

**ETHICAL GOVERNANCE AND MEMBER STANDARDS – UPDATE REPORT**

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**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 2017.
3. Members' views are requested about a proposed amendment of the Members Code of Conduct. The proposed amendment would include a provision requiring Members to notify the Monitoring Officer of gifts and hospitality received, with an estimated value of £25 or more, that are accepted by Members.
4. 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.
5. 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**

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

**Reason**

7. 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

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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.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

## MAIN REPORT

### Update on matters relevant to Ethical Governance and Member Standards

#### Members Code of Conduct

8. Work is currently underway to update the constitution (taking account of the senior management changes and related updating). Separate to this, the Employee Code of Conduct has also recently been reviewed. This process has highlighted an anomaly.
9. The Employee Code of Conduct requires gifts and hospitality with a value of £25 or more to be reported to the relevant Chief Officer and recorded by the Monitoring Officer on a register. The Anti Bribery Policy and Procedures state the requirement for gifts and hospitality to the value of £25 or more to be recorded on a register as set out in the Code of Conduct for Employees and as set out in the Members Code of Conduct.
10. The Members Code of Conduct formerly contained a provision requiring Members to register with the Monitoring Officer to the value of £25 or more. This provision was formerly part of the national Code of Conduct. As a result of changes introduced by the Localism Act 2011 it ceased to be a requirement. The revised Members Code of Conduct that was adopted by the Council to comply with Localism Act omitted reference to this provision.
11. Practice amongst other authorities in this regards differs, some ceased to include this as a requirement of the Members Code of Conduct while others retained the provision. Locally Stockton-on-Tees Borough Council, the Tees Valley Combined Authority, South Tyneside Council, North Tyneside Council do not include this provision in the Members Code of Conduct. Redcar, Middlesbrough and Hartlepool Councils do, with a monetary

value of £25. Durham, Newcastle, Sunderland and York Councils also include this provision but have set the monetary value at £50.

12. Members should note that the Members Code of Conduct currently has provisions that do to some extent overlap with the provision relating to declaration of gifts and hospitality. These are the provisions relating to 'improperly conferring an advantage' and 'bringing the Council into disrepute'. They do not however expressly focus on gifts and hospitality and there may be benefit in specific provision that gives Members a clear understanding about how they should treat this area.
13. The suggestion is that the Members Code of Conduct is amended to align with the position of the Employee Code of Conduct and with the Anti Bribery and Corruption Procedure by including provision in the Members Code of Conduct requiring the notification of gifts and hospitality with an estimated value of £25 or more.
14. The suggested amendment to the Members Code of Conduct would be to add an additional paragraph as follows:

*8.3 You must within 28 days of receipt, notify the Monitoring Officer of any gift or hospitality that you have accepted with an estimated value of £25 or more, which is attributable to your position as a Member of the Council.*
15. Members should note that the ultimate decision on this issue will rest with Council, but the views of the Committee are sought and any recommendation they may wish to make, in order that the views can be included when the report on the Constitution update (including the Members Code of Conduct) is considered by Council in May 2018

### **Committee on Standards in Public Life (CSPL) review of the Intimidation of Parliamentary Candidates**

16. The CSPL has conducted a review of the issue of intimidation experienced by Parliamentary candidates, but this also has broader implications for other holders of public office. The CSPL has now published its report. Details of the report are available from :<https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>

17. The report puts forward a number of recommendations:

*Recommendation 1: Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report intimidatory behaviour wherever it occurs.*

*Recommendation 2: Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.*

*Recommendation 3: Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.*

*Recommendation 4: Those in public life have a responsibility not to use language which*

*engenders hatred or hostility towards individuals because of their personal characteristics.*

*Recommendation 5: Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.*

*Recommendation 6: The Government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.*

*Recommendation 7: Government should bring forward legislation to shift the liability of illegal content online towards social media companies.*

*Recommendation 8: The Government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.*

*Recommendation 9: Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.*

*Recommendation 10: The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.*

*Recommendation 11: Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.*

*Recommendation 12: Political parties must proactively work together to tackle the issue of intimidation in public life.*

*Recommendation 13: Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.*

*Recommendation 14: Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.*

*Recommendation 15: Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.*

*Recommendation 16: Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.*

*Recommendation 17: The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code*

*should jointly be enforced by the political parties.*

*Recommendation 18: Political parties must take steps to provide support for all candidates, including through networks, training and support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.*

*Recommendation 19: Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.*

*Recommendation 20: Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.*

*Recommendation 21: Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.*

*Recommendation 22: Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.*

*Recommendation 23: All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content.*

*Recommendation 24: Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.*

*Recommendation 25: Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.*

*Recommendation 26: The social media companies should work with government to establish a 'pop-up' social media reporting team for election campaigns.*

*Recommendation 27: Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.*

*Recommendation 28: MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.*

*Recommendation 29: The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.*

*Recommendation 30: The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.*

*Recommendation 31: The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence and what they should do in the face of such intimidation.*

