
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 September 2016.
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

Committee on Standards in Public Life

7. The Committee on Standards in Public Life (CSPL) is an advisory non-departmental public body, sponsored by the Cabinet Office with responsibility for advising the Prime Minister on issues relating to the standards of conduct for public office holders in the UK.
8. A topical matter that may be of interest, is that the CSPL has recently made a submission to the Culture, Media and Sport Select Committee of the House of Commons, on the phenomenon of 'fake news.' Essentially, their point is a fairly obvious one, that misinformation is potentially undermining of public attitudes and the trust and confidence in office holders and those in the public eye.
9. Further details from <https://www.gov.uk/government/publications/committee-submits-evidence-on-fake-news>

Case law

10. Since the changes brought about by the Localism Act 2011, not least the scrapping of the Standard Board for England and also the abolition of appeals from Standards Committee decisions to the First Tier Tribunal, very few new standards cases have been reported. There is however one recent case of some interest; Taylor v Honiton Town Council [2016] EWHC.
11. As a result of a judicial review by a town councillor against decisions about the nature and extent of sanctions and also who has the power to impose sanctions,

this case has recently been considered by the High Court. The case concerned findings made by the principal authority that the member had failed to treat the Town Clerk with respect (an unfounded allegation that there had been a conspiracy to use loan money for an improper purpose). The principal council (East Devon) censured the member and required him to attend training on the Code of Conduct. Subsequent to that decision the Town Council imposed sanctions of their own, including preventing the member from speaking at any meeting and also removing him from committees until such time as the training requirement was satisfied.

12. The High Court clarified that the power to deal with member complaints and impose sanctions is for the principal authority only. Of more significance, the High Court confirmed that 'provided it is lawful, which in this context includes fully respecting the important right to freedom of expression enjoyed by members of local authorities in the interests of effective local democracy, a sanction may be imposed which requires a member of a local authority to do something. It must be proportionate to the breach.' The High Court went on to find that the principal council having found a breach of the code of conduct could require the member to undertake training.

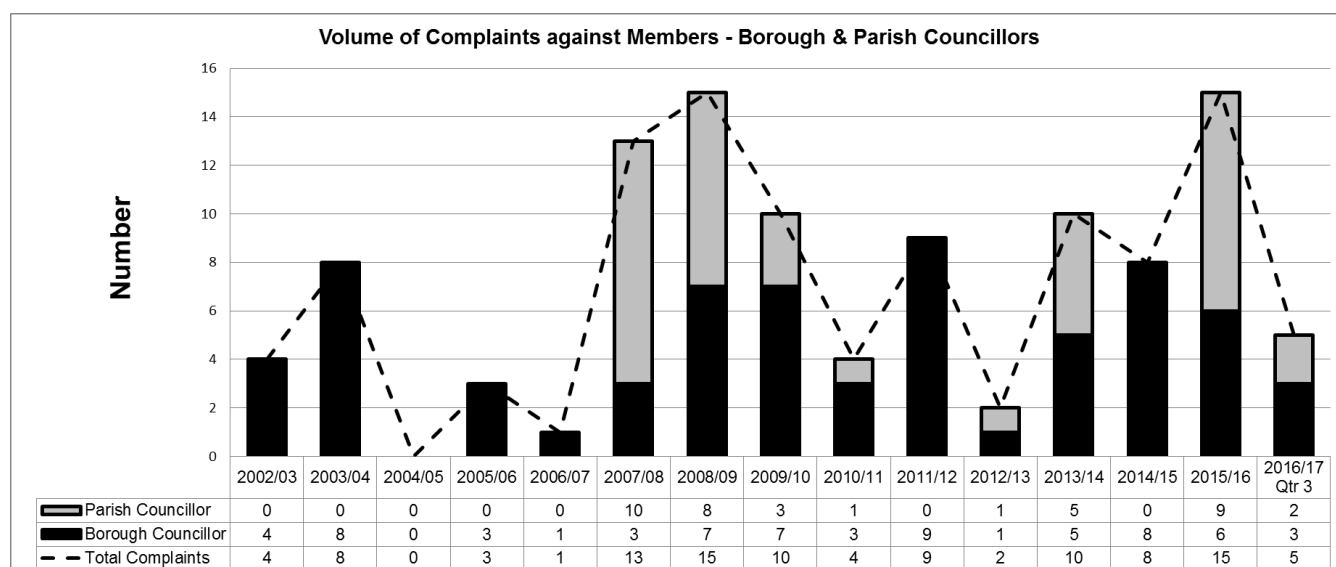
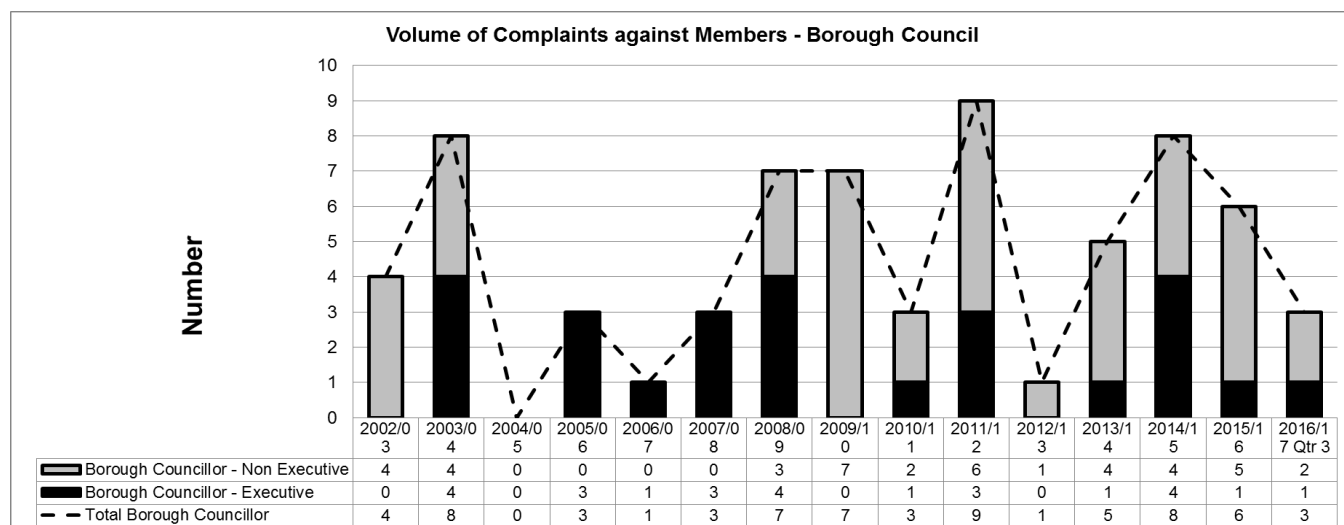
Register of Interests

