
ETHICAL GOVERNANCE AND MEMBER STANDARDS – UPDATE REPORT

SUMMARY REPORT

Purpose of the Report

1. To update members on issues relevant to member standards and ethical governance.

Summary

2. The report gives update information about issues relevant to member standards since matters were reported to the Committee in December 2015.
3. Also set out in the report are a number of datasets of ethical indicators to assist in monitoring the ethical health of the Council. By reviewing these indicators it is hoped to be able to identify any unusual or significant trends or changes in the volume of data recorded for the relevant period that might provide an alert to any deterioration in the ethical health of the authority.
4. Commentary is included for some data sets to give analysis and explanation for some of the more notable variations. There are no particular issues of concern that have been identified from reviewing the data.

Recommendation

5. Members are asked to note the information presented and to comment as appropriate.

Reason

6. By having information of this nature:
 - a) Members will be assisted to perform their role.
 - b) Members will be able to get a better picture of the ethical health of the authority.

**Paul Wildsmith
Director of Neighbourhood Services and Resources**

Background Papers

None – save as mentioned in the text
Luke Swinhoe: Extension 5490

S17 Crime and Disorder	There are no specific issues which relate to crime and disorder.
Health and Well Being	There is no specific health and wellbeing impact.
Carbon Impact	There is no specific carbon impact.
Diversity	There is no specific diversity impact.
Wards Affected	All wards are affected equally.
Groups Affected	All groups are affected equally.
Budget and Policy Framework	This report does not affect the budget or policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	There is no specific relevance to the strategy beyond a reflection on the Council's ethical governance arrangements.
Efficiency	There is no specific efficiency impact.

MAIN REPORT

Update on matters relevant to Ethical Governance and Member Standards

New Parish Councils

7. Following the Community Governance Review of Parish Councils, on the 1 April 2016 newly constituted parishes (with amended boundaries) came into being in Hurworth, Neasham and Middleton St George. Elections took place on 5 May 2016. The Parish Councils were advised of the member standards requirements and the newly elected members have completed register of interests. Training about the Code of Conduct was provided by the Monitoring Officer for members of the 3 Parish Councils on the 25 May 2016.

Register of Interests

8. On the 6 June 2016 all Borough Council Members were emailed to remind them to review their Register of Interests entry and consider whether there are any matters that need to be updated. An Internal Audit Report in August 2016 has made some recommendations that the Register of Interests form could benefit from 'plain English' review, and this will be undertaken.

Sanctions

9. In July 2016 a letter was written to the Department of Communities and Local Government (DCLG) by the Monitoring Officers of the North Eastern Councils. The purpose was to raise concerns over the lack of sanctions available when Members are found to be in breach of the Code of Conduct. In replying the DCLG acknowledged this fact but also confirmed that in 2017 the Government will be reviewing the standards arrangements established under the Localism Act 2011.

Law Commission – Review of Misconduct in Public Office

10. The Law Commission has launched a consultation about the law of misconduct in public office. The Consultation Paper, 'Reforming Misconduct in Public Office' looks at reform of the current law and sets out options for what the law of misconduct in public office should be.
11. Misconduct in public office is a common law offence: it is not defined in any statute. It carries a maximum sentence of life imprisonment. The offence occurs if a public officer acting as such, wilfully neglects to perform his duty and/or wilfully misconducts himself to such a degree as to amount to an abuse of the public's trust in the office holder, without reasonable excuse or justification.
12. The offence has been widely considered to be ill-defined and has been subject to criticism by the Government, the Court of Appeal, the press and legal academics. The Consultation Paper assumes that it is undesirable to retain the common law offence of misconduct in public office.
13. The Consultation Paper proposes two new offences to replace the current offence of misconduct in public office. Option 1 involves a new offence addressing breaches of duty that risk causing serious harm, when committed by particular public office holders (those with duties concerned with the prevention of harm). Option 2 involves a new offence addressing corrupt behaviour on the part of all public office holders. Option 3 would involve abolition of the current law without replacement, but is suggested this would leave unacceptable gaps in the law.
14. The consultation runs until 28 November 2016, with the final report due to be published in 2017. More information is available from <http://www.lawcom.gov.uk/project/misconduct-in-public-office/>

Committee on Standards in Public Life – 16th Report

15. The Committee on Standards in Public Life has published its 16th report entitled 'Striking the Balance; Upholding the Seven Principles of Public Life in Regulation'. The report reviews how regulatory bodies in the UK are upholding the Seven Principles of Public Life.
16. The Committee confirmed that, on the whole regulatory bodies are committed to maintaining the Nolan principles. It found:
 - (a) There is a complexity, disparity and diversity in the regulatory landscape with a variety of bodies in terms of their size, status, powers, functions, staffing, governance and responsibilities.
 - (b) There is a need to perform functions in an ethically acceptable way, maintain integrity through independence, avoiding undue influence and ensuring decisions are fair well-reasoned and evidence based.
 - (c) A good level of awareness of and consideration of ethical issues by the regulators reviewed.
 - (d) Some concern was expressed about 'revolving door issues' and how any risks are appropriately mitigated (the revolving door is where staff move between roles with a regulator and the organisations regulated).