*Recommendation 32: Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.*

*Recommendation 33: News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.*

18. The Government has considered the report (which it commissioned) and has now set out how it proposes to respond to the recommendations. Some of the actions will require new legislation. For instance, the creation of a new electoral offence of intimidating Parliamentary candidates and party campaigners, about which the Government intends to consult about this in the summer. A number of other actions are proposed including, extending the 'imprint' required about who has published campaigning material to include electronic communications. The Government has also indicated that they propose to remove the requirement for candidates standing for local councils to have their home address published, but instead require publication of the area where they live. The Government has indicated that it is concerned that Members of local authorities are not sufficiently aware of the current provisions that deal with sensitive interests, which does not require public disclosure where disclosure could lead to violence or intimidation. The Government proposes to review the guidance currently available.

19. Full details of the response of Government is available from:  
<https://www.gov.uk/government/publications/government-response-to-the-committee-on-standards-in-public-life-review-of-intimidation-in-public-life>

### **Committee on Standards in Public Life (CSPL) review of Local Government Ethical Standards**

20. The CSPL is undertaking a review of local government ethical standards. The terms of reference are to:

(a) examine the structures, processes and practices in local government in England for:

- (i) maintaining codes of conduct for local Councillors
- (ii) investigating alleged breaches fairly and with due process
- (iii) enforcing codes and imposing sanctions for misconduct
- (iv) declaring interests and managing conflicts of interest
- (v) whistleblowing

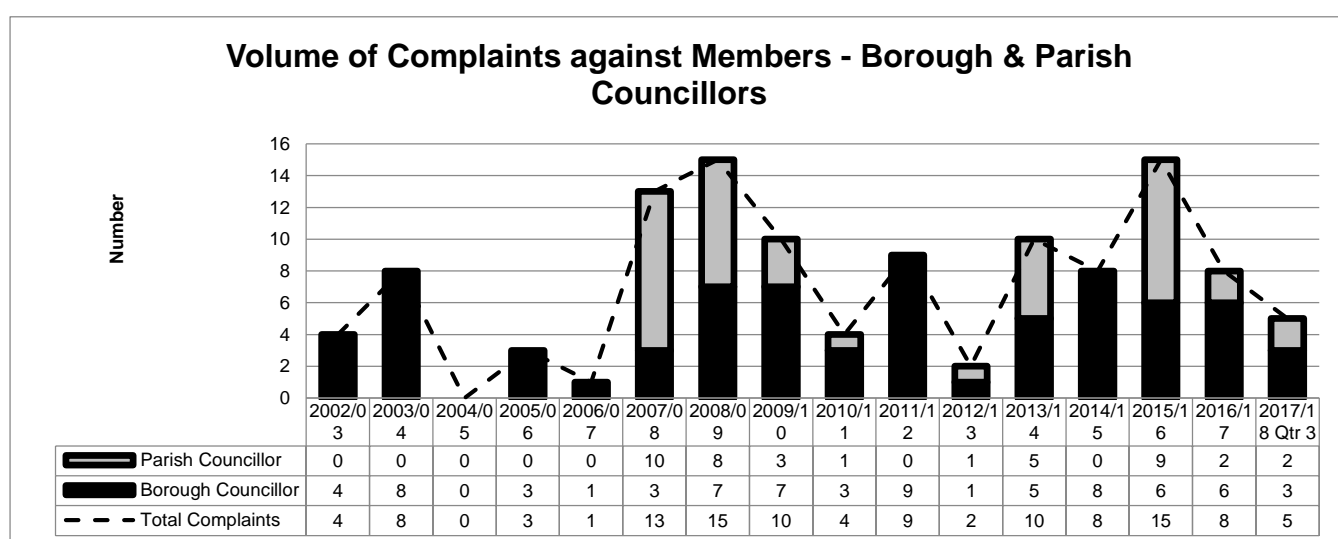
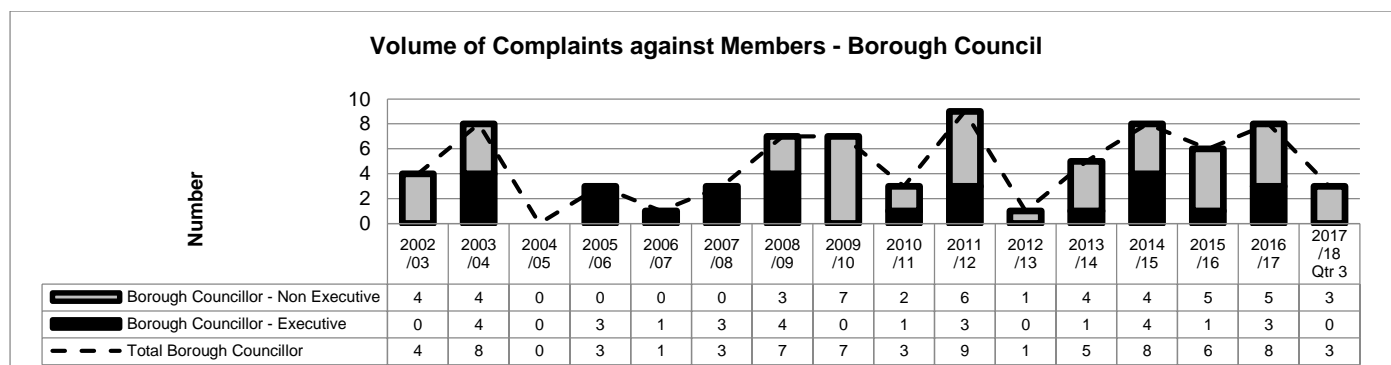
(b) assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government