13. In August 2016 an Internal Audit report made recommendations that the Members Interests form should be reviewed to consider whether it would benefit from rewording. This has been considered, but there is some hesitation in amending the descriptions of the categories of what needs to be declared, as the form of words used follows the statutory wording about which declarations are required. However, in order to help in clarifying the requirements, a separate Guidance Note has been developed. This is attached at **Appendix 1** and will in future accompany the Members Interests form to help members when completing them.

Ethical indicators

14. Set out in **Appendix 2** are a range of data sets that it is hoped will 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.
15. Member's observations about this information are invited.

Member Complaints



Comments

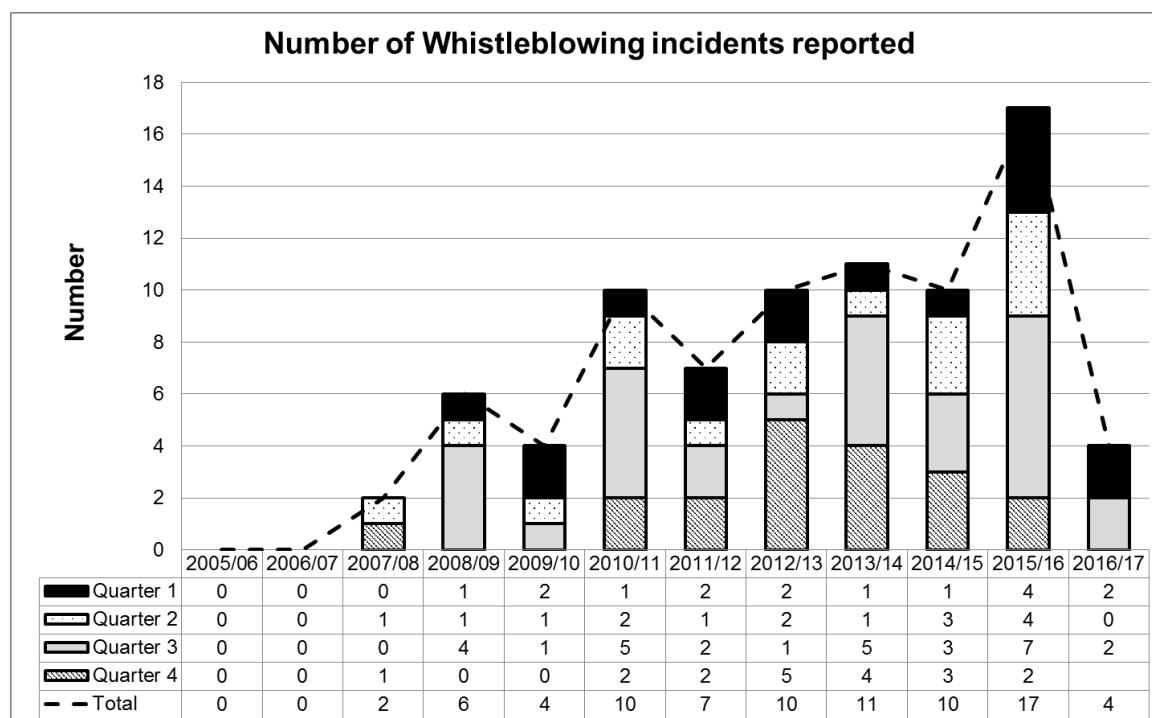
The average number of complaints per year from May 2008 (when the local assessment of complaints was introduced) to April 2015 is about 8.3 per year.