17. The Committee has made a series of best practice recommendations for regulatory bodies. While the report is primarily considering organisations that have a significant regulatory role (for instance the Financial Conduct Authority) it provides helpful analysis and insight for this Council for the oversight of standards and in promoting ethical conduct within the Council.
18. More details are available from <https://www.gov.uk/government/publications/striking-the-balance-upholding-the-7-principles-in-regulation>

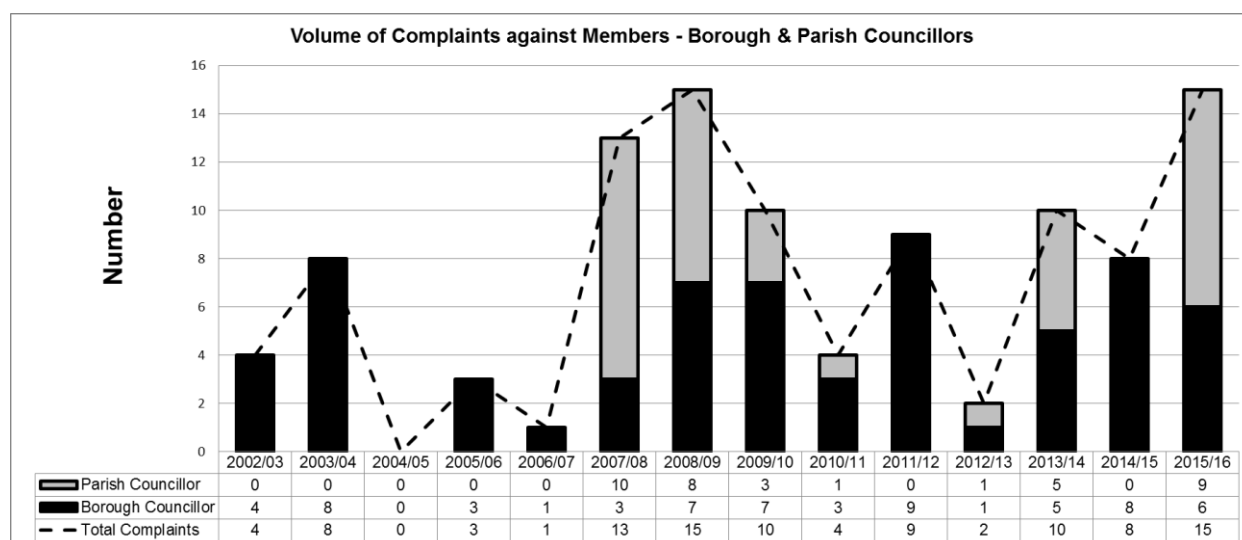
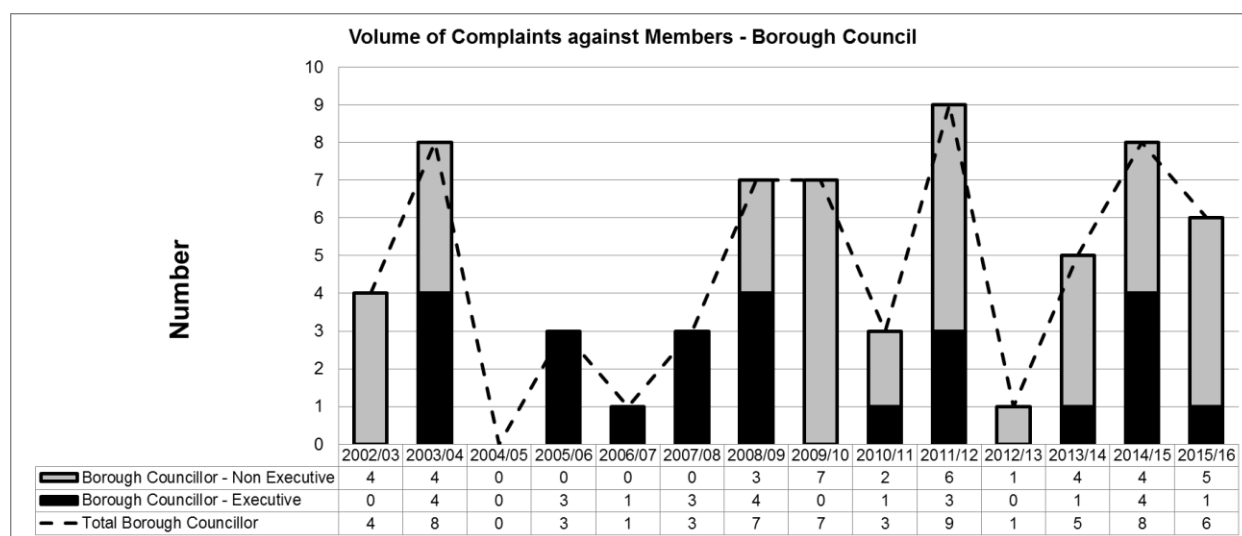
Ethical indicators

19. Set out in **Appendix 1** are a range of data sets that it is hoped will to assist in monitoring the ethical health of the Council. By reviewing the indicators it will be possible to identify any unusual or significant changes in the volume of data recorded for the relevant period that might provide an alert to any deterioration in the ethical health of the authority.