- (c) make any recommendations for how they can be improved
  - (d) note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation
21. Responses are invited from the public and any interested person. The consultation closes on 18 May 2018. Further details are available from:  
<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

### **Ethical Indicators**

22. Set out in **Appendix 1** 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.
23. 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 March 2017 is about 9 per year.

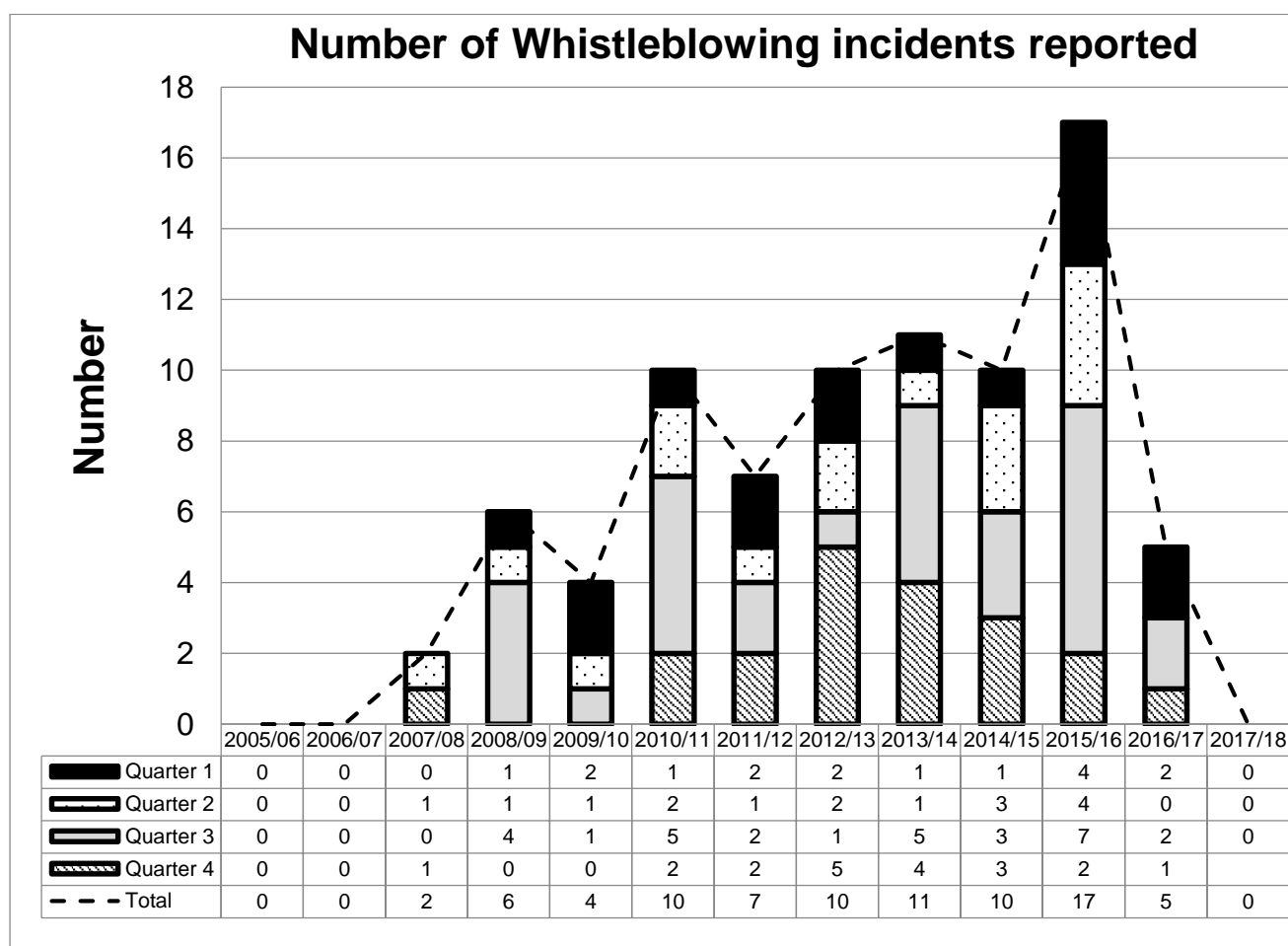
Interpreting the information needs a degree of caution. In 2008 to 2009 a significant factor was a large number of complaints emanating from one parish council which impacted on the yearly figures and also the average numbers of complaints received for that period. There were particular local circumstances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

Over the period from 2002/3 to 2016/17 there have been 38 complaints made in respect of Parish Councillors and for the same period 71 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. The number of complaints for 2016/17 are more in line with the overall average.

