

**AUDIT COMMITTEE
16 SEPTEMBER 2020**

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 members an update of information about issues relevant to member standards since matters were reported to the Committee in November 2019.
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
Managing Director**

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 and Climate Change	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

Local Government Association (LGA)

7. The LGA has been reviewing the member code of conduct (as recommended by the Committee on Standards in Public Life's report into [Local Government Ethical Standards](#)). As a result of work carried out by the LGA a Model Member Code of Conduct has been developed. Consultation on the Model Member Code of Conduct closed on 17 August 2020. Further information is available from the LGA website <https://www.local.gov.uk/code-conduct-consultation-2020>
8. If a new standardised Model Code of Conduct is rolled out which all local authorities are required to adopt legislation will be required. However the approach being taken appears to be an advisory rather than mandatory approach. When the draft is in its final form we will need to give further consideration to see what changes could be made to our current Code of Conduct.

Committee on Standards in Public Life (CSPL)

9. The CSPL is an advisory non-departmental public body, sponsored by the Cabinet Office. The CSPL advises the Prime Minister, national and local government about ethical standards in public life in England. It monitors, conducts broad inquiries and reports on issues relating to the standards of conduct of all public office holders.

Local Government Ethical Standards

10. Members are advised that on 20 July the CSPL sent the attached letter (**Appendix 2**) to all local authority Chief Executives. The letter highlights a set of 15 best practice recommendations and indicates that the intention of the CSPL to follow up in the

autumn to ascertain from local authorities the level of implementation against the recommendations. We are already do a number of the things that are recommended but there are also a number of areas where we could improve. There are, as will be anticipated, some resourcing implications and while we can more easily deal with some of the changes other will take a bit longer. On a more general point suggestions that might involve a revision of the Code of Conduct will involve a significant degree of work and will require consultation. Given that one of the issues here will be about whether it may in fact be better to await the finalisation of the Draft Model Code of Conduct which is currently under consideration by the LGA.

11. A summary of the best practice recommendations, our current position and commentary is set out below. The consideration and views of members is invited.

Best Practice Recommendations	Our Current Position	Commentary
<p>1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.</p>	<p>The Code of Conduct includes a provision dealing with bullying (based on the 2007 model Code of Conduct).</p> <p>No definition or examples are provided</p>	<p>In practice the ACAS definition of bullying has been used:</p> <p>“offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.”</p>
<p>2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.</p>	<p>Provisions requiring compliance with investigations or prohibiting trivial or malicious allegations are not included.</p>	<p>In practice we have not had issues with members not complying with investigations.</p> <p>Trivial and malicious allegations can be filtered out at the initial assessment stage</p>
<p>3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.</p>	<p>The Code of Conduct is modelled on the 2007 model Code of Conduct, supplemented by the provisions required by the Localism Act. It has been amended when necessary.</p>	<p>The resources involved in this type of review process would fairly significant.</p>
<p>4: An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises.</p>	<p>The Code of Conduct is included in the Councils Constitution.</p> <p>It is also separately available via Member Conduct page.</p>	

<p>5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.</p>	<p>The Register is not currently available in this way but it is regularly updated.</p>	<p>The Register should be published on our website and updated as recommended</p>
<p>6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>The current assessment process is based on the approach developed by the Standards Board for England</p>	
<p>7: Local authorities should have access to at least two Independent Persons.</p>	<p>We currently have a single Independent Person</p>	<p>Look to appoint a second Independent Person</p>
<p>8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.</p>	<p>We ask the Independent person for her views about all complaints that are received. Her views are taken into account when arriving at decisions about how complaints should be dealt with.</p>	
<p>9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.</p>	<p>Where an investigation report recommends that the matter proceeds to a hearing, the report will ordinarily be published. Where a hearing makes a finding that a member has broken the Code of Conduct, the full decision of the hearing panel will be published on the Councils website.</p>	
<p>10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and</p>	<p>Our website includes a specific member conduct page dealing with how to complain about a member and online forms.</p>	