20. Member's observations about this information are invited.

APPENDIX 1

Member Complaints



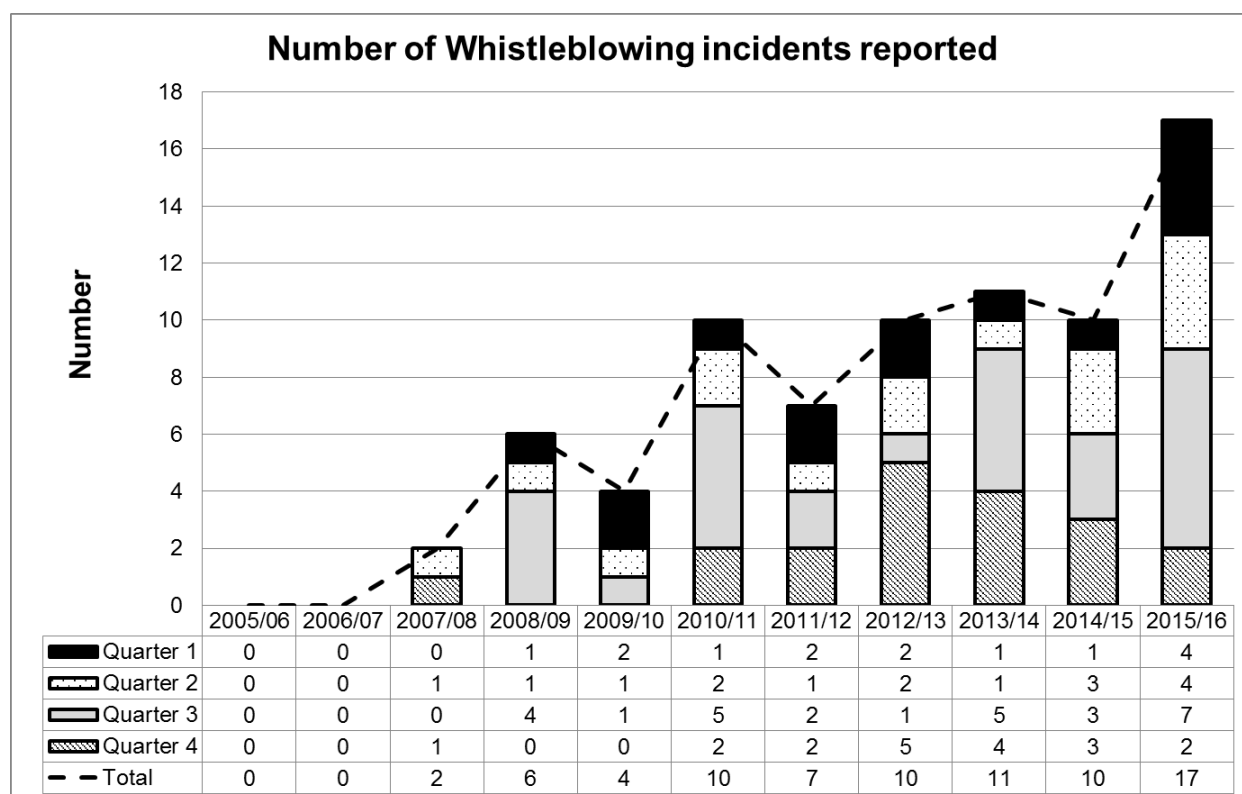
Comments

The average number of complaints per year from May 2008 (when the local assessment of complaints was introduced) to April 2015 is about 8.3 per year.

Interpreting the information needs a degree of caution. In 2008 to 2009 a significant factor was a large number of complaints emanating from one parish council which impacted on the yearly figures and also the average numbers of complaints received for that period. There were particular local circumstances that accounted for the rise.

Over the period from 2002/3 to 2014/15 there have been 28 complaints made in respect of Parish Councillors and for the same period 59 complaints relating to Borough Councillors. The fact that there are more complaints in respect of Borough Council members is perhaps unsurprising given the types of decisions they are involved in making and the more prominent role that they play compared to Parish Councillors.

