

FAREHAM

BOROUGH COUNCIL

Report to Audit and Governance Committee

Date **21 September 2015**

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 2015.

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 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, attached at Appendix A, shows one complaint was upheld against the Council during the last financial year, which will be discussed in more detail below.

Enquiries and Complaints received

8. In 2014/15 the LGO received a total of 8 complaints about the Council and made 8 decisions. Both figures show a drop from 2013/14 when 11 complaints were received and 13 decisions made.
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 complaints relating to highways and transport, which is the same as the previous year.
 - (b) Two complaints relating to housing, which is the same as 2013/14.
 - (c) Four complaints relating to planning and development. This represents a slight increase on last year when there were 3 complaints.

10. The points below provide detail on how the outcome from the eight decisions made.

- (a) One case where advice was given, which means the complaint was outside the scope of the LGO's work or related to a complaint that had previously been looked at.
- (b) Two cases were closed after initial enquiries. These complaints are where the LGO has made an early decision that it could not or should not investigate the complaint, usually because the complaint is outside its jurisdiction.
- (c) Two cases were referred back for local resolution. This decision is applied where a complainant has not been through the Council's full complaints process. The LGO is required to give councils an opportunity to try and resolve a complaint before becoming involved.
- (d) Three cases had detailed investigations carried out, of which one was upheld and the other two were not. A complaint is not upheld where the result of the LGO's investigation finds that the Council has not made a mistake. A complaint is upheld when the LGO finds that a council has made a mistake, which may or may not have caused an injustice.

11. A single complaint was upheld in 2014/15. The case related to a housing complaint regarding the waiting list. The LGO found:

"There was fault by the Council in its administration of Mr X's place on the housing list. The fault gave raised expectations to Mr X and his family. This injustice requires a remedy."

Further details of the LGO's findings are provided in Appendix B. The Council agreed to the recommended remedy, proposed by the LGO, and the complaint has now been closed.

Performance of Hampshire District Councils

12. For the year ended 31 March 2015 the LGO received 167 complaints and enquiries in respect of Hampshire District Councils, including Fareham Borough Council. The lowest number of complaints and enquiries was received by Fareham Borough Council. Basingstoke and Deane Borough Council received the highest number of complaints and enquiries, with a total of 24. Complaints and enquiries relating to Planning and Development were the most frequent type with 58, which is the same as 2013/14 and is more than double the number of the next most common type.

13. For the year ended 31 March 2015 the LGO made a total of 167 decisions in respect of Hampshire District Councils, including Fareham Borough Council. Fareham Borough Council has the lowest number of decisions. Basingstoke and Deane Borough Council received the highest number of decisions, with a total of 25. Of the decisions, 31 had detailed investigations, which resulted in 17 decisions being upheld. New Forest District Council was the only council to receive no upheld decisions against it.

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 2014 to 31st March 2015, eight complaints against members were received by the Monitoring Officer. Six 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 two other cases, it was established that a breach had occurred. Further details are provided below.
17. The first breach of the code occurred at a meeting of the Council's Planning Committee on 24th September 2014. The Monitoring Officer received a complaint by a planning applicant that a member of the committee had engaged in conversation with a member of the public who had spoken against the application during the meeting, prior to the Committee considering the item, thus giving the impression that they had a predetermined view on the application. The monitoring officer conducted an investigation and it was determined that a breach of the code had occurred. The sanctions taken against the member were a formal letter from the Monitoring Officer and a requirement to undertake additional training.
18. The second breach of the code occurred at a meeting of the Council's Planning Committee on 25th February 2015. The Monitoring Officer received a complaint from a member of the committee present at the meeting alleging that a Councillor who had attended to make a verbal representation on an application had subsequently used offensive language while sitting in the public area of the meeting room, thereby bringing the Council into disrepute. This allegation was independently corroborated by a Council officer present at the meeting.
19. 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.
20. The Audit and Governance Standards Sub – Committee met on 26th March 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 training by the Monitoring Officer on the standards of conduct required by council members

RISK ASSESSMENT

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

CONCLUSION

22. 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.

Appendices:

Appendix A: [Annual Review Letter, Local Government Ombudsman](#)

Appendix B: [Ombudsman's final decision Housing complaint](#)

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. (Ext 4552)