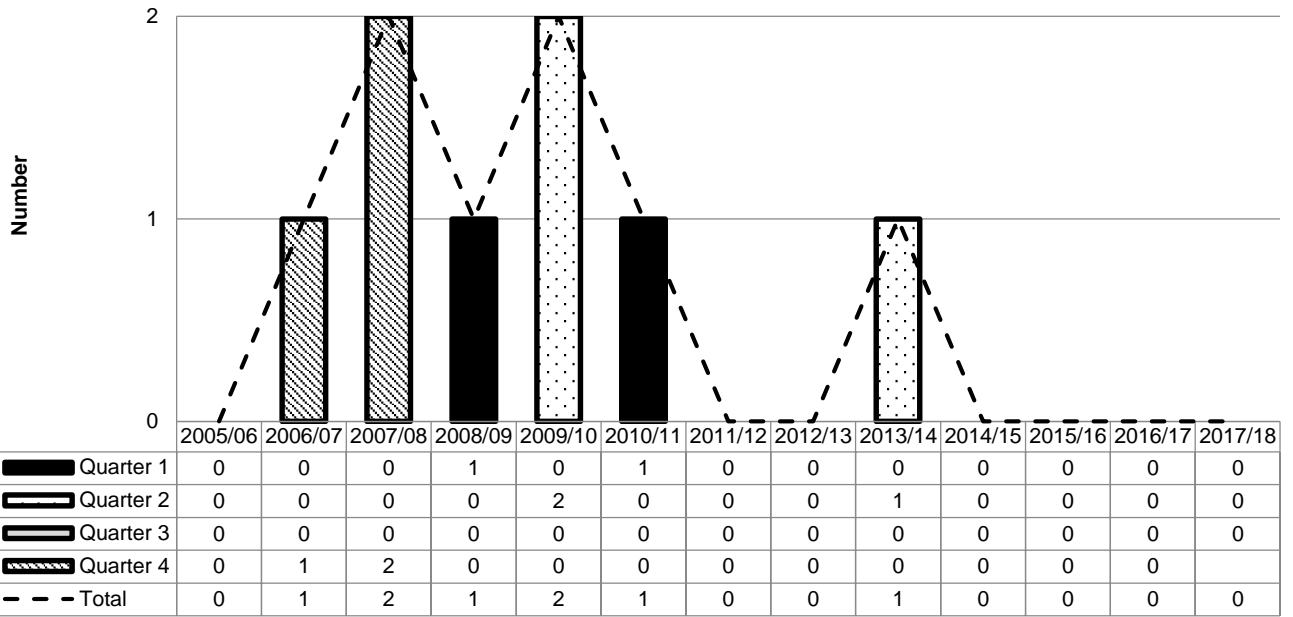


### Comments

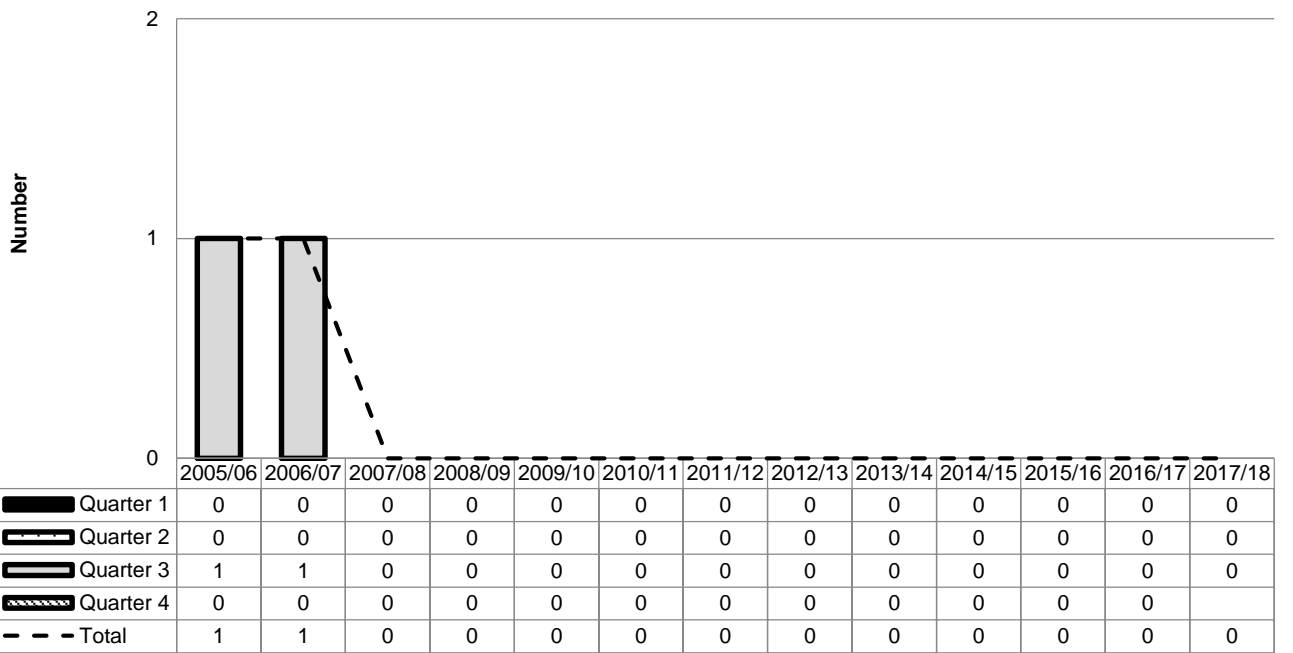
In 2008 a publicity campaign was launched and the Fraud Hotline set up.