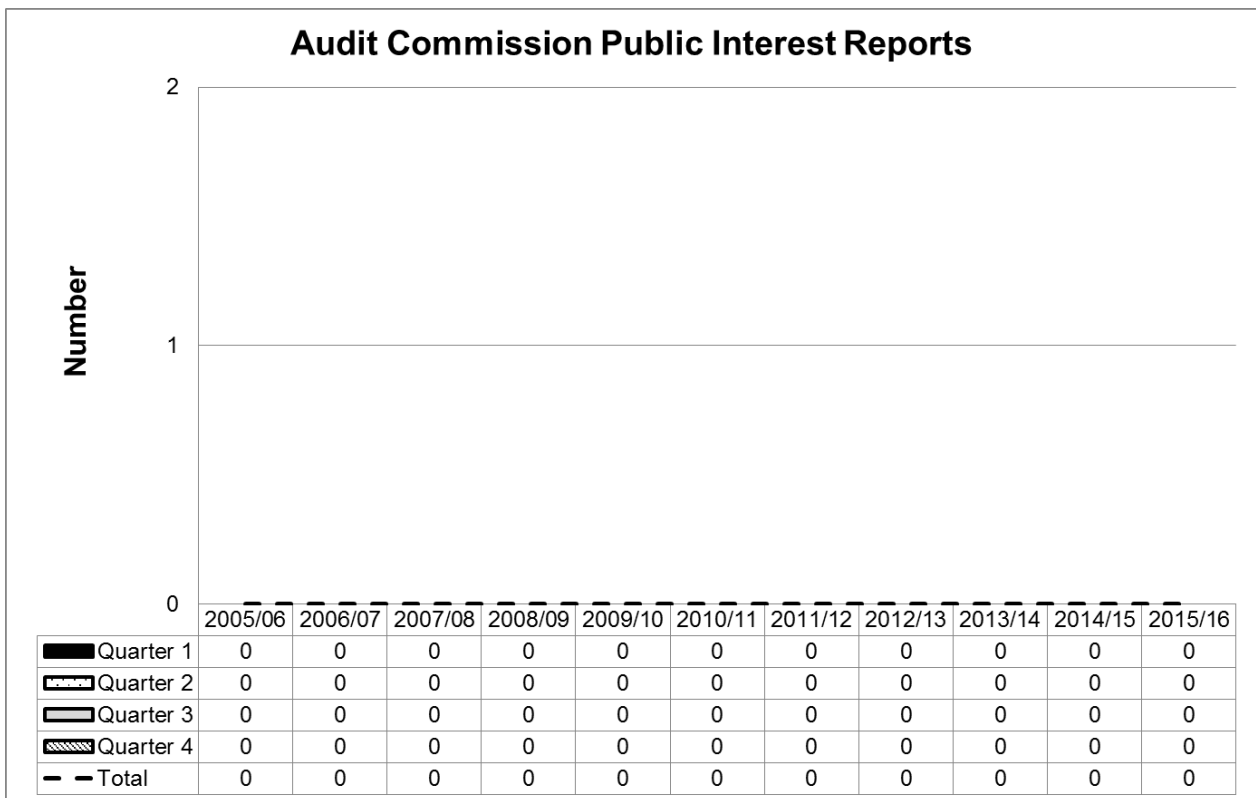
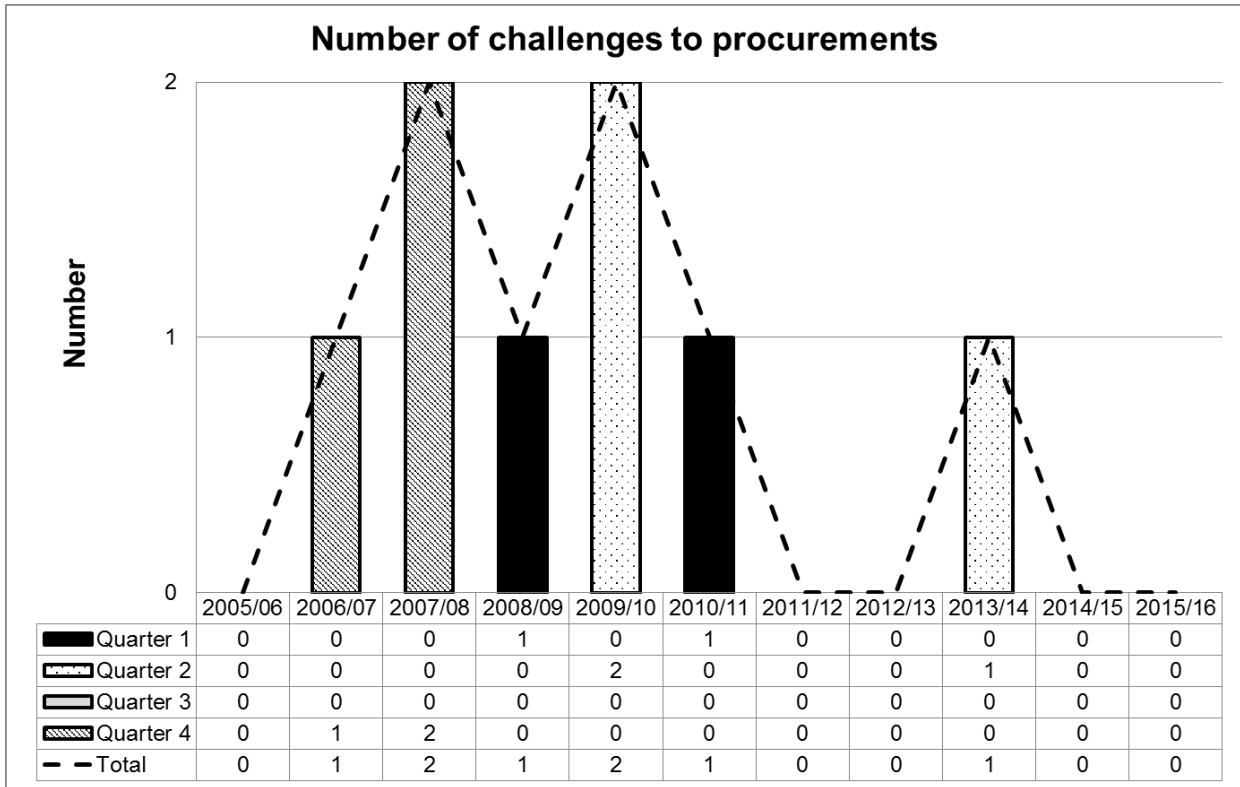
The increase in complaints received for 2015/16 related to one Parish Council alone which accounted for all of the 9 complaints attributed to Parish Councils. This has very significantly impacted on the total complaints received for 2015/16.