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.

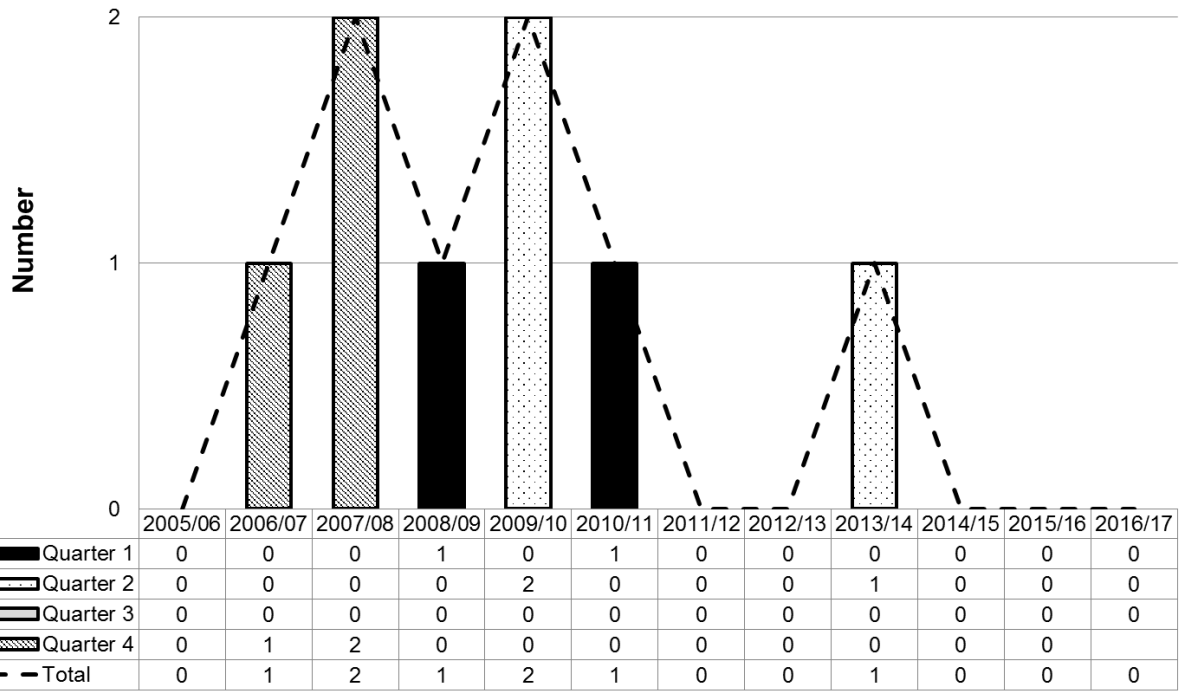


Comments

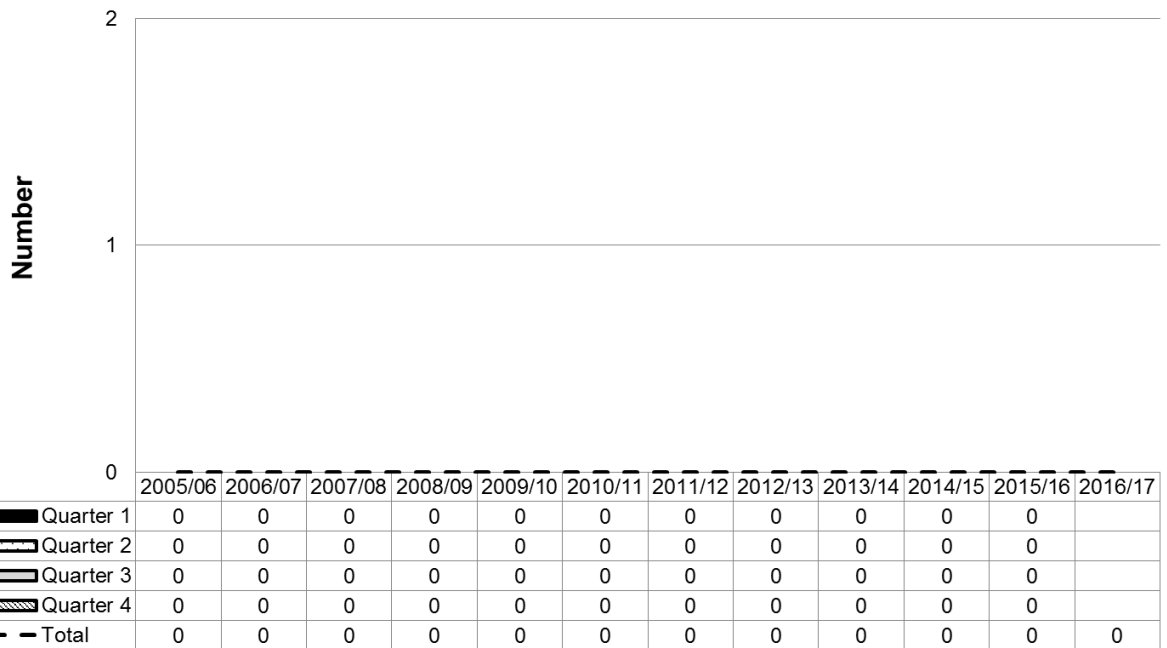
In 2008 a publicity campaign was launched and the Fraud Hotline set up.

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.