<p>estimated timescales for investigations and outcomes.</p>	<p>This includes details of the process followed ('Arrangements for dealing with complaints against Members')</p>	
<p>11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.</p>		<p>This guidance can be suggested to Chairs of Parish Councils and Parish Clerks. However it will, of course still be open to Parish Clerks to submit a complaint.</p>
<p>12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.</p>	<p>This accords with our practice.</p>	
<p>13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.</p>	<p>We have a Protocol in place with other Tees Valley Councils which enables the monitoring officer from a neighbouring Council to deal with issues if there is a conflict of interest..</p>	
<p>14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual</p>	<p>Information about this is set out in the Annual Governance Statement.</p>	

reports in an accessible place.		
15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues	Meetings are arranged when necessary. Annual Training on the Code of Conduct is provided to all members. This provides a forum for issues of particular relevance to be raised.	

Members Code of Conduct/ Register refresh

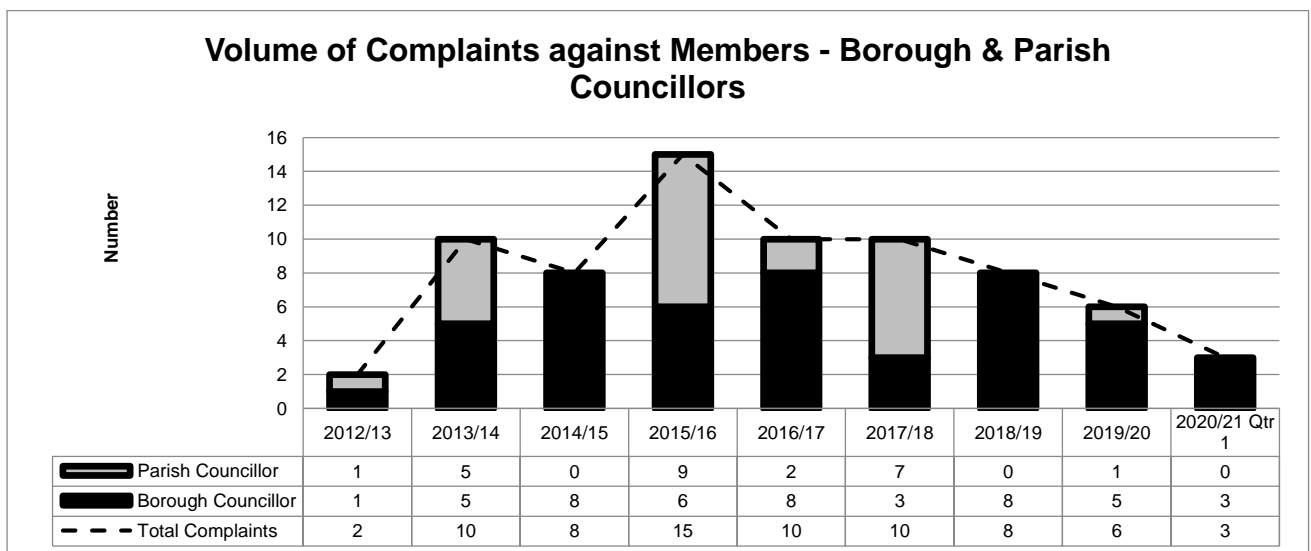
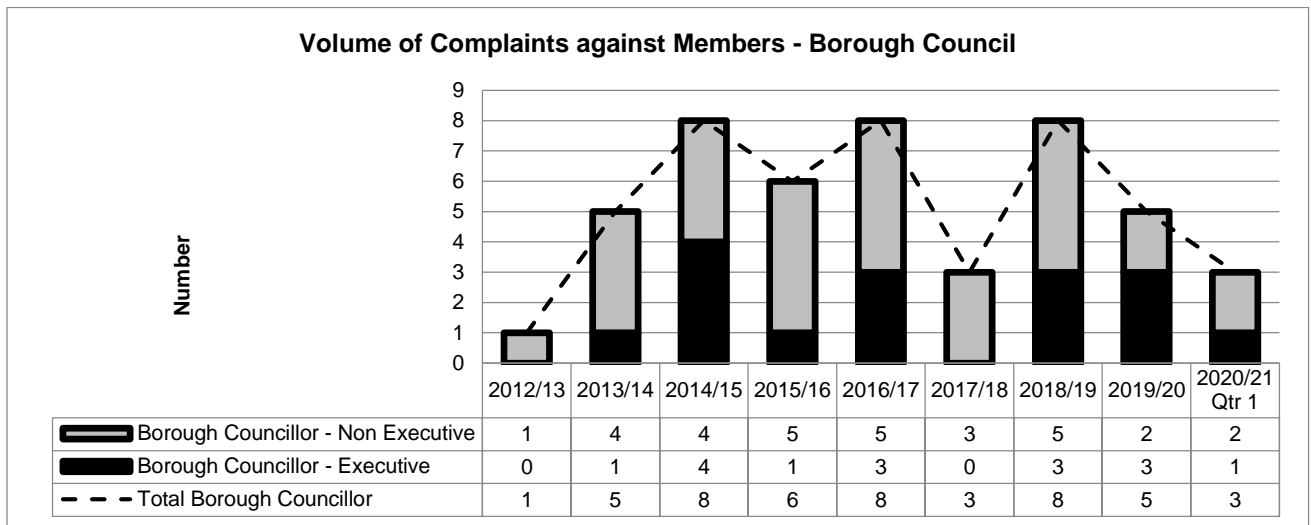
- 12. All members have been advised of the need to review the entries that they have made on their register of interests and where necessary to provide an updated form.