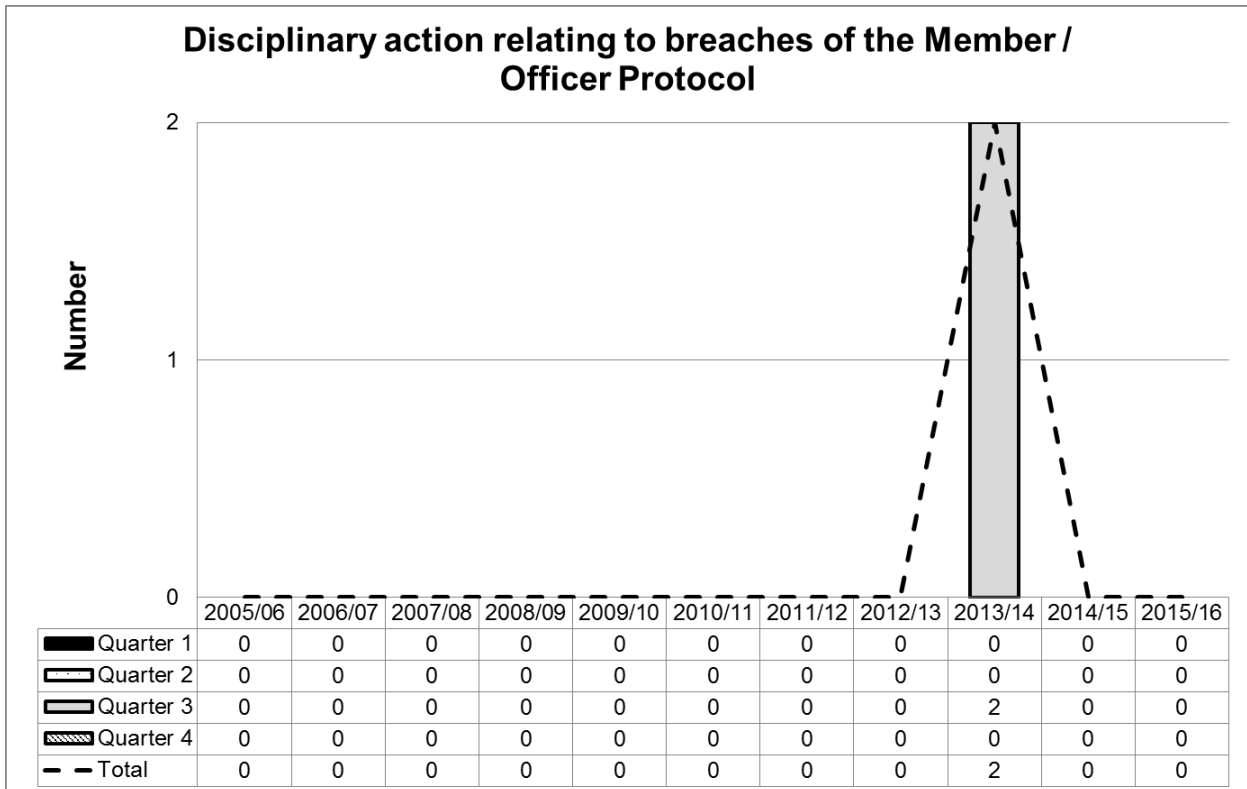
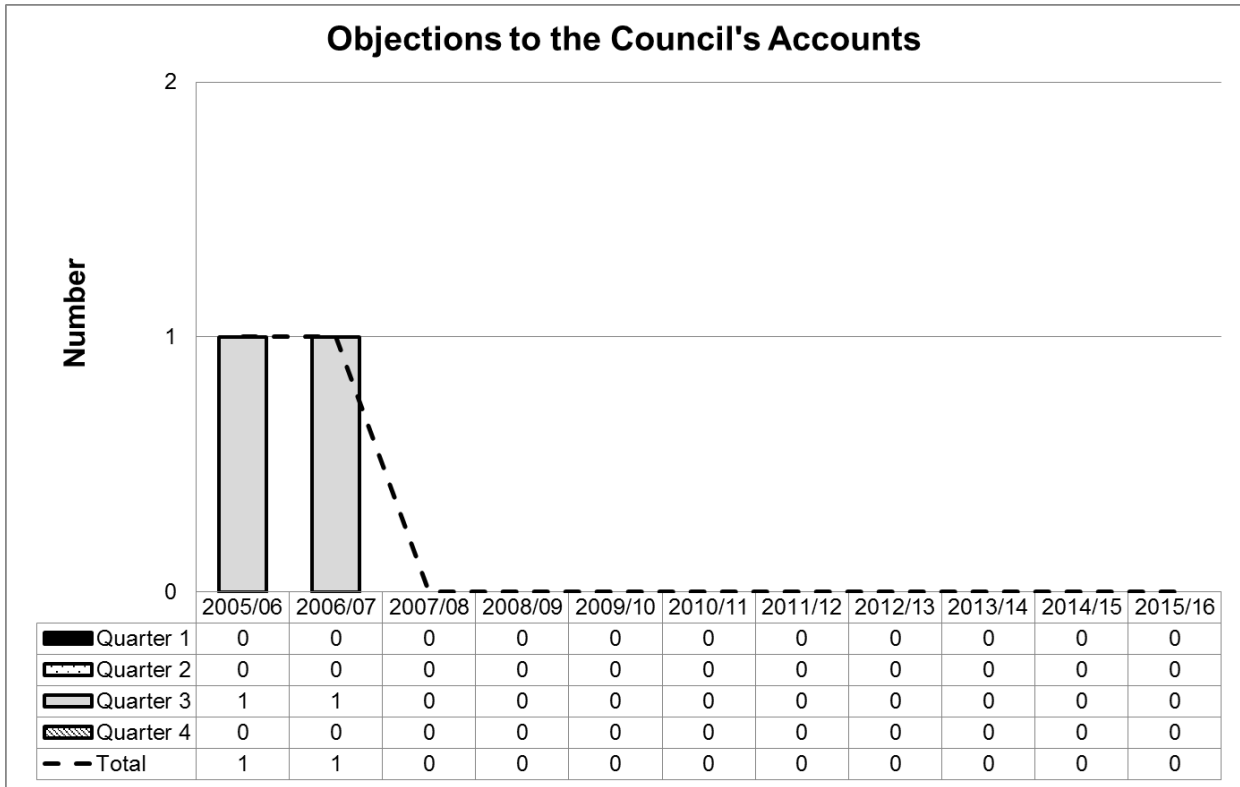