There has been a slight increase in reported incidents (with a decline in 2016/17).

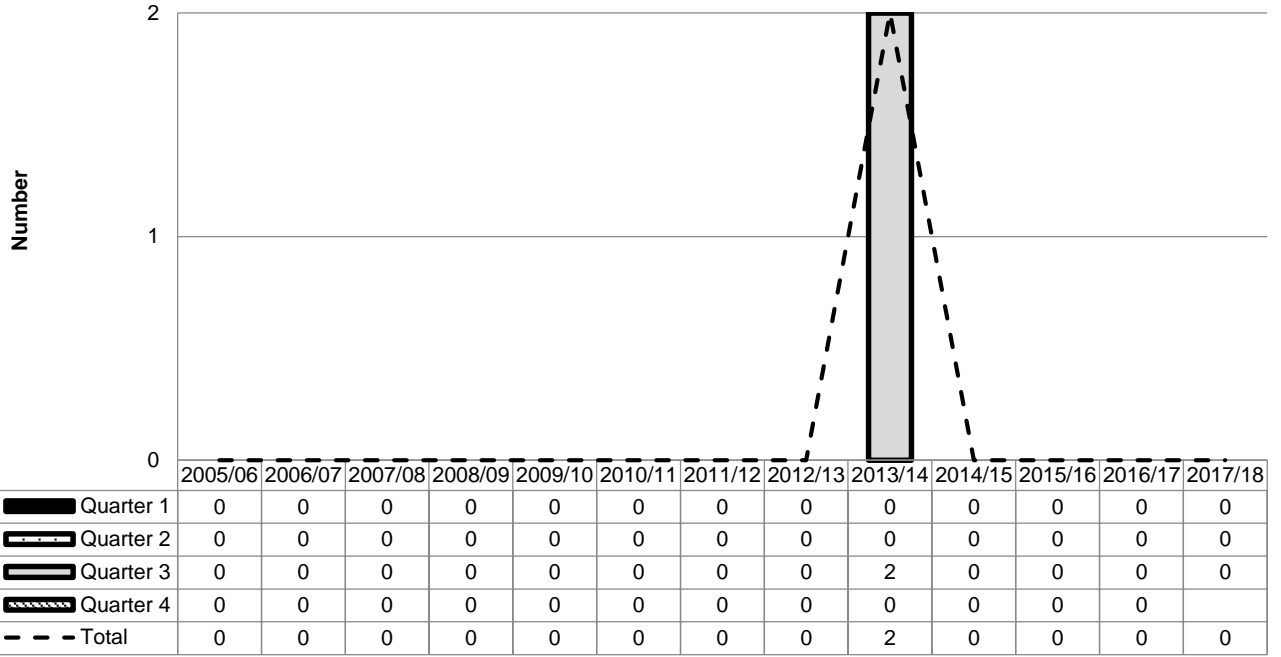
### Number of challenges to procurements



