providing the service that the public want. The work on collecting this information will begin during 2013 and will help us to continually adapt our service to meet the public's needs. The results of this research, along with actions we will take as a result will be published on our website.

Sound decision making

Sound and well reasoned decisions are at the heart of what we do. The public and bodies in our jurisdiction can feel confident that a complaint has been resolved fairly. We carry out our own internal checks to ensure the quality of our decisions. We have also continued to monitor and learn from challenges that the public made about our decisions. Where someone expresses dissatisfaction, the case is reviewed by a senior member of staff with no previous involvement in the complaint.

In the last year we considered 877 reviews about our decisions, a drop of 19% compared to the previous year. We found that the decision making was not of the standard we would expect in just over 4% of those reviews, representing just 0.3% of all complaints and enquiries.

Our decisions are also subject to judicial review. In 2012-13 we received 19 pre-action protocol letters, a requirement before proceedings are issued. That represented less than 0.1% of all complaints and enquiries received during the course of the year. Only two were granted permission by the court and neither of those cases found against us.

Strategic objective:
Ensure sound decisions and appropriate redress based on impartial, rigorous, and proportionate investigations.



Raising the standards of the complaint system

Our role is to ensure that the public's voice is heard - to humanise the bureaucracy. In 51 published reports we drew wider attention to the impact on the individual and ensured that their experiences were heard and acted upon.

Real people, real experiences

The public find themselves navigating an increasingly confusing array of providers of public services. The greater involvement of private companies and the third sector in delivering council services and social care provision means it is ever more challenging for the public to understand where they should turn when things go wrong. This confusion is further exacerbated by the changes in public service from central government delivery bodies to local authorities. Within this maze it can be difficult for the public's voice to be heard and for their experiences to drive service improvements.

In the last five years we have adapted to provide a more comprehensive and consistent service which reflects changes in local provision. We are now the Ombudsman for all regulated social care providers and public health.

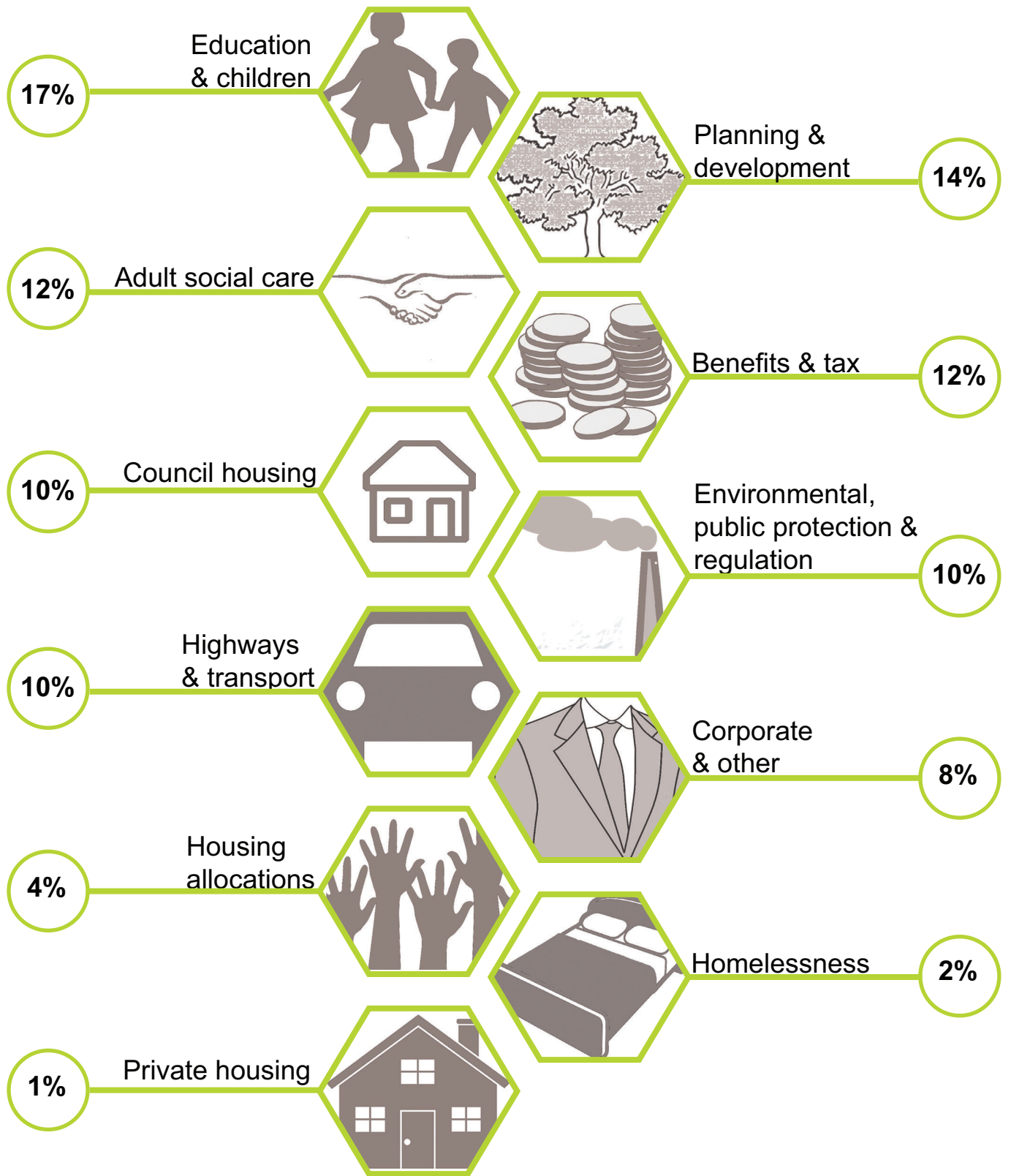
As a result the complaints and enquiries we receive cover a wide range of different areas with education and children's services, planning and development and adult social care representing the most common subjects for complaint.