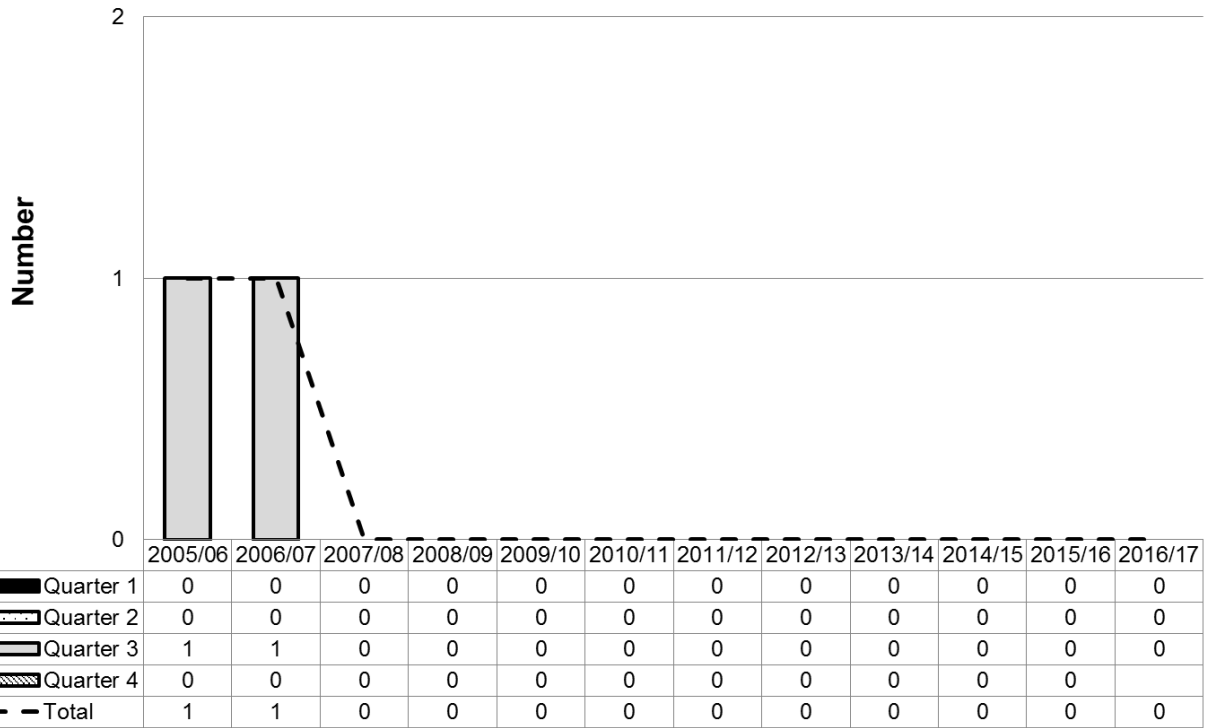
Number of challenges to procurements



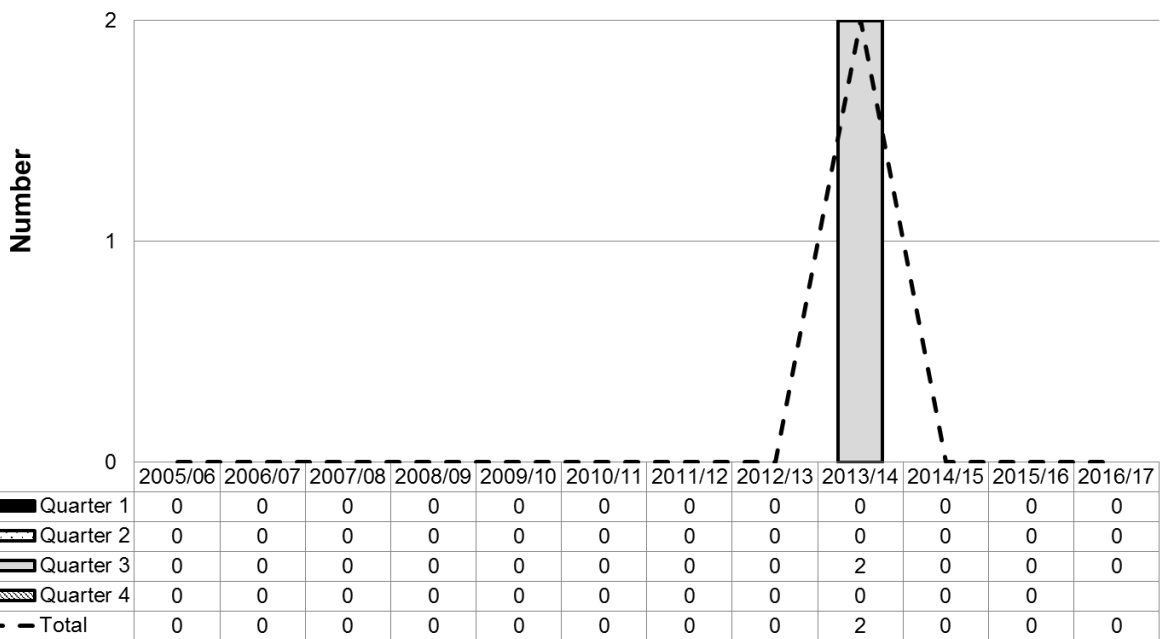
Audit Commission Public Interest Reports