Ethical Indicators

- 13. 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.
- 14. Member’s observations about this information are invited.

APPENDIX 1

Member Complaints



Comments

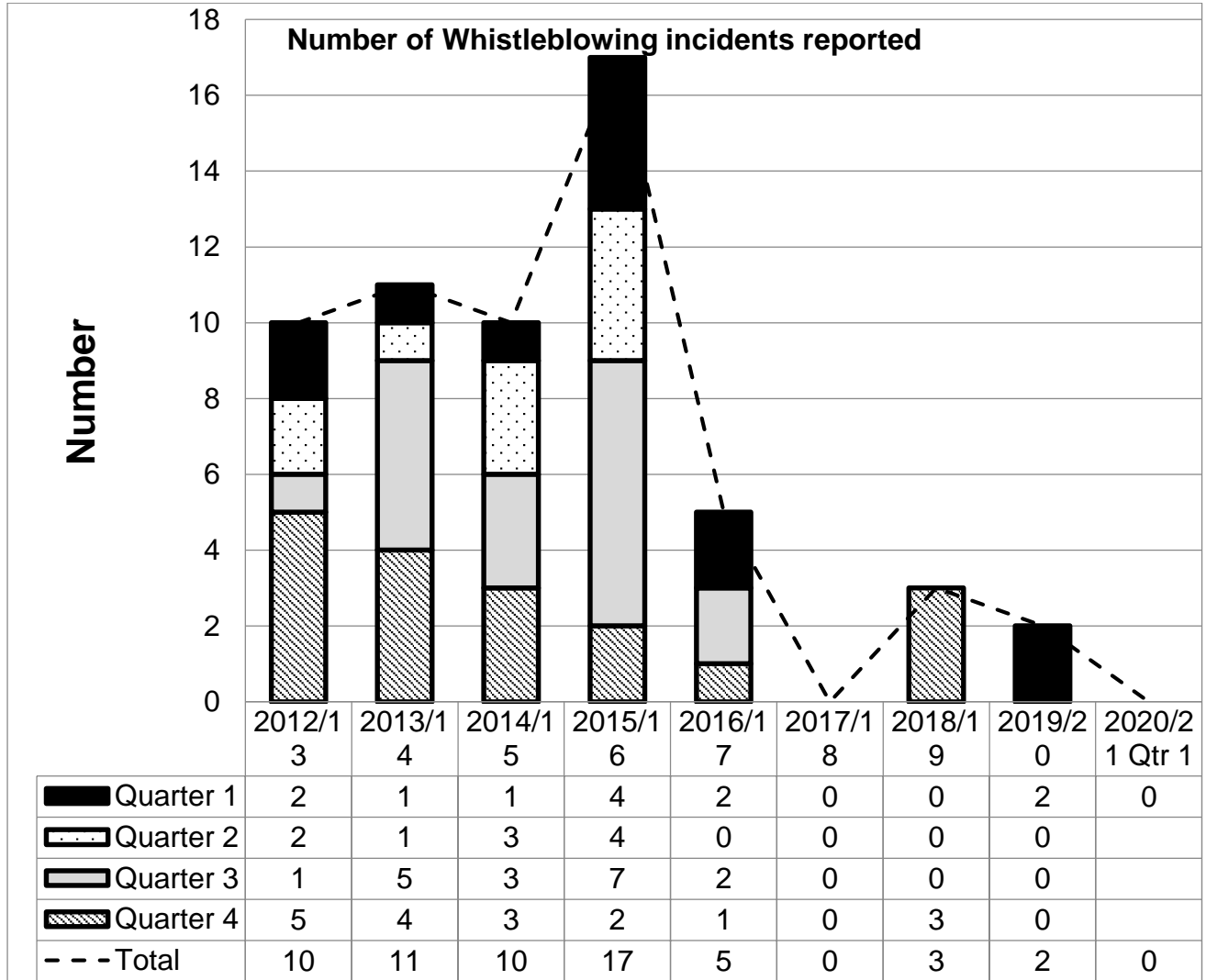
The average number of complaints per year from 2012/13 to 2019/20 is 8.62 per year.

