

FAREHAM

BOROUGH COUNCIL

Report to Audit and Governance Committee

Date **19 September 2016**

Report of: **Director of Finance and Resources**

Subject: **OVERVIEW OF COMPLAINTS AGAINST THE COUNCIL**

SUMMARY

This report informs members of the number of complaints made to the Council where these came by way of the Local Government Ombudsman, and of any complaints in respect of breaches of the Code of Conduct for Members for the year up to 31 March 2016.

RECOMMENDATION

That members note the contents of the report.

INTRODUCTION

1. One of the functions of the Audit and Governance Committee, set out in the Constitution, is to advise on an internal framework of standards of conduct that should be followed by members and officers. To assist the Committee in carrying out this role, it is considered helpful to provide information concerning complaints made to, or about the Council, its members and officers.
2. Many matters which could be termed complaints might more properly be termed service requests and others are dealt with by the relevant departments as part of their normal duties (e.g. a missed refuse bin). Such requests are not covered by this report.
3. Where a matter has not been resolved straightaway, the Council's corporate complaints procedure is followed and the matter is dealt with as a formal complaint. The procedure applies to most complaints, but there are some cases which are treated in a different way. The Council lets the complainant know if this is the case.
4. The formal complaints procedure is a two stage process. Under Stage 1, the Head of Service in the department responsible will investigate the complaint. If the matter remains unresolved it will proceed to Stage 2 where the Director, of the department responsible, will review the complaint.
5. A complainant who is still not satisfied with the Council's explanation or resolution, after both stages of the complaints process, has the right to contact the Local Government Ombudsman (LGO). Such cases are considered in this report together with the Ombudsman's annual letter.
6. Complaints about the conduct of members which involve possible breaches of the Council's Code of Conduct for Members are not dealt with under the Council's formal complaints procedure. Since the implementation of the Localism Act the standards responsibility became the responsibility of the Audit and Governance Committee and its Standards Sub Committee.

COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN

7. The LGO's annual review letter, Appendix A, shows that no complaints were upheld against the Council during the past financial year.

Enquiries and Complaints Received

8. In 2015/16 the LGO received a total of 9 complaints about the Council and made 8 decisions. The discrepancy between the figures is related to the LGO using the received date and decision date to determine the year for each. In 2014/15 there were 8 complaints and 8 decisions.
9. The complaints received related to a number of different service areas, which are summarised below. The titles are determined by the LGO so do not directly correlate with the services delivered by the Council.
 - (a) Two for Benefits and Tax
 - (b) One for Environment Services
 - (c) One for Highways and Transport

- (d) Four for Planning and Development
- (e) One for Other, due to the complaint being incomplete or invalid

10. The points below provide details of the outcome of the decisions made, by the LGO, in 2015/16.

- (a) One Incomplete or Invalid
- (b) Five Referred back for Local Resolution
- (c) One Closed After Initial Enquiries
- (d) Once detailed investigation, which was Not Upheld

11. No complaints were upheld, against Fareham Borough Council, in 2015/16. This meant that there were no remedies that the Council needed to implement.

Performance of Hampshire District Councils

12. For the year ended 31 March 2016 the LGO received 163 complaints and enquiries in respect of Hampshire District Councils, including Fareham Borough Council. The lowest number of complaints and enquiries was received by Test Valley Borough Council with 5. Winchester City Council received the highest number of complaints and enquiries, with a total of 34. Complaints and enquiries relating to Planning and Development were the most frequent type, with 74, which is the same as 2014/15 and is more than double the number of the next most common type.

13. For the year ended 31 March 2016 the LGO made a total of 161 decisions in respect of Hampshire District Councils, including Fareham Borough Council. Hart, New Forest and Test Valley had the joint lowest number of decisions, with 7 each. Winchester City Council received the highest number of decisions, which resulted in 10 (out of 31) decisions being upheld. Fareham Borough Council was one of six councils in Hampshire to receive no upheld decisions during 2015/16.

COMPLAINTS IN RESPECT OF BREACHES OF THE MEMBERS CODE OF CONDUCT

14. The Council has a duty to make arrangements to receive and consider complaints made against Councillors in Fareham. The responsibility for carrying out this function lies with the Monitoring Officer.

15. Complaints can be received in writing, via e-mail or by filling in a complaint form that is available on the Council's website. All complaints are taken seriously and are recorded and investigated by the Monitoring Officer, who evaluates each one against the code of conduct.

16. For the period 1st April 2015 to 31st March 2016, five complaints against members were received by the Monitoring Officer, a reduction of three against the previous year. Four of these were resolved at an early stage of the complaints procedure as it was established that no breach of the code had occurred. In the remaining case, it was established that a breach had occurred. Further details are provided below.

17. The breach of the code occurred on Monday, 21st March 2016. The Monitoring Officer

received complaints from three council officers relating to the conduct of a member when discussing a range of issues with the officers while visiting the department. The complainants alleged that the councillor in question had behaved in an offensive and racist way during their discussions.

18. The Monitoring Officer conducted an investigation, taking advice from the Solicitor to the Council and the Council's Designated Independent Person (DIP). He concluded that, given the nature of the alleged breach, it was appropriate to request that the matter be considered by the Audit and Governance Standards Sub-Committee, in line with the Council's constitution.
19. The Audit and Governance Standards Sub-Committee met on 13th April 2016 to consider the allegation, fully reviewing the facts of the case and consulting with the Solicitor to the Council and the DIP. The standards Sub-Committee upheld the allegation and agreed that the following sanctions be imposed on the member:
 - (a) To issue a formal letter of censure from the Chairman of the Standards Sub – Committee.
 - (b) A requirement that the member attend appropriate training by the Monitoring Officer
 - (c) A written apology should be sent by the member to the three officers who brought the complaint
 - (d) From the date of the notice, the member's permission to access the Civic Offices be removed for a period of two months, except to attend statutory Council or Committee meetings or is invited by officers to attend for a specific purpose

RISK ASSESSMENT

20. There are no significant risk considerations in relation to this report

CONCLUSION

21. The overall level of complaints, to the Local Government Ombudsman and those about Councillors, are in line with recent trends and the Committee is recommended to note the report.

Appendix A: Annual Review Letter, Local Government Ombudsman

Background Papers:

The Local Government Ombudsman's website provides copies of the annual reviews sent to all councils about their performance.

Reference Papers:

None

Enquiries:

For further information on this report please contact Christopher Cotmore, Corporate Policy Officer (Ext. 4552)