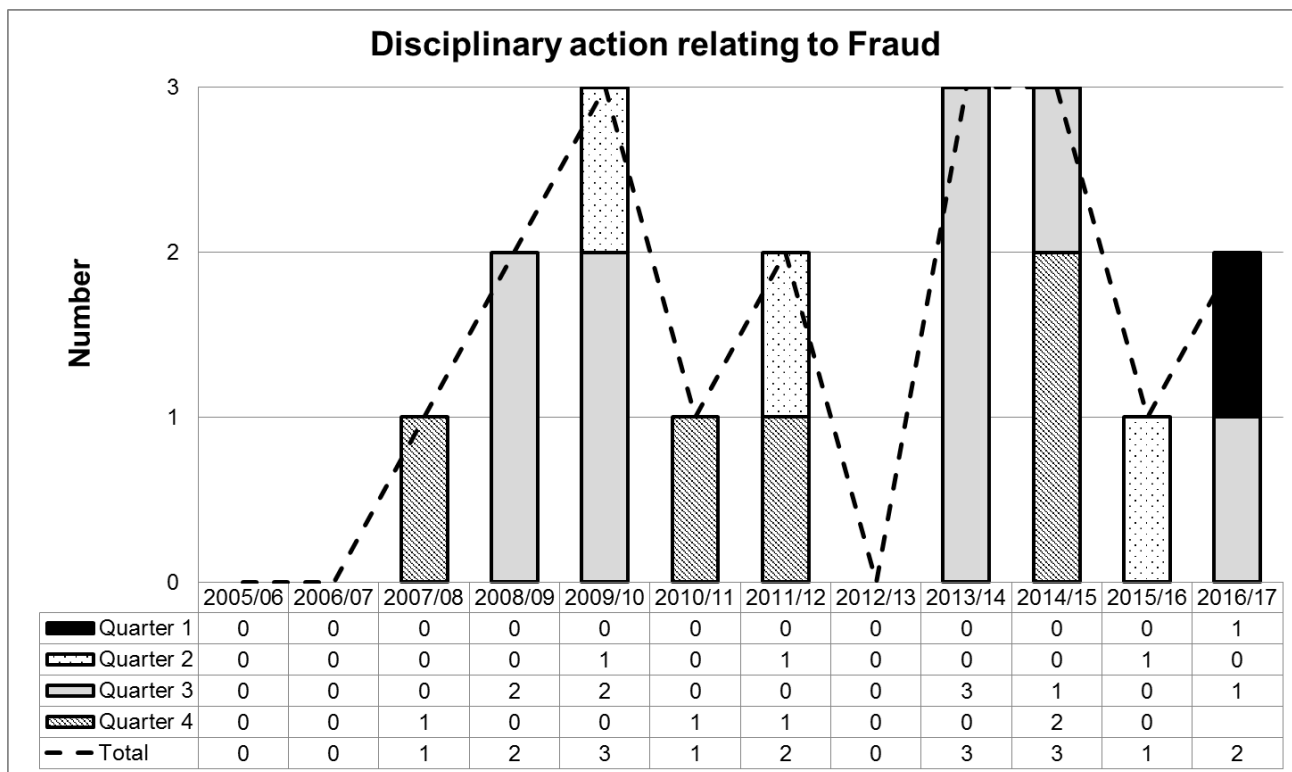


Objections to the Council's Accounts



Disciplinary action relating to breaches of the Member / Officer Protocol