Interpreting the information needs a degree of caution due to low volumes. It is also a factor that in some years spikes in complaints occur due to particular circumstances which account for the rise.

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 from 2016/17 on has been more in line with the overall average.

Over the period 2012/13 to 2019/20 there have been 25 complaints made in respect of Parish Councillors and for the same period 44 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.

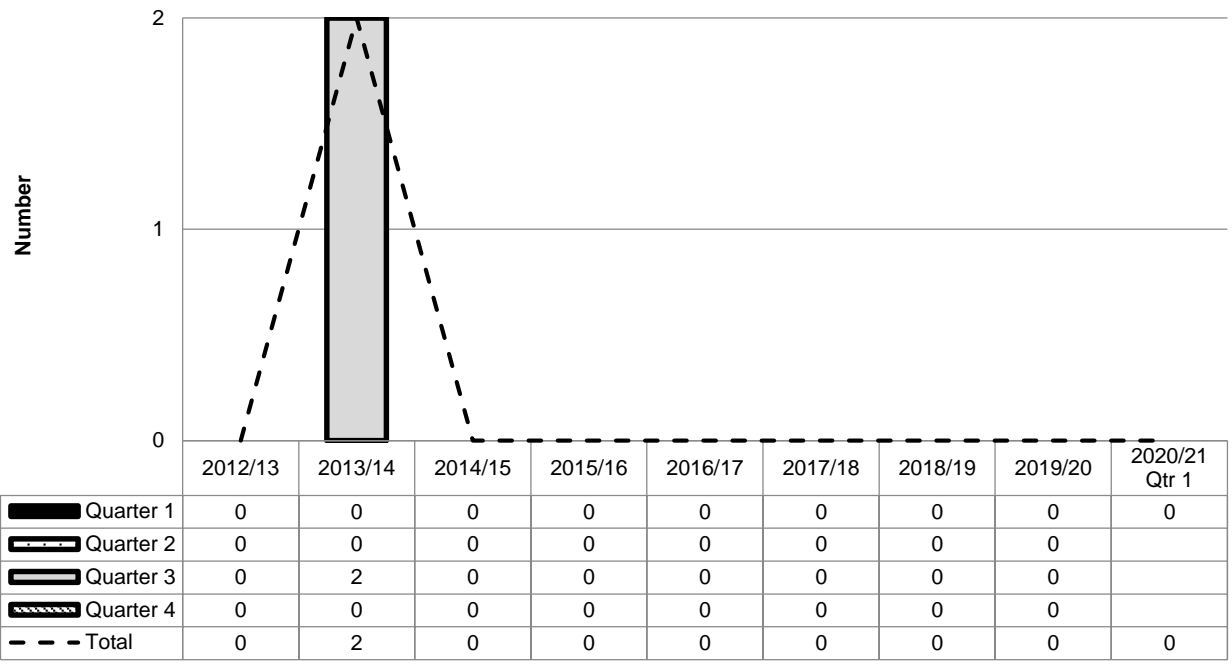
Whistleblowing



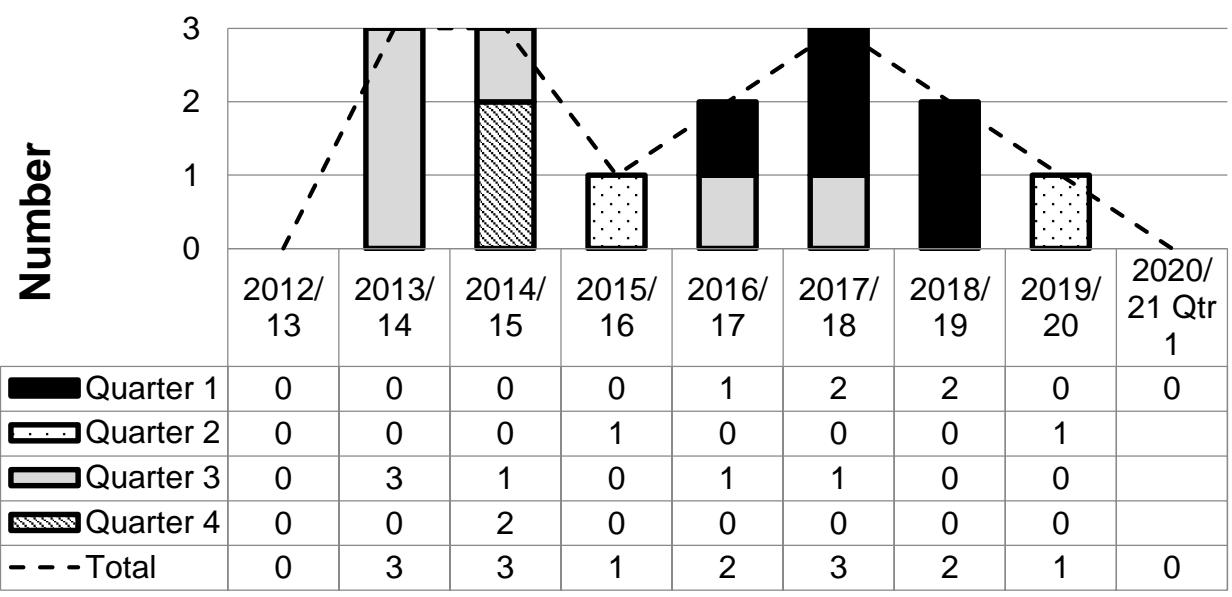
Comments

