

**STANDARDS COMMITTEE**

**7 DECEMBER 2010**

**STANDARDS COMPLAINTS 2009-2010**

**RICHARD G LONG**

**DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

**PURPOSE OF REPORT**

- 1 To present to Members the report for 2009 – 2010 in respect of complaints received by the Council in relation to the conduct of Members.

**BACKGROUND**

- 2 The Local Government Act 2000 introduced a standards regime relating to the conduct of elected Members. Regulations introduced a model Code of Conduct which set out the standards of conduct that were to be expected of elected and certain non-elected Members of the Authority. All relevant Authorities were required to adopt the model Code of Conduct as a minimum standard. Sanctions relating to breaches of the Code of Conduct were also introduced.
- 3 At first all complaints relating to the conduct of Members, or alleging breaches of the Code of Conduct by Members, had to be sent direct to the Standards Board for England which determined whether any action, and if so what, would be taken in relation to complaints made to it.
- 4 Subsequent legislation transferred the responsibility for dealing with complaints to local authorities. As from May 2008 all complaints relating to the conduct of Members have been dealt with by the Standards Committee of the Council.
- 5 This report provides information relating to all Code of Conduct complaints for the period 1 April 2009 – 31 March 2010.

## COMPLAINTS 2009 - 2010

- 6 A total of 19 complaints were received last year. The Initial Assessment Sub-Committee met on nine occasions.
- 7 The 19 complaints made allegations against 11 different Councillors. A summary of each complaint and the actions taken are attached at Appendix 1

Councillor	Number of complaints	Notes
1 (Lab)	2	
2 (MIMA)	8	5 complaints all relate to the same incident
3 (Lab)	1	
4 (Lab)	1	
5 (Con)	1	
7 (Lab)	2	Both complaints were about the same incident, but from different directors of the same company
8 (Con)	1	
9 (Lab)	1	
10 (Con)	1	
11 (Lab)	1	

- 8 Some complaints were made by Councillors, but the majority were made by members of the public. In some instances a number of complaints related to the same incident, which tends to inflate the statistics:

Complainant (showing Group or Complaint Ref)	Subject Member	Number of complaints	Notes
Councillor 2 (MIMA)	Councillor 3 (Lab)	1	
Councillor 3 (Lab)	Councillor 2 (MIMA)	1	
Councillor 5 (Con)	Councillor 4 (Lab)	1	
Councillor 6 (Lab)	Councillor 2 (MIMA)	1	
Ms C (MSC013/2009)	Councillor 7 (Lab)	1	All these complaints were made by directors of the same company. Complaint 013/2009 and 001/2010 were effectively the same complaint made by different directors.
Mr E (MSC001/2010)	Councillor 7 (Lab)	1	
Company L (MSC008/2010)	Councillor 9 (Lab)	1	
Company L (MSC009/2010)	Councillor 10 (Con)	1	
Mr G Mr H Mrs I Mrs J Mrs K	Councillor 2 (MIMA)		All these complaints are from members of a Residents Association and relate to the same incident

- 9 Initial Assessment Sub-Committee dealt with the 19 complaints received as follows:

Decision	Number of complaints
No action	5
Referred to Monitoring Officer for investigation	12
Minor potential breach, no action	1
Referred to Standards Board for England	1

- 10 Of those referred to the Monitoring Officer for investigation, the investigating officers found as follows.

Breach of the Code of Conduct	3	Note: one complaint had 3 elements and therefore three separate findings
No breach of the Code of Conduct	5	
<i>Investigation ongoing</i>	1	
<i>Investigation complete, awaiting hearing date</i>	5	

- 11 Following a decision of 'No Action' by the Initial Assessment Sub-Committee, two complainants asked for the decision to be reviewed. In both cases the Review Sub-Committee upheld the original decisions to take no action.
- 12 The Review Sub-Committee actually met on three occasions: one of these was to consider a review request relating to a complaint made the previous year (MSC006/2090) that had been considered by Initial Assessment Sub-Committee on 30 March 2009. In this case the Review Sub-Committee also upheld the original decisions to take no action.
- 13 The Hearings Committee met on two occasions, to hear the same case, which was adjourned at the first hearing. The case concerned Councillor 2 who, it was alleged, had failed to treat the complainant with respect and had brought her office into disrepute.

The Investigating Officer recommended no breach in respect of the first allegation, and a breach in respect of the second allegation.

At the hearing on 25 June 2009 the Hearing Sub-Committee found that Councillor 2 had not breached the Code of Conduct.

## CONCLUSIONS AND RECOMMENDATIONS

- 14 Members are asked to note the content of this report.