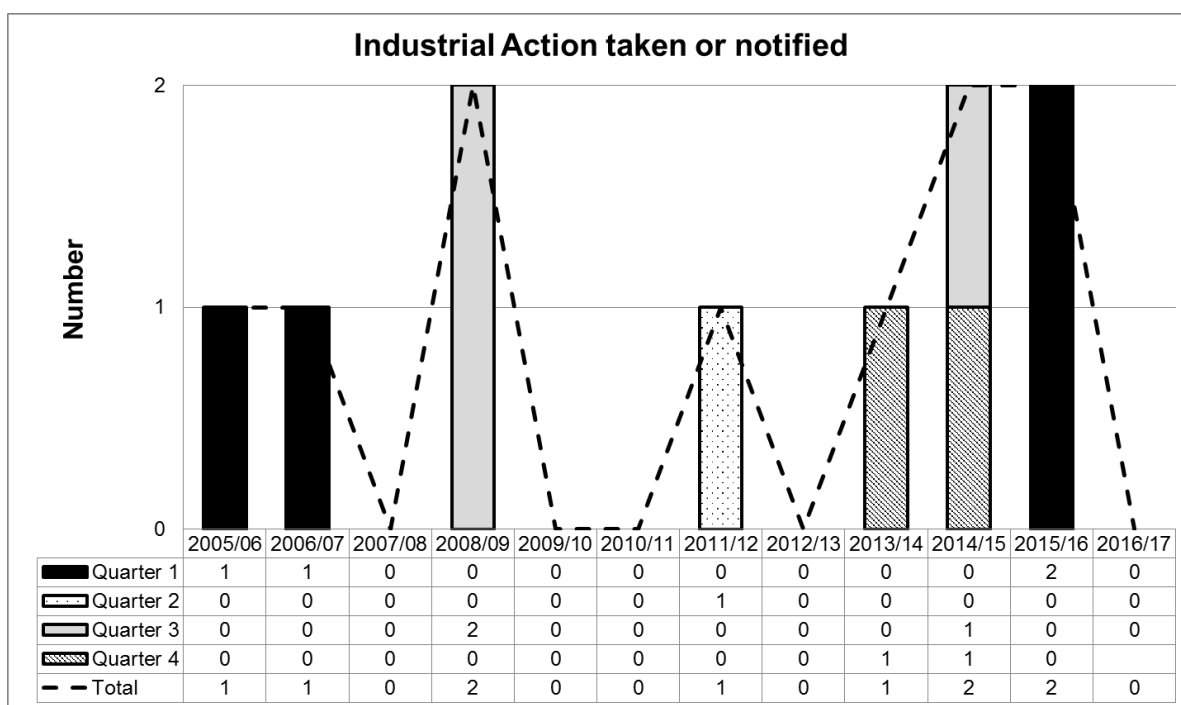


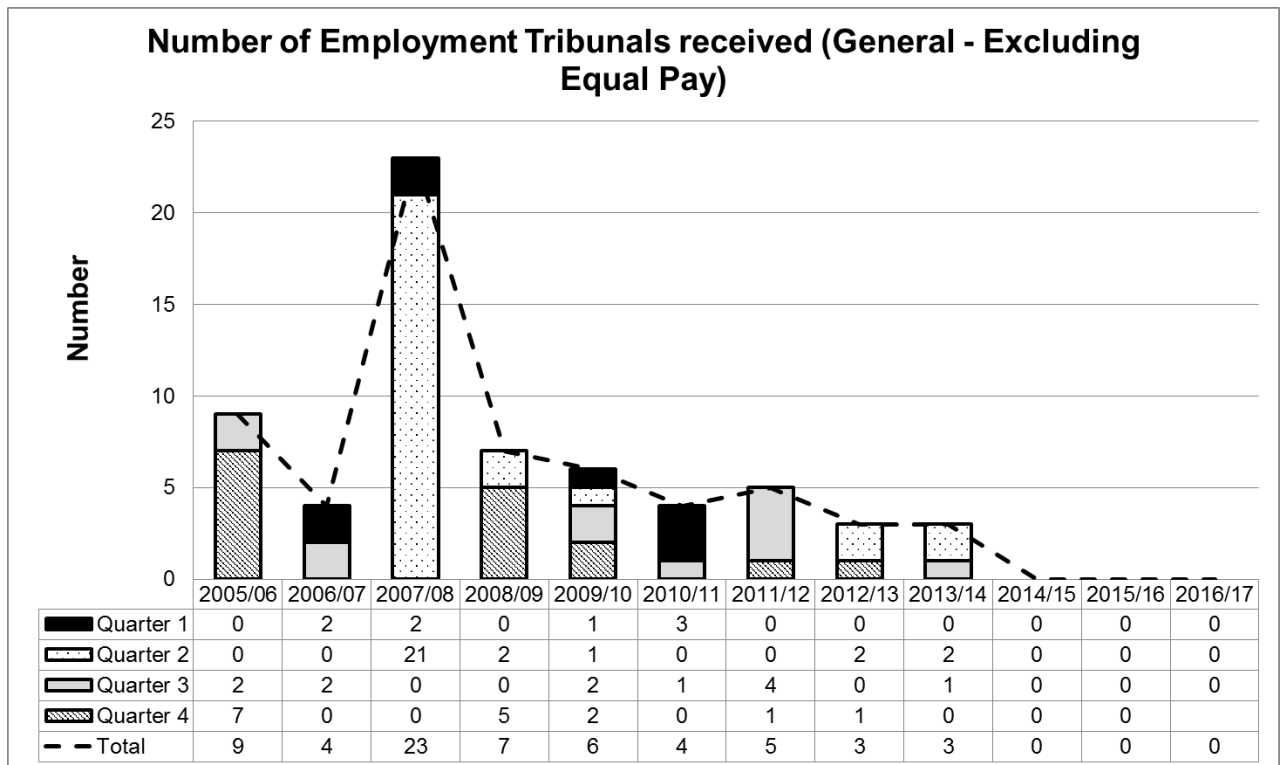


Comments

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