Within those numbers are the experiences of thousands of individual members of the public. A mother caring for two young children with autism failing to receive the support they need for over a year; a family forced to live in overcrowded accommodation for more than two years; an entire community losing their talking books service without the impact on people with visual impairments being properly assessed.

These are all people who needed to turn to us to seek a remedy for the individual injustice that they have suffered. As an independent Ombudsman we were able to use our experience and authority to clearly recommend how the local council or social care provider could put things right.

However, their stories also provided an opportunity to understand the wider impact that is felt when public services fail to deliver. Our role is to ensure that the public's voice is heard - to humanise the bureaucracy. In cases such as these we drew wider attention to the impact on the individual and ensured that their experiences were heard and acted upon. Last year we issued 51 such public reports - details of which are listed on page 14.

Areas of complaint



Raising the standards

Of the 4,771 complaints which we investigated in more detail, 51 of these became published reports. We publish reports to draw attention to the wider impact that is felt when public services fail and to make sure that the public's voice is heard. Details of these cases are shown below.

April	May	June	July	August	September
Hambleton District Council - planning enforcement	Wolverhampton City Council - land	Leicestershire County Council - planning applications	Kent County Council - adult social care	London Borough of Haringay - special educational needs	Teignbridge District Council - highway adoption
	Essex County Council - planning enforcement		Walsall Borough Council - adult social care	London Borough of Lambeth - children's services	Devon County Council - highway adoption
London Borough of Hillingdon - education	London Borough of Southwark - adult social care		Kent County Council - adult social care	Essex County Council - adult social care	Plymouth City Council - land
	London Borough of Lambeth - special educational needs		Blaby District Council - council tax	Kent County Council - homelessness	Birmingham City Council - adult social care
				Dover District Council - homelessness	
Bolton Borough Council - planning applications	Surrey County Council - special educational needs		Castle Point Borough Council - licensing	City of Bradford District Council - adult social care	London Borough of Hounslow - homelessness

hearing the public's voice through published reports

October	November	December	January	February	March
Wiltshire Council - adult social care	Bristol City Council - planning applications	London Borough of Croydon - homelessness	Kettering Borough Council - housing allocations	City of York Council - private housing improvements	London Borough of Redbridge - bailiffs
Shropshire Council - planning applications					
City of York Council - housing allocations					
Latymer School, Enfield - school admissions	London Borough of Croydon - education	Isle of Wight Council - planning enforcement			
Suffolk County Council - adult social care					
Kent County Council - adult social care				Bolton Borough Council - planning applications	Walsall Borough Council - planning applications
Birmingham City Council - adult social care	Isle of Wight Council - children's services	Buckinghamshire County Council - special educational needs			
London Borough of Bromley - special educational needs					
Southampton City Council - adult social care					
Leicestershire County Council - school transport	London Borough of Newham - homelessness	London Borough of Newham - homelessness		Transport for London - highways & transport	Birmingham City Council - adult social care

Raising the standards of public services

By sharing knowledge, supporting local complaint handling, informing policy and working in partnership with others we have sought to raise the standards of public services.

Strategic objective:

Use our knowledge of complaints to identify best practice and issues of wider public benefit; promote good administration and service improvement and influence public policy.