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<b>CASE REFERENCE</b>	<b>INITIAL ASSESSMENT SUB</b>	<b>SUBJECT MEMBER/ GROUP</b>	<b>COMPLAINANT</b>
<b>MSC 007/2009</b>	<b>29 June 2009</b>	<b>Councillor 1 / Labour</b>	<b>MR A</b>
<b>ALLEGATION:</b>	Mr A informed Councillor about rubbish in backyard of nearby property. Councillor took one week to visit. Complainant alleges Councillor showed a lack of interest and failed to report problem to Community Protection. Councillor therefore did not show complainant the respect he deserved when dealing with a complaint he had referred to her.		
<b>ACTION</b>	Initial Assessment Sub agreed that, if proven, the facts would not amount to a breach of the Code of Conduct. No action.		
<b>MSC 008/2009</b>	<b>29 June 2009</b>	<b>Councillor 2 / Mima</b>	<b>Councillor 3 / Labour</b>
<b>ALLEGATION:</b>	That at a Licensing Training session held on the 18 <sup>th</sup> May Councillor 2 assaulted Councillor 3		
<b>ACTION</b>	IAS agreed that if the allegation were proven, there would have been a breach of the Code of Conduct. Investigating Officer concluded no breach of the Code. IAS agreed no further action		
<b>MSC 009/2009</b>	<b>29 June 2009</b>	<b>Councillor 3 / Labour</b>	<b>Councillor 2 / Mima</b>
<b>ALLEGATION:</b>	That at a Licensing Training session held on the 18 <sup>th</sup> May Councillor 3 assaulted Councillor 2		
<b>ACTION</b>	IAS agreed that if the allegation were proven, there would have been a breach of the Code of Conduct and ordered an investigation. The Investigating Officer found no breach of the Code. IAS agreed findings and ordered no further action		
<b>MSC 010/2009</b>	<b>29 June 2009</b>	<b>Councillor 2 / Mima</b>	<b>Mrs B</b>
<b>ALLEGATION:</b>	That in an e-mail dated 28 <sup>th</sup> May,2009 to all councillors, Councillor 2 made personal and inappropriate comments about Mrs B		
<b>ACTION</b>	IAS took the view that if proven, the conduct of Councillor 2 would amount to no more than a minor breach of the Code of Conduct, and therefore the cost of carrying out an investigation was not justified in the public interest.		

<b>CASE REFERENCE</b>	<b>INITIAL ASSESSMENT SUB</b>	<b>SUBJECT MEMBER/ GROUP</b>	<b>COMPLAINANT</b>
<b>MSC 011/2009</b>	<b>29 June 2009</b>	<b>Councillor 4 / Labour</b>	<b>Councillor 5/ Conservative</b>
<b>ALLEGATION:</b>	That Councillor 4 breached the Code of Conduct by producing electoral leaflets in the Labour Group Room		
<b>ACTION</b>	That prior to the printing of the leaflets permission had been sought and obtained from the relevant officer, therefore no breach had occurred. The complainant asked for a review of the decision. The Review Sub-Committee upheld the decision to take no action.		
<b>MSC 012/2009</b>	<b>29 June 2009</b>	<b>Councillor 2 / MIMA</b>	<b>Councillor 6/ Labour</b>
<b>ALLEGATION:</b>	The complaint comprised 3 allegations: 1 Councillor 2 posted comments relating to Councillor 6 on the Evening Gazette Forum; 2 Councillor 2 e-mailed Councillor 1 about Councillor 6 and copied the email to all Members of the Council; 3 Councillor 2 emailed all Members of the Council confidential correspondence relating to Councillor 6; And in doing so failed to treat Councillor 6 with respect, breached confidentiality, and brought her office into disrepute		
<b>ACTION</b>	IAS agreed that if the allegations were proven, there could have been a breach of the Code of Conduct and ordered an investigation. The Investigating Officer concluded: Complaint 1: Councillor 2 was acting in private capacity and that the Code did not apply Complaint 2: Councillor 2 did fail to treat Councillor 6 with respect Complaint 3: Councillor 2 did fail to treat Councillor 6 with respect. The Hearind Committee found: Complaint 2: Breach of the Code: Councillor 2 formally censured and required to apologise to the complainant Complaint 3: No breach of the Code		

<b>CASE REFERENCE</b>	<b>INITIAL ASSESSMENT SUB</b>	<b>SUBJECT MEMBER/ GROUP</b>	<b>COMPLAINANT</b>
<b>MSC 013/2009</b>	<b>19 October 2009</b>	<b>Councillor 7 / Labour</b>	<b>Ms C</b>
<b>ALLEGATION:</b>	The complaint is that Councillor 7 breached the Code of Conduct when acting as Executive Member he sent a letter to seeking a meeting with a supermarket to have discussions regarding a decision relating to taxis. The complainant alleged that in doing so he used his position improperly to confer a disadvantage on the complainant an advantage on others: had misused Council resources: and had brought his office or the Council into disrepute		
<b>ACTION</b>	The IAS considered that Councillor 6 was acting in his official capacity and was simply seeking to resolve a local dispute: and that no action should be taken. The complainant asked for a review of the decision. The Review Sub-Committee upheld the decision to take no action.		
<b>MSC 013/2009</b>	<b>7 December 2009</b>	<b>Councillor 7 / Labour</b>	<b>Mr D</b>
<b>ALLEGATION:</b>	The complainant attended a meeting of the Planning Committee as an objector to a planning application He alleged that Councillor 7, Chair of the Planning Committee, failed to treat Mr Wright with respect and brought his office into disrepute		
<b>ACTION</b>	IAS referred the allegation for investigation. The Investigating Officer found no breach of the Code. IAS agreed findings and ordered no further action		
<b>MSC 001/2010</b>	<b>28 January 2010</b>	<b>Councillor 7 / Labour</b>	<b>Mr E</b>
<b>ALLEGATION:</b>	The complaint alleged that Councillor 7, when acting as Executive Member sent a letter to seeking a meeting with a supermarket. The complainant alleged that Councillor 7 had conducted himself in a manner which had brought his office, or the Council, into disrepute; that used his position to improperly confer a disadvantage on Mr E's company; and that he failed to adhere to the Ten Principles of Public Life		
<b>ACTION</b>	IAS agreed that there was a potential conflict of interest for the monitoring officer as he was also subject to a complaint by the complainant, and therefore referred the allegation to the Standards Board for England. The Standards Board decided no action should be taken on the complaint.		