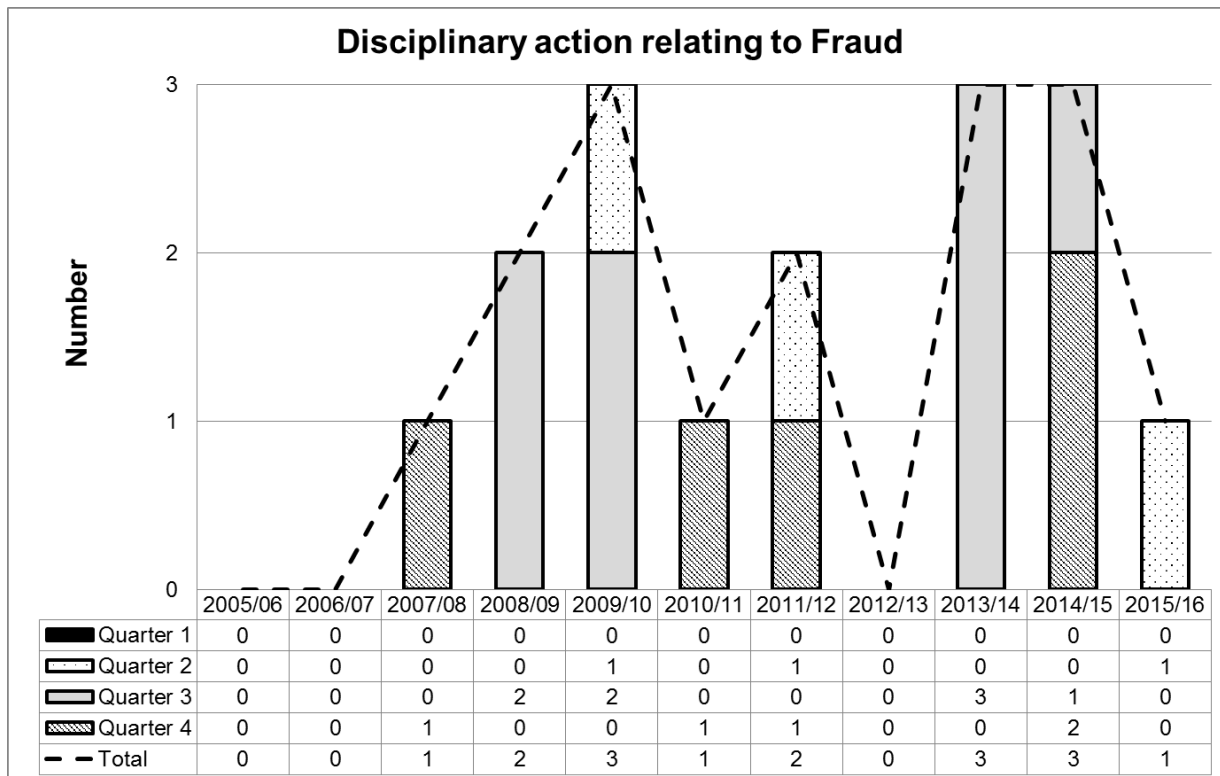
Comments

In 2008 a publicity campaign was launched and the Fraud Hotline set up.

The more recent increase over previous years may have to do with the greater awareness of how to report concerns and the current financial climate.



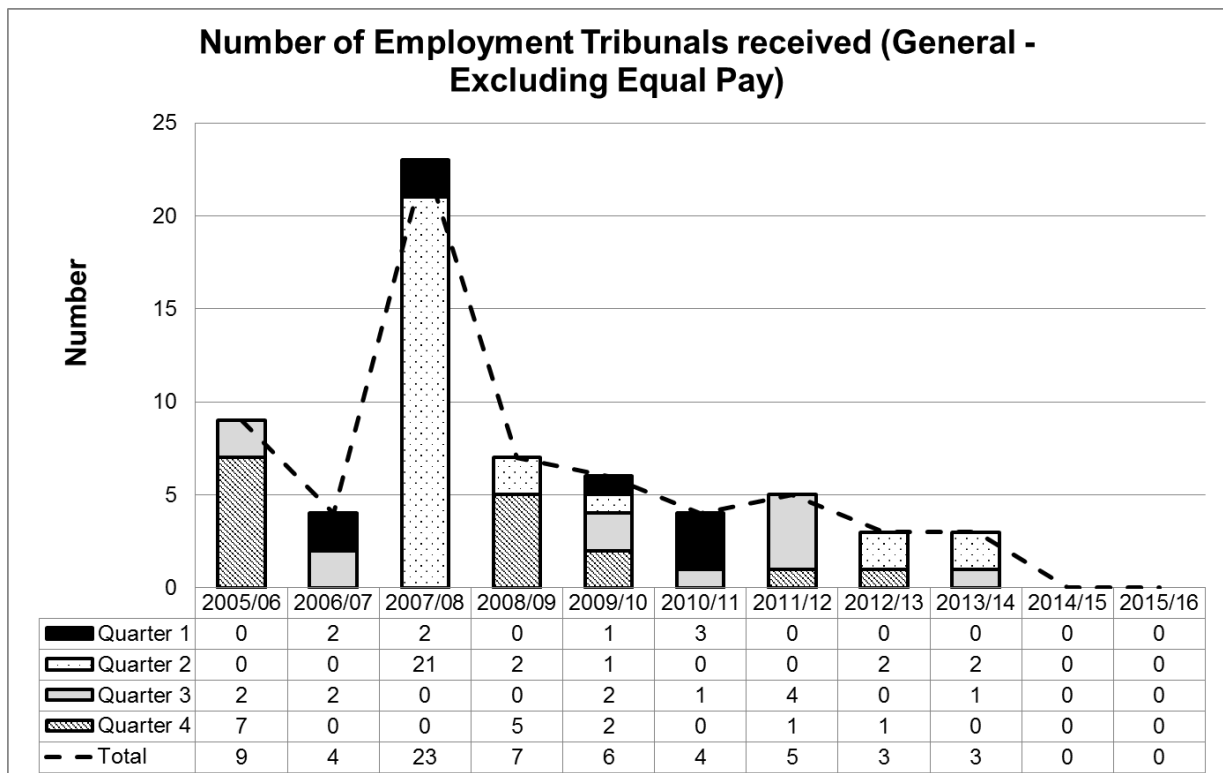
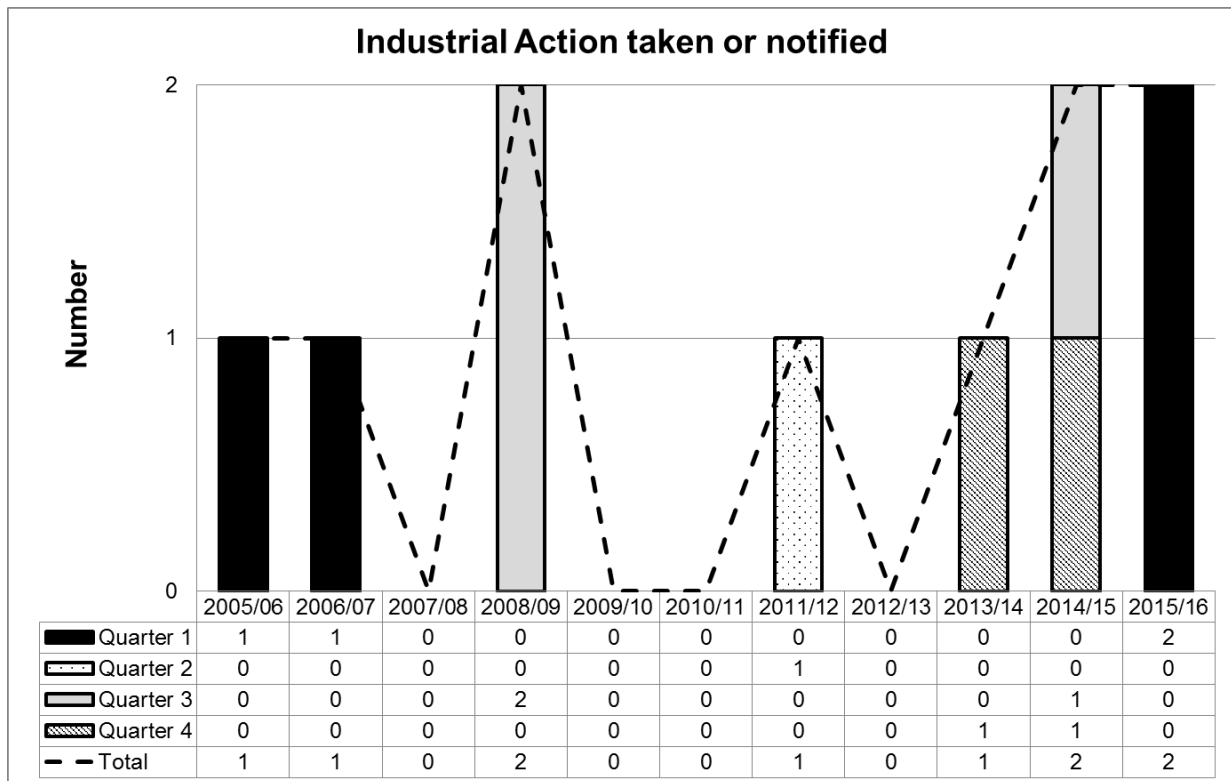




