



Commissioner's Report

2023-2024



Northern Ireland
Local Government
Commissioner for **Standards**

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Foreword from the Commissioner

The Code of Conduct for Councillors is designed to ensure public trust in local democracy through the promotion of good standards in public life. The Code sets out the standards expected from local representatives and aims to ensure that those taking essential decisions for citizens in Northern Ireland are clear on the principles and actions which should underpin public life.

The Code refers to the key principles of public life, the Nolan principles including leadership, selflessness, integrity, objectivity, accountability, openness, honesty, duty and respect. It also goes further and provides greater guidance for councillors including their duties not to bring either themselves or their councils into disrepute, the need to consider proper declaration of interests and ensuring public debate remains both compliant with the law and respectful.

In my role as Commissioner I consider it important that my office engages with both councillors and senior council staff to promote an understanding of the Code and to provide support and training. It is equally important that the public are aware of the Code and understand how to bring an allegation that it has been breached. During the last year we have continued to engage with councils and councillors. Having begun a programme of engagement with surveys of key stakeholders last year we have continued that as a central element of our approach. We engaged with over 38% of councillors in the last year, approximately 160 councillors and all 11 councils. We have also delivered 10 separate training sessions on the Code.

I understand that being subject to an allegation under the Code and to any subsequent investigation and adjudication is stressful and my office has worked hard to make this process more timely. Over the last three years my team has been working hard to reduce the number of older cases and investigations and I am pleased to say that there was no case older than 18 months at the end of the current year. Cases carried forward have been substantially reduced; with the overall number dropping from 78 cases carried forward in 2021/2022 to 38 cases in 2023/2024. Further the team exceeded each of their Key Performance Indicators.

I want to thank those councillors who have been subject to a complaint for their co-operation during the process. I would further like to thank my staff at the Local Government Ethical Standards team for their hard work during the year as well as those who ensure the smooth running of adjudications. I also thank both my assistant Commissioners for their dedication in ensuring that adjudications continue to operate in a timely and independent manner.



Margaret Kelly
Commissioner for Standards

Introduction

The mandatory **Northern Ireland Local Government Code of Conduct for Councillors** came into effect in May 2014. The Code sets out the standards expected from local councillors in Northern Ireland.

The role of the **Commissioner for Standards** is to investigate and where appropriate adjudicate on written allegations made about a councillor that their conduct or behaviour has, or may have, breached the Code.

Where there is insufficient evidence of a breach of the Code, cases may be closed at either the assessment or investigation stage. In cases where an investigation indicates that there may have been a breach of the Code alternatives to an adjudication are considered prior to referring a case to the Commissioner.

The investigation of complaints has been delegated to the **Local Government Ethical Standards (LGES)** team.

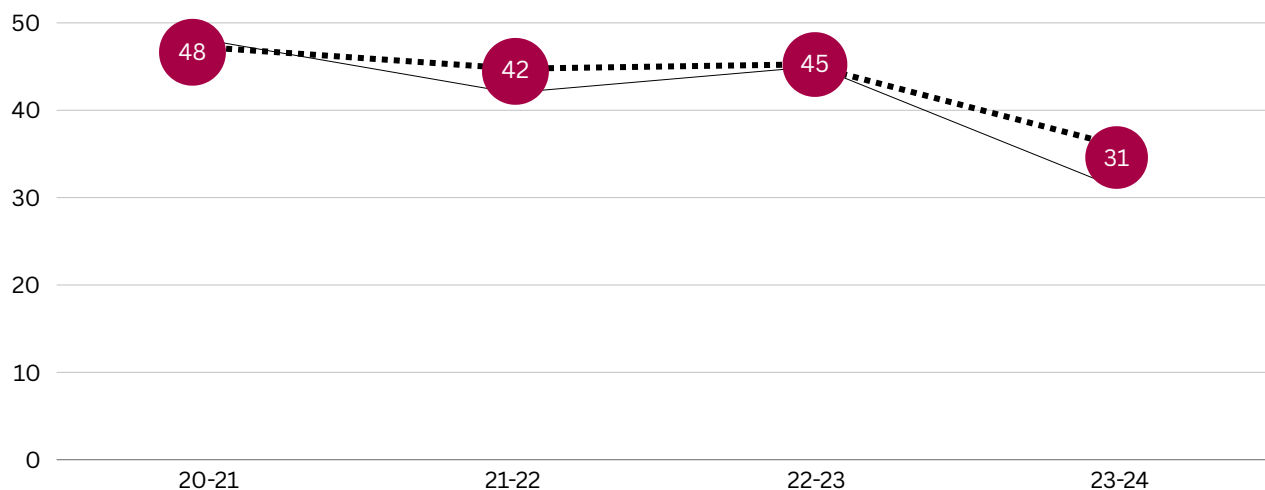
The separation between the investigation and adjudication functions ensures that should a case be referred to and accepted by the Commissioner that the issues raised as part of the investigation report are considered fairly and independently.