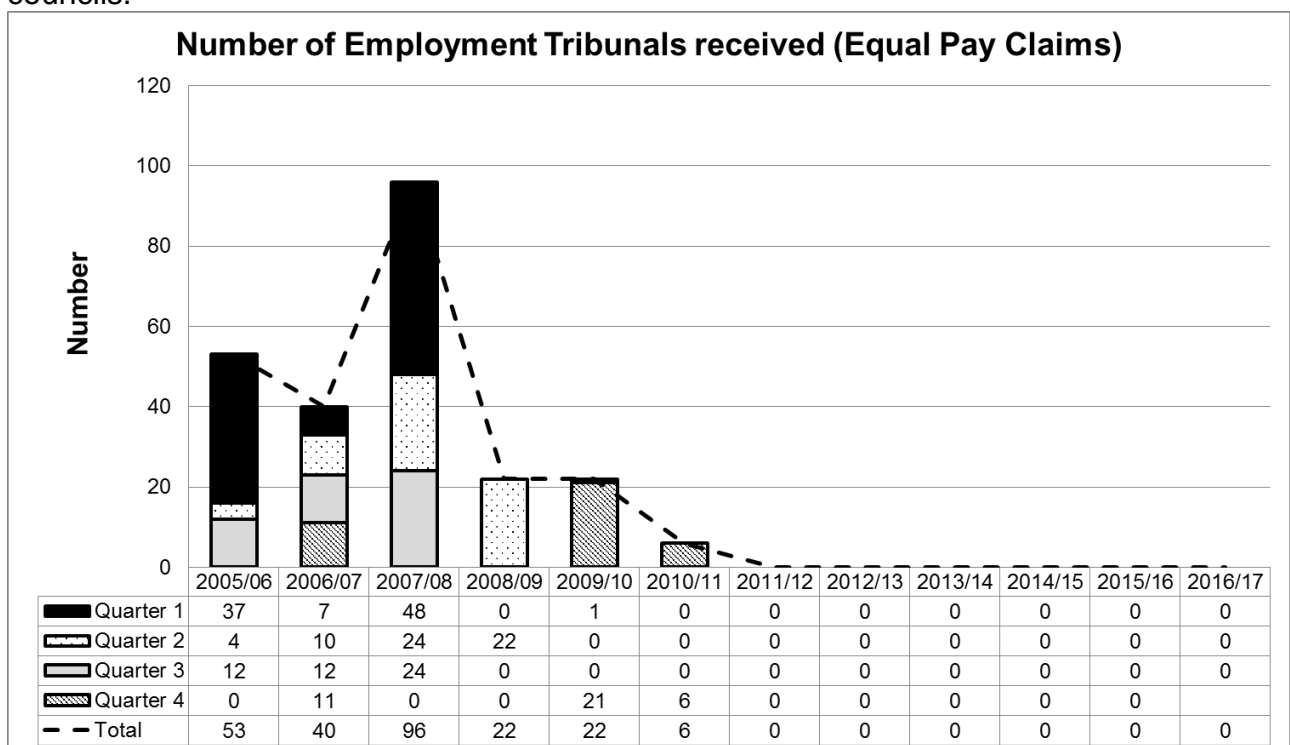
Changes in volumes may have some linkage to increasing awareness of how to report concerns and the current financial climate.