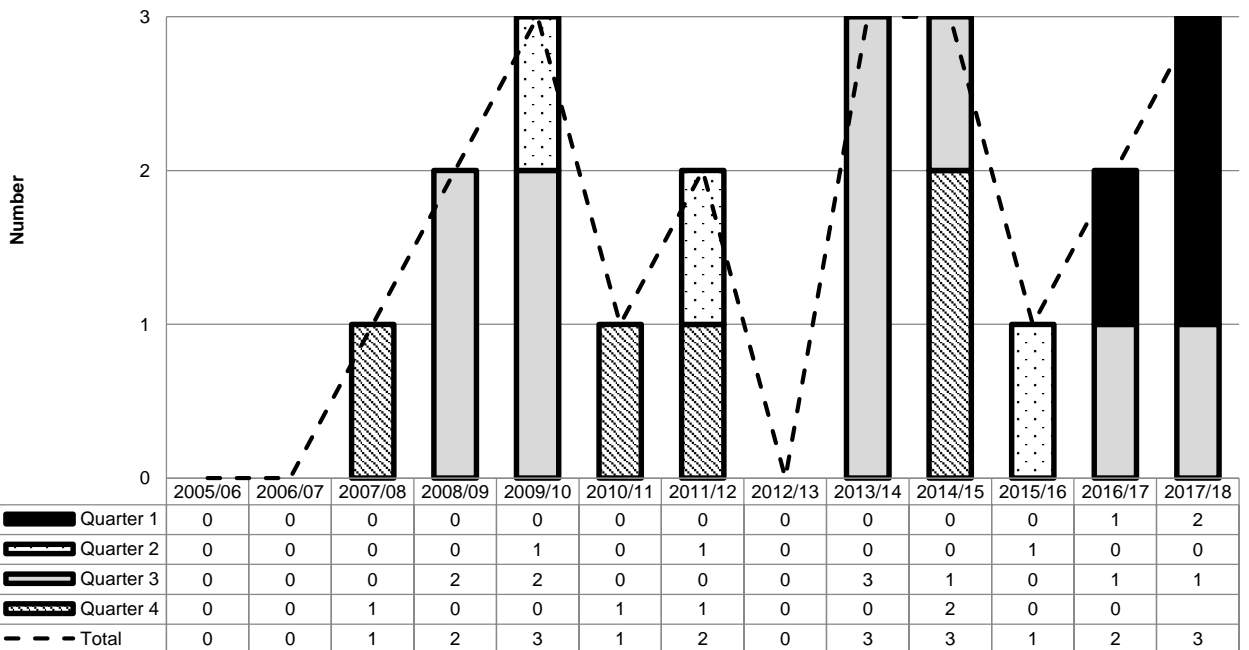
### Objections to the Council's Accounts



