

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	STANDARDS COMMITTEE
Report of:	CITY SOLICITOR
Date of Decision:	12 DECEMBER 2018
SUBJECT:	ANALYSIS OF THE COMPLAINTS RECEIVED IN 2017/2018
Wards affected:	All

1. Purpose of report:

- 1.1 To provide the Committee with a detailed analysis regarding the type of complaints of breaches of the Code of Conduct received by the Monitoring Officer during the period from March 2017 to April 2018

2. Decision(s) recommended:

- 2.1 The Committee is asked to note the analysis and actions taken to resolve the complaints and the ongoing plans to improve the process.

Contact Officer:	Robert Connelly
Telephone No: E-mail address:	0121 303 2443 Robert.connelly@birmingham.gov.uk

Signature:

Chief Officer(s):

Dated: 30 November 2018

List of Background Documents used to compile this Report:

Exempt

List of Appendices: Standards log 2017-2018 (redacted)

3.The relevant legislation and protocols

- 3.1 The Localism Act 2011 (“the Act”) introduced fundamental changes to the regulation of standards of conduct for elected and co-opted members.
- 3.2 Under Section 27 of the Act, a relevant authority must:
- i. promote and maintain high standards of conduct by its members and co-opted members; and
 - ii. when discharging its duty, adopt a voluntary code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in their capacity as members (that is in an official capacity)
- 3.3 Under section 28(6) of the Act a relevant authority must have in place, arrangements:
- (i) under which allegations can be investigated; and
 - (ii) under which decisions on allegations can be made
- 3.4 Birmingham City Council (“the Council”) is a relevant authority for the purposes of the Act. At its meeting on 11th July 2017 the Council adopted a Members’ Code of Conduct (“the Code of Conduct”) and approved arrangements for the investigation of allegations.
- 3.5 Paragraph 1 of the Code of Conduct makes it clear that the Code of Conduct applies to all members of the Council.
- 3.6 Although the ten principles of conduct were revoked in England on 1st July 2012 section 28(1) of the Act requires a relevant authority’s code of conduct to be consistent with the Seven Principles of Public Life set out in the First Report of the Nolan Committee on Standards in Public Life. The Council’s code incorporates the following principles:
- selflessness;
 - honesty and integrity;
 - objectivity;
 - accountability;
 - openness;
 - personal judgement ;
 - respect for others;
 - duty to uphold the law;
 - stewardship and leadership
- 3.7 Under Section 28(2) of the Localism Act the Council must secure that its Code of Conduct includes appropriate provision in respect of registration in its register and disclosure of pecuniary interests and interests other than non-pecuniary interests. Under section 6.4 & 6.5 of the Code, the Council sets out those provisions which apply to its members.
- 3.8 Under section 6.3 paragraph iii, the Code requires that a member of the Council must not bring their authority or office into

4. Relevant background/chronology of key events:

- 4.1 A total of 31 complaints were made during the year April 2017 to March 2018, the period covered by this report.
- 4.2 Of these 31 cases, 23 complaints were made by citizens of Birmingham and 8 were made by Councillors against fellow councillors.
- 4.3 There were 6 cases where the complainant failed to submit a complaint form with the details of the allegations. As such these were closed with no further action.
- 4.4 Consequently 25 cases involved an initial assessment by the Deputy Monitoring Officer as to whether these were complaints that would warrant the appointment of an Investigating Officer or in more serious cases an Independent Investigator to undertake a more detailed investigation.
- 4.5 These 25 cases are broken down as follows –

Complaint Type	Number
Specific Councillor behaviour (ranging from how meetings are chaired to abuse of power/sharing of confidential information	12
Inappropriate use of social media	6
Service Delivery	3
Failure to declare interests	1
Conduct in a private capacity	1
Duplicate complaint (behaviour)	1
Other	1
Total	25

- 4.6 There were 19 cases where the Monitoring Officer via her Investigating Officer carried out an initial assessment of the complaint and determined that there was no breach of the code of conduct

Cases resolved informally by the Monitoring Officer

- 4.7 In those cases where the complaint was around service delivery or where the Councillor was acting in a private capacity these were deemed to be outside the remit of Code of Conduct/Standards Committee.
- 4.8 Cases relating to service delivery were referred to the relevant service for investigation/resolution.
- 4.9 In those cases relating to social media or Councillor behaviour, where it was established that there was no breach of the Code members were reminded to take care and in some cases the mere fact that a complaint had been made was sufficient to remind councillors of their obligations under the Council's code of conduct.

Cases going forward to 2nd stage investigation

- 4.10 These were complaints where following an initial assessment there were sufficient grounds to investigation or attempts at mediation/local resolution had failed. In all cases these were complaints by a member against a fellow member.

The complaints which went to a 2nd stage investigation can be broken down as follows -

Complaint Type	Number
Councillor behaviour	4
Inappropriate social media comments	1
Total	5

- 4.11 Of these, 1 investigation has been completed, whilst 4 complaints have gone to a second stage investigation. It has been possible to consolidate these cases into two separate matters where they related to same people/incident.
- 4.12 These cases were originally put on hold as a result of attempts to achieve resolution by other means. However, these attempts have ultimately proved unsuccessful. These cases are now going forward for a more detailed investigation.

5. Recommendations

- 5.1 There is closer co-operation between the Monitoring Officer and the Political Groups in relation to complaints submitted firstly in order to reduce the number of complaints made by councillors against other councillors and secondly, where a complaint has been made so the Political groups can become involved at an earlier stage to help with any mediation/local resolution.
- 5.2 More information be made available to members of the public so they better understand the type of complaints that can be considered under the code of conduct. A number of people assume, for example, that Standards Committee can suspend or dismiss a Councillor when that is not the case. However, The Commission into Standards in Public Life is currently reviewing, amongst other things, the sanctions that are available. A further update will be taken to the Committee once the Commission have made their report.
- 5.3 Consideration be given as to how, and what, information is contained on the Council's website pages so that the process is clear and resolution of complaints transparent, to enable members of the public to gain a better understanding by how and in what circumstances the standards regime operates.
- 5.4 The Code of Conduct and the Complaints procedure be reviewed to make it clearer and the process more open/transparent.
- 5.5 Consideration be given to the introduction of performance indicators to address concerns around the length of time it takes to investigate complaints.