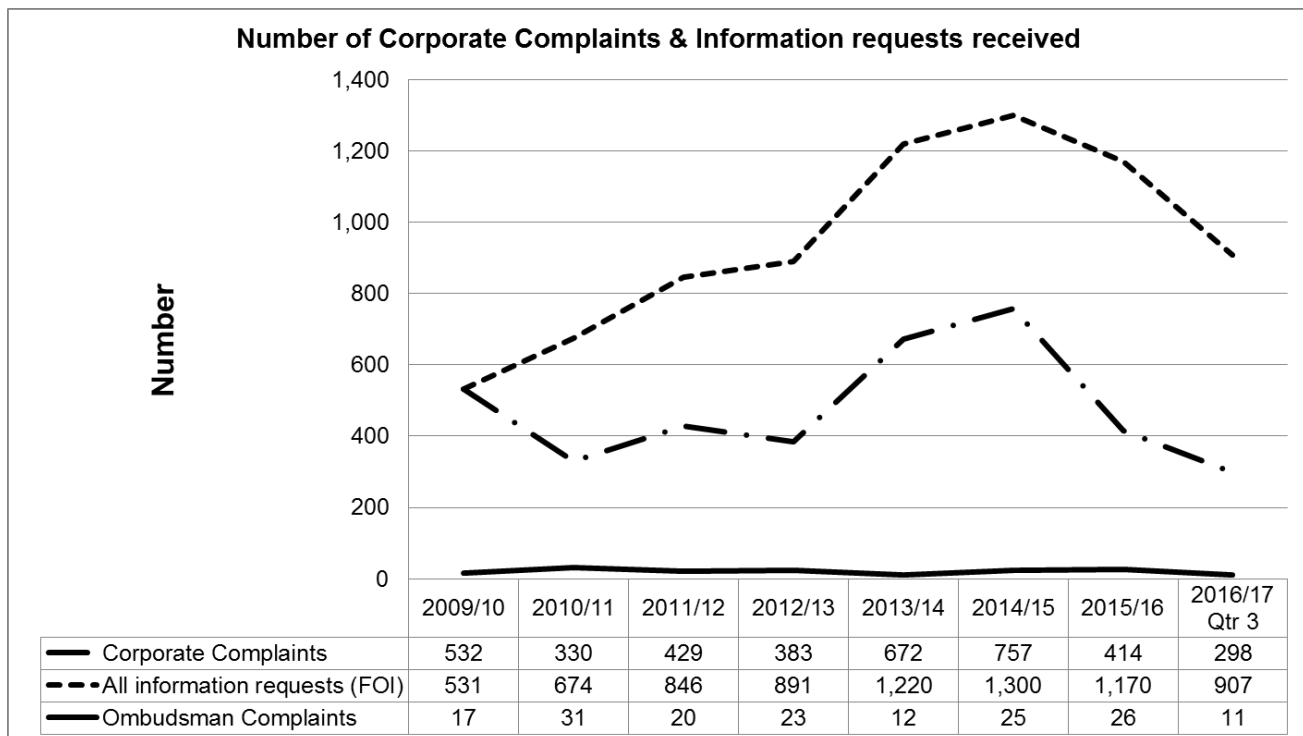




Comments

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.

2015/16 – this decrease in complaints can be attributed primarily to the reduction in complaints about problems people initially experienced with their refuse and recycling collections following the introduction of alternate weekly collections.

Ombudsman Outcome Category



Upheld: Maladministration No Injustice		1	4
Upheld: Maladministration and Injustice	3	10	3
Not upheld: No maladministration		3	0
Not upheld: no further action	2	1	2
Closed after initial enquiries: out of jurisdiction	7	3	5
Closed after initial enquiries: no further action	10	6	0
- - Total	22	24	14