### Disciplinary action relating to breaches of the Member / Officer Protocol



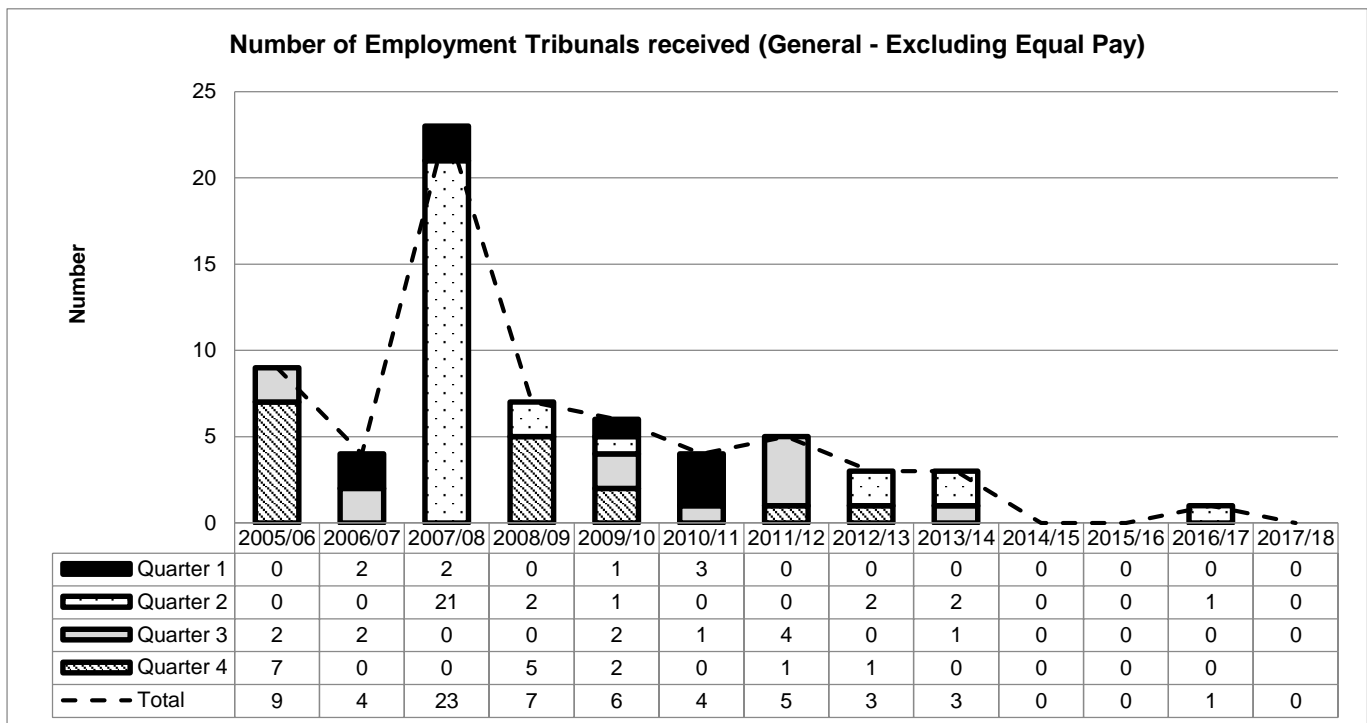
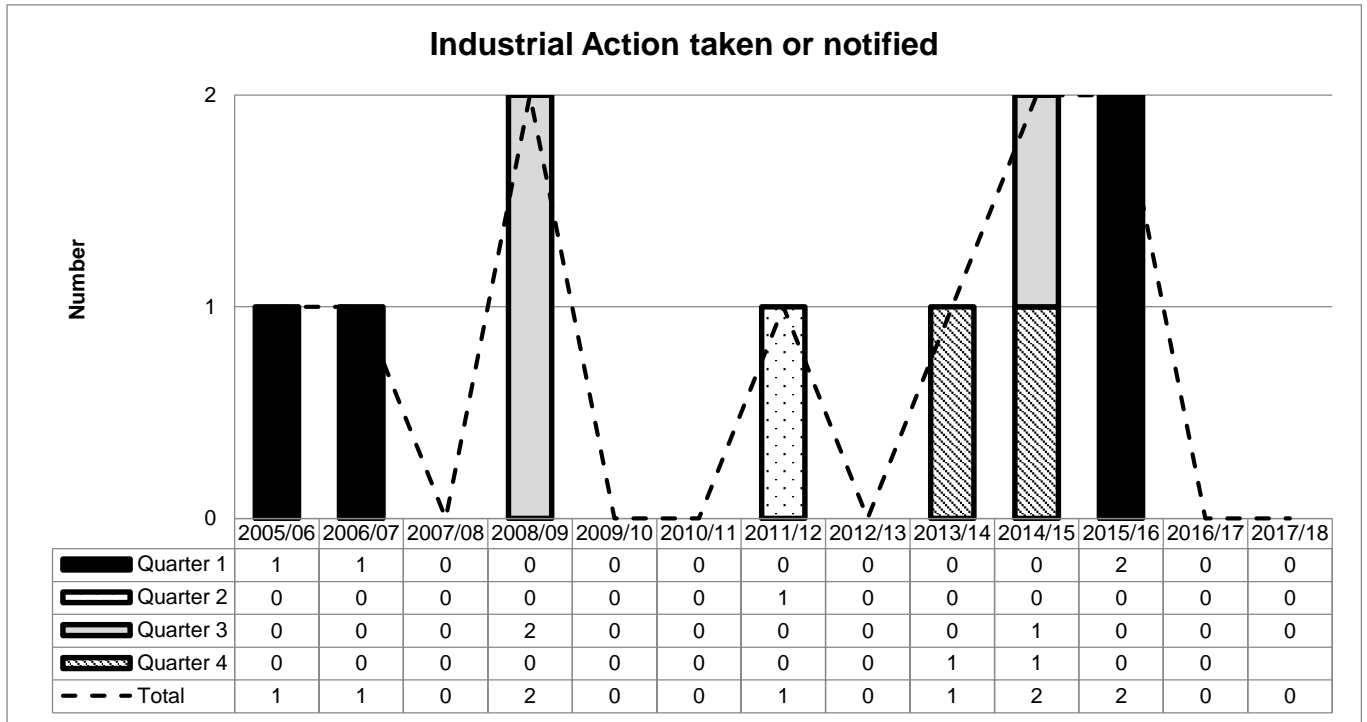
### Disciplinary action relating to Fraud



