

Item No. 13.	Classification: Open	Date: 10 February 2020	Meeting Name: Audit, governance and standards committee
Report title:		Review of the complaints made under the Code of Conduct	
Ward(s) or groups affected:		All	
From:		Director of Law and Democracy	

RECOMMENDATIONS

1. That the committee notes this report.

BACKGROUND INFORMATION

2. The Localism Act 2011 (“the Act”) provides for the abolition of the former standards regime including Standards for England, statutory standards committees, the jurisdiction of the First Tier Tribunal over standards of conduct, and a nationally set code of conduct for councillors.
3. Southwark formed a standards committee and appointed independent persons. Southwark have three independent persons.
4. The responsibility for standards activity including the monitoring of the operation of the member’s code of conduct (“the code”) passed to this committee in April 2016.

KEY ISSUES FOR CONSIDERATION

5. The Act requires local authorities to have arrangements to investigate allegations of breach of the code of conduct against members and make decisions on them. The current arrangements, with revisions, have been in place since 1 July 2012. The new arrangements have allowed the monitoring officer to provide local solutions to resolve complaints without formal investigations.
6. Since 2012 the monitoring officer agreed to analyse the complaints data and report this information to appropriate committee annually. The data for January 2014 to December 2019 is shown in appendix A.

Conclusions

7. Since the sharp increase in 2016 the numbers of complaints remain at a low level. The monitoring officer has grouped complaints against members from multiple members of the public, so the actual number of complaints is higher.
8. It should also be noted the monitoring officer received a number of other grievances which were not considered to be complaints against the code.
9. Again there are no clear causes for complaints, although many arise from members of the public being unable to resolve issues with the council or disagreement with

council decisions or policies. Once again the use of social media led to a number of complaints.

10. The two new independent persons are acquiring experience and they, along with the third independent persons have been useful in assisting the monitoring officer in assessing complaints and finding solutions. The intervention of the Whips to resolve complaints involving members was also another factor in producing local solutions or avoiding formal solutions.
11. The cost of these complaints is difficult to quantify because officer and member time in assisting with the complaint is not all recorded.

Complaints which required investigation

12. One complaint required external investigation in this period.

Complaints which required determination by sub-committee

13. A complaint was made in 2018 by a member of the public against a councillor. The complaint related to some tweets made by the member in October 2017 and April 2018. The monitoring officer appointed an external solicitor to investigate.
14. After an investigation the investigating officer concluded the one of the tweets was in breach of the Code of Conduct and it was probable this tweet would not receive protection under Article 10 of the European Convention on Human Rights (ECHR).
15. Article 10 of the ECHR provides the right to freedom of expression and information, subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society". This right includes the freedom to hold opinions, and to receive and impart information and ideas.
16. The monitoring officer, after deciding with the independent person that local resolution was not possible, referred the matter to the standards committee ("the conduct sub-committee") for a hearing.
17. Following a hearing in accordance with the arrangements the conduct sub-committee agreed that they are not satisfied that the councillor is in breach of the Code of Conduct.

Report back on local resolution

18. In appropriate cases the Monitoring Officer may seek to resolve the complaint informally, without the need for formal investigation. Such informal resolution may involve the member accepting their conduct was unacceptable and offering an apology, or other remedial action by the authority. The Monitoring Officer will in this case send out a decision notice to the person making the allegation, the member who is the subject of the allegation and any other persons the Monitoring Officer considers appropriate.
19. There were two such resolutions in 2016 and one in 2019. In first 2016 case the deputy monitoring officer considered local resolution was possible. He consulted with the independent person and the subject member. As a result the subject member offered a formal apology for their conduct.

20. In the second 2016 case, the monitoring officer consulted with the independent person and the subject member. As a result the subject member offered a written apology for their conduct.
21. In the 2019 case the deputy monitoring officer considered local resolution was possible. He consulted with the independent person and the subject member. As a result the subject member offered a formal apology for their conduct.

Community impact statement

22. The ability for members of the public to make complaints about councillors’ failure to comply with a code of conduct may be of concern to local people and communities which could result in a perception of poor governance. This could affect the reputation of the council.
23. However the council maintains an open and transparent process for making complaints against members, information is assessable on the council’s website.

Resource implications

24. Any implications can be maintained within current budgets.

Legal implications

25. The specific legal implications relating to this report have been included in the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Constitution.	2nd floor, PO Box 64529, London, SE1P 5LX	Virginia Wynn-Jones 020 7525 7055
http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html		

APPENDICES

No.	Title
A	Complaints Breakdown

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown Director of Law and Democracy	
Report Author	Norman Coombe, Head of Corporate Team	
Version	Final	
Dated	8 January 2020	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Incorporated
Strategic Director of Finance & Governance	No	No
Cabinet Member	N/a	N/a
Date final report sent to Constitutional Team		8 January 2020