Comments

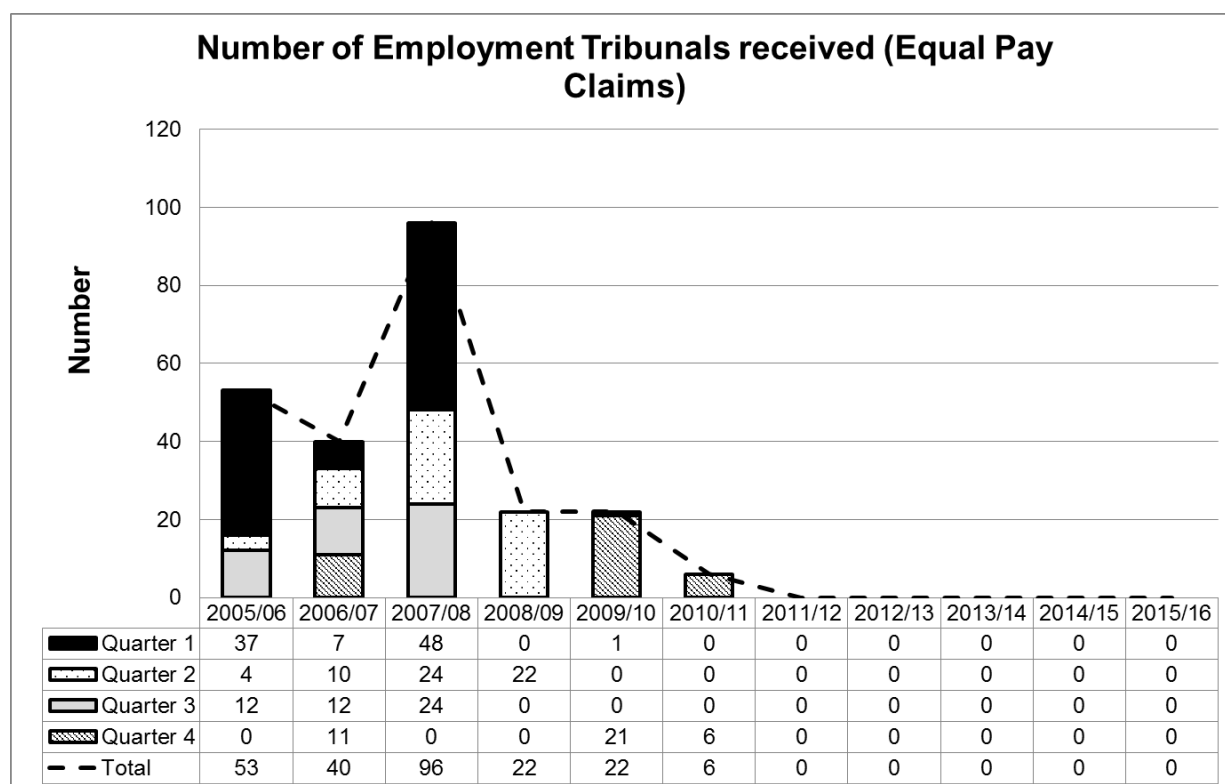
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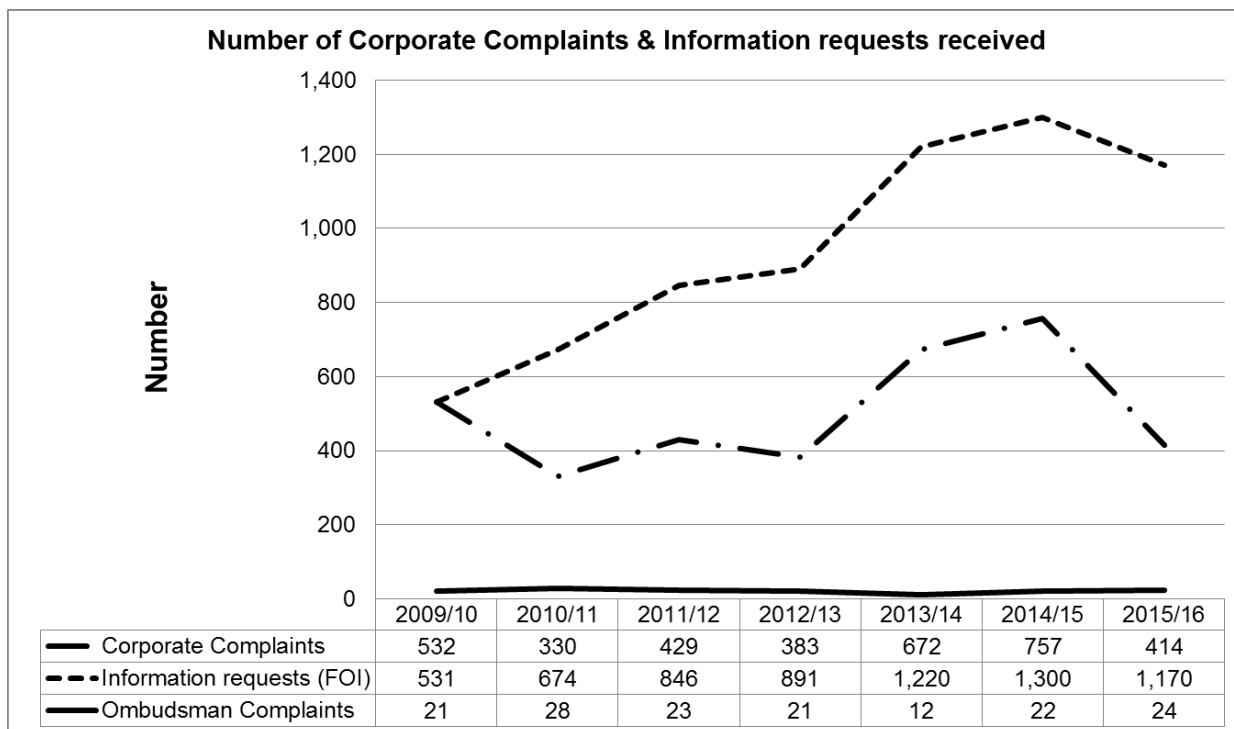
Changes in volumes may have some linkage to increasing awareness of how to report concerns and the current financial climate.