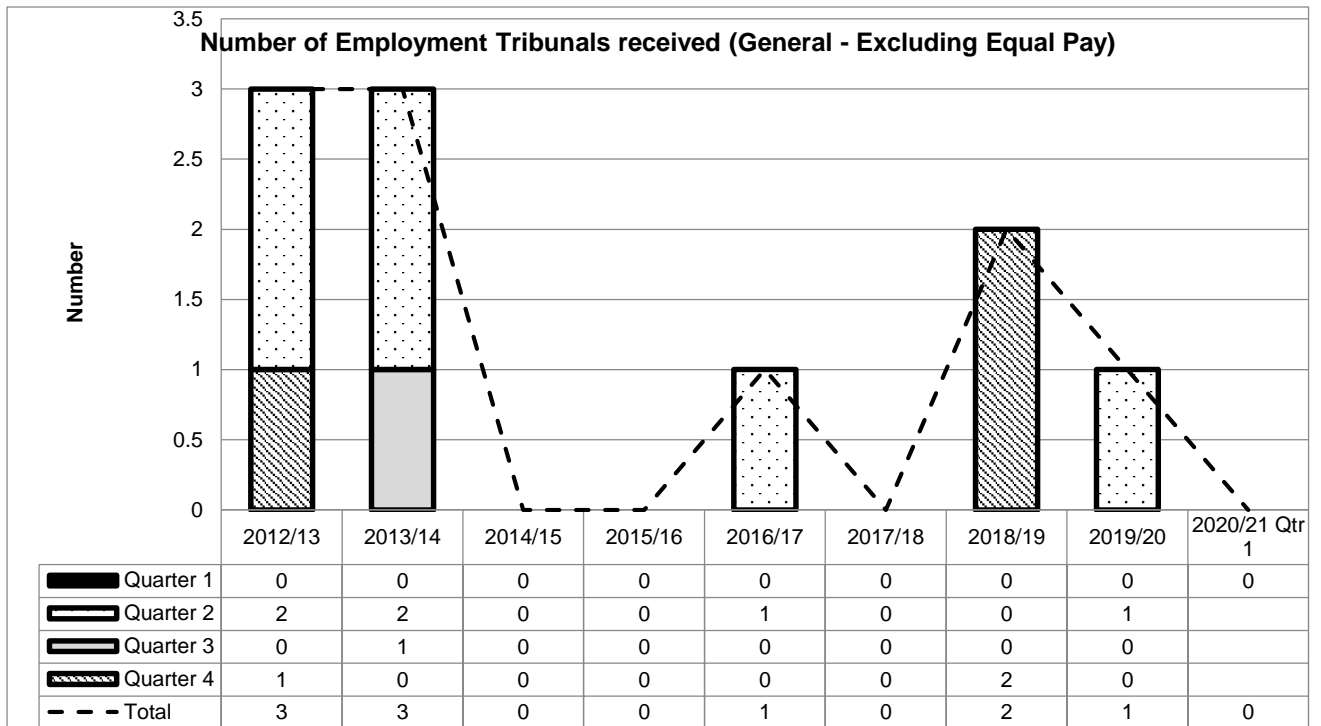
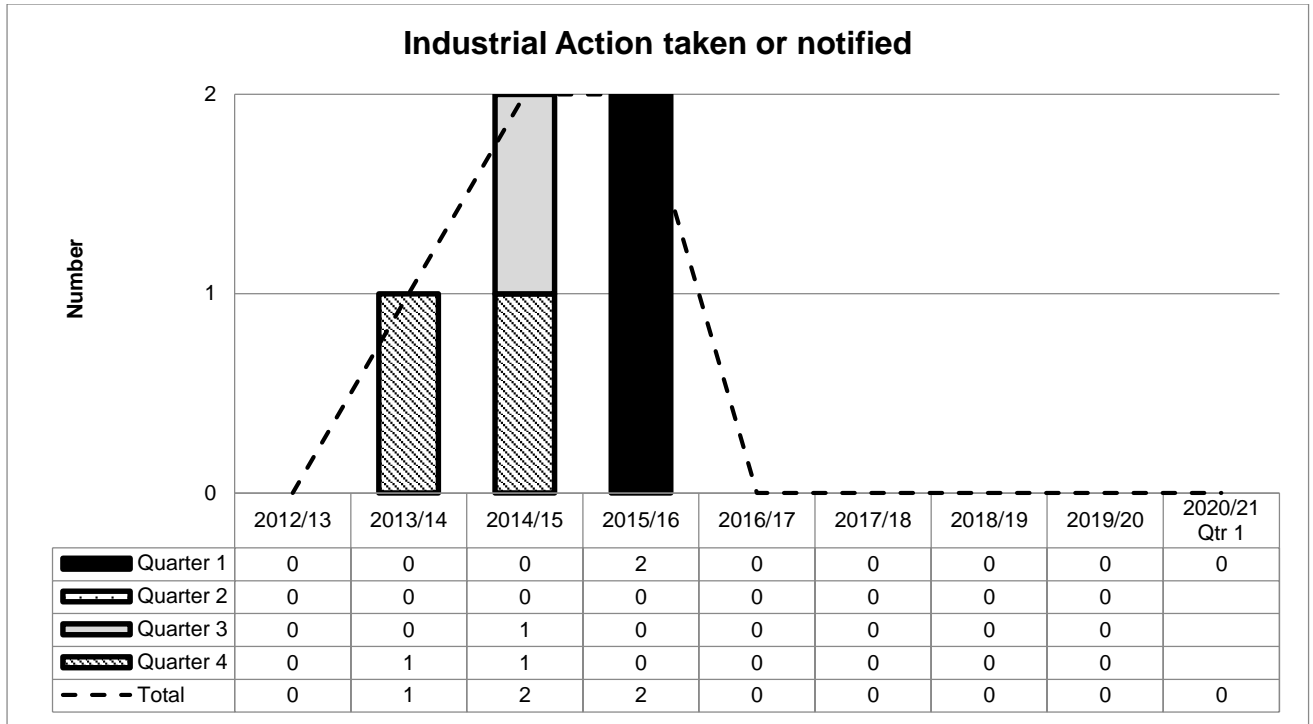
Publicity about the whistleblowing policy took place in the Autumn of 2018. Work was also undertaken to highlight the Council's Anti-Fraud and Corruption Strategy. There has been a slight increase in reported incidents.