CASE REFERENCE	INITIAL ASSESSMENT SUB	SUBJECT MEMBER/ GROUP	COMPLAINANT
<b>MSC 002/2010</b>	<b>22 February 2010</b>	<b>Councillors 5 and 8 / Conservatives</b>	<b>Mr &amp; Mrs F</b>
<b>ALLEGATION:</b>	Mr & Mrs F alleged that Councillors 5 and 8 had demonstrated a disregard for the ten principles of public life		
<b>ACTION</b>	IAS referred the complaint for investigation, and determined that the investigator should determine which of these, or any other paragraphs, have been breached. Para 3(1) treat others with respect, Para 5 bring the office of councillor or the Council into disrepute, and Para 6(a) using or attempting to use their position improperly to secure a disadvantage for other persons or to secure an advantage for themselves. Investigation ongoing.		
<b>MSC 003/2010</b> <b>MSC 004/2010</b> <b>MSC 005/2010</b> <b>MSC 006/2010</b> <b>MSC 007/2010</b>	<b>2 March 2010</b>	<b>Councillor 2 / MIMA</b>	<b>Mr G</b> <b>Mr H</b> <b>Mrs I</b> <b>Mrs J</b> <b>Mrs K</b>
<b>ALLEGATION:</b>	The five complainants all allege that at a meeting of a Residents Association Councillor 2 acted in a disrespectful manner		
<b>ACTION</b>	IAS referred the complaint for investigation, and determined that the investigator should consider whether Councillor 2 failed to treat others with respect, and whether she brought her office or the Council into disrepute Investigation complete – awaiting Hearing date		
<b>MSC 008/2010</b>	<b>24 March 2010</b>	<b>Councillor 9 / Labour</b>	<b>Company L</b>
<b>ALLEGATION:</b>	Company L allege that at a meeting of the Licensing Committee Councillor 9, Chair of the Committee, was rude, abrupt and dismissive towards (also Complainant C) a director of the complainant company.		
<b>ACTION</b>	IAS referred the allegation for investigation. The Investigating Officer found there had been a breach of the Code. At the Hearing Councillor 9 accepted that he had breached the Code, but stated that he was following existing Council protocols. The Hearing Committee agreed that an apology should be sent to the complainant by the Council, rather than by the subject Member.		

<b>CASE REFERENCE</b>	<b>INITIAL ASSESSMENT SUB</b>	<b>SUBJECT MEMBER/ GROUP</b>	<b>COMPLAINANT</b>
<b>MSC 009/2010</b>	<b>24 March 2010</b>	<b>Councillor 10 / Conservative</b>	<b>Company L</b>
<b>ALLEGATION:</b>	At a meeting of the Licensing Committee Councillor 10 had declined to give his name to a director of the complainant company (also Complainant C). The complaint company alleged that the conduct of Councillor 10 had breached the Code of Conduct and demonstrated a disregard for the ten principles of public life		
<b>ACTION</b>	IAS decided that no action should be taken against Councillor 10 but that the matter be referred to the Constitution Committee for consideration.		
<b>MSC 010/2010</b>	<b>21 April 2010</b>	<b>Councillor 1 / Labour</b>	<b>Mr M</b>
<b>ALLEGATION:</b>	As a part of the investigation into a corporate complaint made by Mr M, Councillor 1 informed the investigating officer that Mr M has a reputation for being a nuisance. Mr M complained that in saying this Councillor 1 was disrespectful to him.		
<b>ACTION</b>	IAS noted that Councillor 1 had made the comment in support of Mr M's complaint, and did not consider that her conduct would constitute a breach of the Code. Ordered no action be taken.		
<b>MSC 011/2010</b>	<b>21 April 2010</b>	<b>Councillor 11 / Labour</b>	<b>Mr N</b>
<b>ALLEGATION:</b>	At a meeting of the Executive of a Community Council Councillor 11 shouted at Mr N calling him a liar, and refused to apologise		
<b>ACTION</b>	IAS referred the allegation for investigation. The investigating officer found that from the evidence of witnesses Councillor 11 had not shouted at Mr N, and although he had used the word liar there had been provocation on the part of the complainant. The investigating officer found no breach of the Code. IAS agreed and ordered no action be taken.		