Comments

In 2007, 21 claims were received relating to group litigation against all 5 Tees Valley councils.





Comments

2010/11 - the reduction in the number of complaints received is, in part, attributed to the organisational learning resulting from complaints being handled effectively and in line with the procedure. This has resulted in a reduction in individuals having to contact the Council regarding the same issue(s).

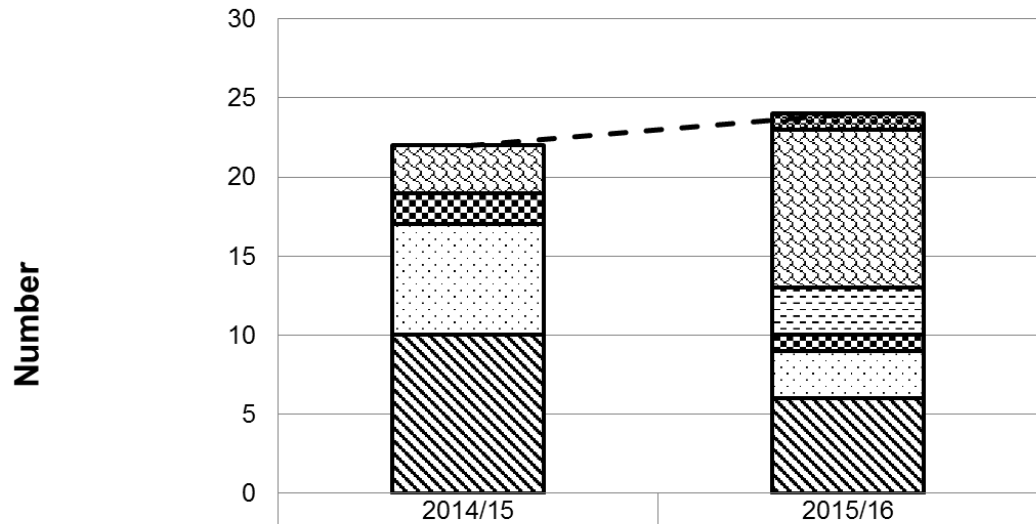
2011/12 - the increase in the number of complaints received was anticipated in light of the increased pressure on Council services in the current financial climate.

2012/13 - while there was a decrease in the number of complaints received compared to the previous year the Council still received more complaints than it did in 2010/11.

2013/14 - this increase in complaints can be attributed primarily to problems people experienced with their refuse collection, following the introduction in wheeled bins.

2014/15 - this increase in complaints can be attributed primarily to problems people experienced with their refuse and recycling collections, following the introduction of alternate weekly collections.

Ombudsman Outcome Category



	2014/15	2015/16
Upheld: Maladministration No Injustice		1
Upheld: Maladministration and Injustice	3	10
Not upheld: No maladministration		3
Not upheld: no further action	2	1
Closed after initial enquiries: out of jurisdiction	7	3
Closed after initial enquiries: no further action	10	6
- - Total	22	24