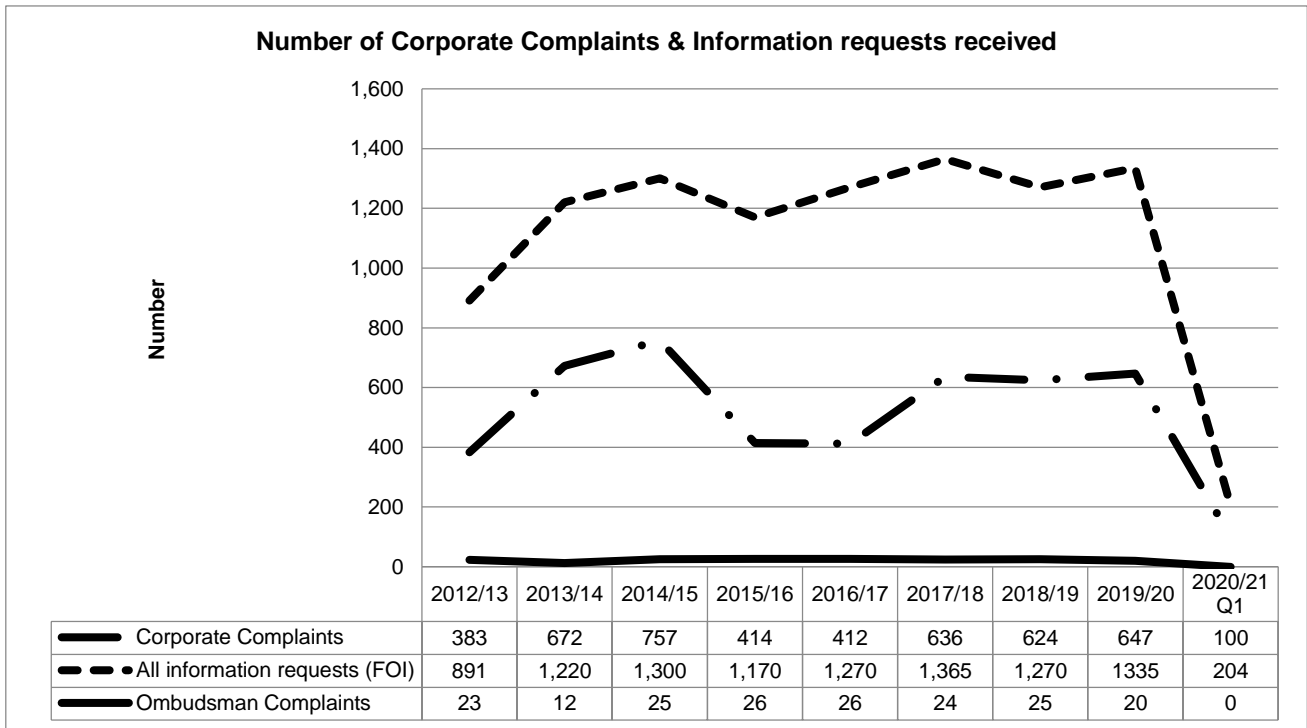
Disciplinary action relating to breaches of the Member / Officer Protocol



Disciplinary action relating to Fraud







Comments

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.