Tackling systemic failure

Many people that seek the help of the LGO tell us that they are doing so because they want to ensure that other people do not experience the same problems that they have faced. We use the knowledge and insight that we have gained through helping individuals to tackle systemic failings in public services.

By looking at many thousands of complaints every year we build up a picture of what is going wrong more broadly in public services. We use that knowledge to ensure that public services and social care providers learn from their own and others' complaints and use them to improve the service they provide. By sharing knowledge, supporting local complaint handling, informing policy and working in partnership with others we have sought to raise the standards of public services.

Sharing knowledge

In 2012-13 we published focus reports on:

- > **Adult social care:**
LGO – single point of contact for complaints – lessons from complaints about adult social care providers. We explained our new role as the Ombudsman for social care and the role we have as a single point of contact for all social care complaints. The report was well received across the health and social care landscape and was highlighted by key players such as The King's Fund.
- > **Taking possession: council's use of bailiffs for local debt collection** – analysis of complaints made to us as a result of local authorities' use of bailiffs. The report drew upon case examples to illustrate the problems that the public were facing when local authorities were instructing bailiffs. Our report was shared with the Government

and has been used by them to help inform the Ministry of Justice's approach to the future regulation of the bailiff industry.

Supporting local complaint handling

We highlight where councils and social care providers have got things wrong and support them in improving their response to complaints and providing an effective local resolution. Each year we write to every local authority chief executive to provide a summary of the complaints we have received about them and to highlight areas where their complaints handling needs to improve. These letters provide an independent overview of their performance in responding to complaints and support them in improving local complaint handling. We will be developing these further, and later this year will be consulting local authorities so that we can provide information that will best drive local improvements.

We work with complaint liaison officers in local authorities to share best practice and to highlight complaint trends. A quarterly e-newsletter is sent to every local authority in England and contains guidance for better complaint handling, with examples from our casework. In January of this year we

supplemented this information by running a series of seven seminars around the country to explain our processes to local authorities. These seminars allowed us to directly reach a large number of local authorities with around 280 people attending.

In 2012-13 we delivered 61 training courses to councils across England on effective complaint handling, with more than 1,000 front-line complaints staff attending. The success of these courses was evident with:

- > 87% of respondents saying they had improved their complaint handling systems as a result; and
- > 83% sharing their new skills with colleagues.

We also shared information to support good complaints handling amongst social care providers. A regular e-newsletter, ASC Matters, is distributed to nearly 750 providers and other stakeholders. We highlight examples of service failings and appropriate remedies so that providers can learn from our experiences to improve their own complaints handling.

Informing policy

Over the last 12 months there have been a number of developments in both Parliament and Government that could impact upon the way services are delivered to the public or the way users seek access to redress. We shared information and insights gained from resolving complaints to inform these developments.

In Parliament we provided evidence to:

- > Committees scrutinising the Children and Families Bill and the Draft Care and Support Bill;
- > The Communities and Local Government Select Committee's inquiry on the implementation of welfare reforms by local authorities;
- > The Justice Select Committee's inquiry on the abolition of the Administrative Justice and Tribunals Council.

We also provided shared learning from complaints when responding to a number of Government consultations on:

- > Open Public Services;
- > Judicial Review;
- > A Bill of Rights.

Working in partnership

Despite receiving over 20,000 complaints and enquiries last year we believe that this represents just a small proportion of people who have an unremedied complaint about local public services or social care providers. We continued to raise our profile to ensure that the public know how to bring a complaint to us. However, we recognise that this is most effective when we work with others.

We consulted a range of organisations during the year including:

- > Local Government Association;
- > Equality and Human Rights Commission;
- > Children's Commissioner;
- > Children's Rights Director for England; and
- > London Councils.

Since Healthwatch England was formed as the independent consumer champion for health and social care, we have been working in partnership with them, the Care Quality Commission and the Parliamentary and Health Service Ombudsman to develop joint information for the public. The aim of this work is to provide the public with clear, user-friendly information that will help them understand who can help when they have complaints or concerns about social care and health provision. This close working also allows us to share knowledge and information about gaps or problems in public services and to work together to drive improvements.

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Wiltshire Council

Standards Committee

9 October 2013

STANDARD COMMITTEE FORWARD WORK PLAN

<u>Meeting Date and Time</u>	<u>Name of Report</u>	<u>Scope of Report</u>
8 January 2014	Status report on complaints	
8 January 2014	Update on Whistleblowing Procedure	
8 January 2014	Recommendations from the Constitution Focus Group	

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