### Comments

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

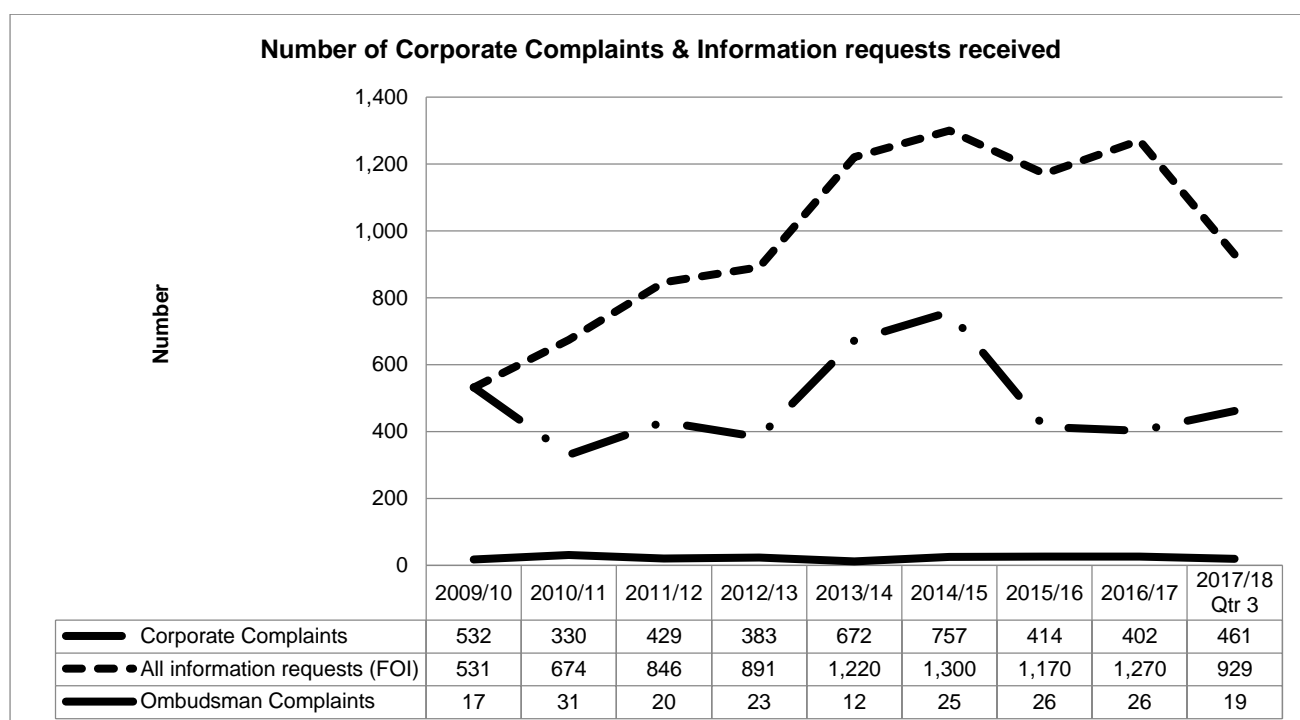
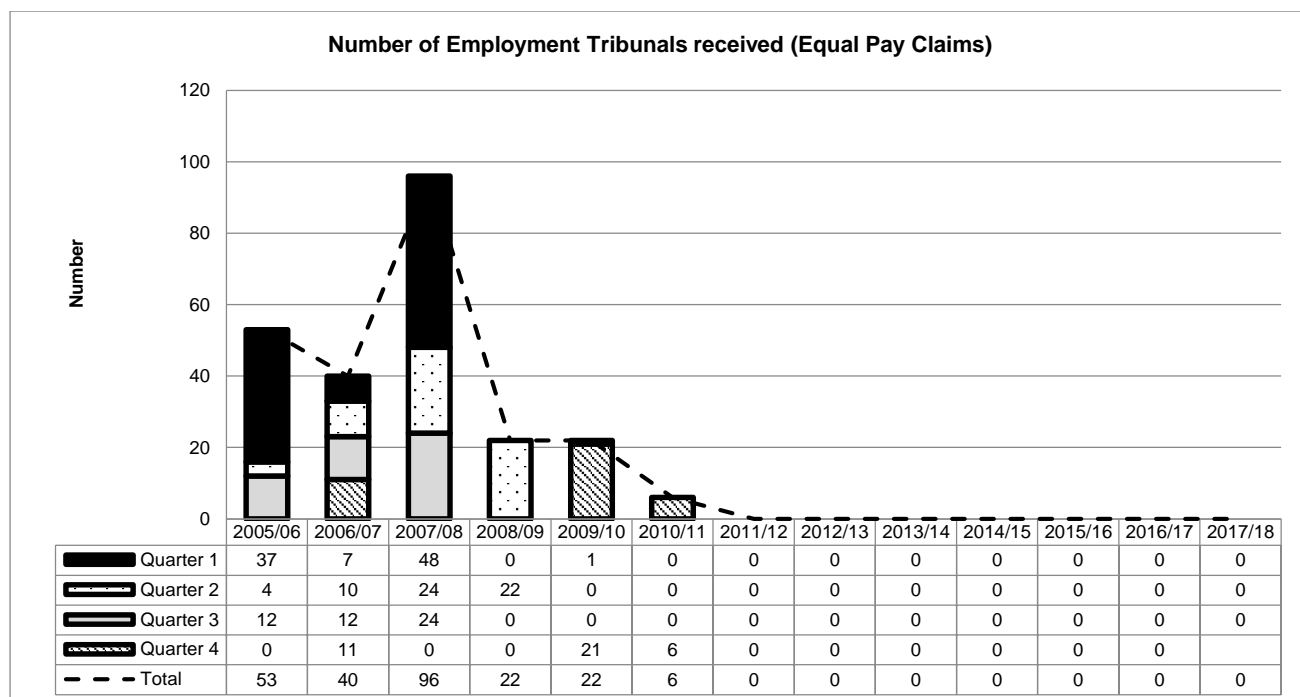
Changes in volumes may have some linkage to increasing awareness of how to report concerns and the current financial climate.



## Comments

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

Fees for issuing Employment Tribunal; claims were introduced in July 2013, but held to be unlawful by the Supreme Court on 26 July 2017.



## 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.

2016/17 – the number of Corporate Complaints and Ombudsman Complaints received was similar to the number received in 2015/16, while there was an increase of 100 information requests.