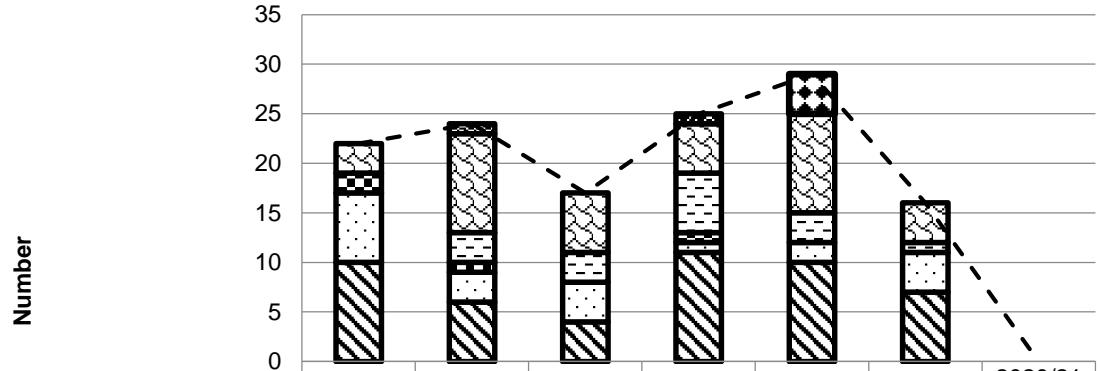
2016/17 – the number of Corporate Complaints and Ombudsman Complaints received was similar to the number received in 2015/16, while there was an increase of 100 information requests.

2017/18 – One of the major factors in the increase in corporate complaints was the introduction of the Council’s policy to no longer provide a recall service for missed refuse collections. There was also a significant increase in corporate complaints about Customer Services following a restructure, the most common theme was dissatisfaction with telephone waiting times. Additional staffing resource was brought in, as a response to the complaints about telephone waiting times.

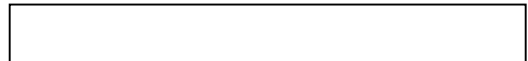
2018/19 – The Council received 624 corporate complaints, a slight decrease from 636 the previous year. While there were increases in some areas, those which saw a decrease in complaints included Housing Benefit and Council Tax Support, Customer Services, Development Management and Parking Appeals.

2019/20 – The Council received 647 corporate complaints, an increase from 624 in 2018/19. The new Garden Waste service received 70 complaints while there were increases in a number of areas including, Refuse and recycling, ASB and Civic Enforcement Ops and Grounds Maintenance. Housing and Building Services saw a significant decrease in complaints while there were also decreases in other areas including Planning, Development Management and Environmental Health.

Ombudsman Outcome Category



	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21 Q1
***** Premature	0	0	0	0	4	0	0
..... Upheld: Maladministration No Injustice	0	1	0	1	0	0	0
//// Upheld: Maladministration and Injustice	3	10	6	5	10	4	0
Not upheld: No maladministration	0	3	3	6	3	1	0
----- Not upheld: no further action	2	1	0	1	0	0	0
==== Closed after initial enquiries: out of jurisdiction	7	3	4	1	2	4	0
\\\\\\ Closed after initial enquiries: no further action	10	6	4	11	10	7	0
- - - Total	22	24	17	25	29	16	0



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Sent by email
to Local Authorities in England
For the attention of the Chief Executive

Committee on
Standards in
Public Life

July 2020

LOCAL GOVERNMENT ETHICAL STANDARDS

I am writing from the Committee on Standards in Public Life to follow up recommendations made in our January 2019 [report](#) on local government ethical standards.

In that report, we identified some best practice recommendations which represent a benchmark for ethical practice and which we expect any local authority should implement.

We said in our report that we would review the implementation of those best practice recommendations in 2020. We completely understand the unexpected and unprecedented pressures that local authorities are facing this year with COVID-19, so we are not of course asking for an immediate response. The purpose of this email is to let you know that we will be writing again in the autumn to ask you for your progress against these recommendations. I have attached a list of the best recommendations for ease of reference, but they are of course also set out in the report.

If you have any questions, please do just let us know. Otherwise, we wish you well and look forward to being in touch again later this year.

Secretariat
Committee on Standards in Public Life

List of Best Practice Recommendations

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial. 19 List of best practice

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

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