Only the Commissioner, after an Adjudication, can decide whether there has been a breach.

This report covers both the investigation and adjudication functions.

Investigations

Total Written Allegations Received



Graph showing total number of written allegations received since 20-21

	Written allegations received
20-21	48
21-22	42
22-23	45
23-24	31

There were **31** written allegations that councillors may have breached rules within the Code of Conduct in 2023-24. This compares to **45** written allegations received in 2022-23.

In addition to the 31 allegations against councillors received during the year, **45** cases were carried forward from 2022-23 giving a caseload of **86 allegations**.

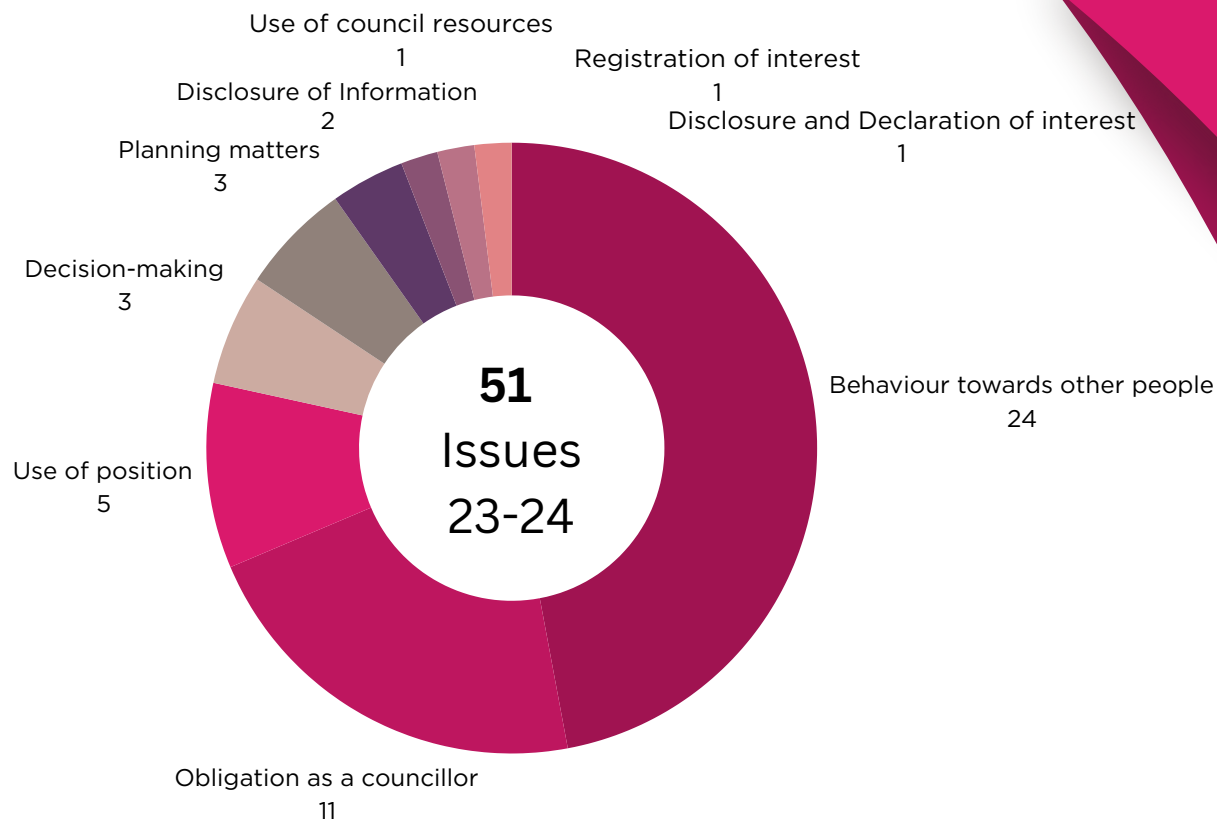
31

written allegations received 23-24

An allegation may raise issues relating to possible breaches of a number of rules or principles within the code.

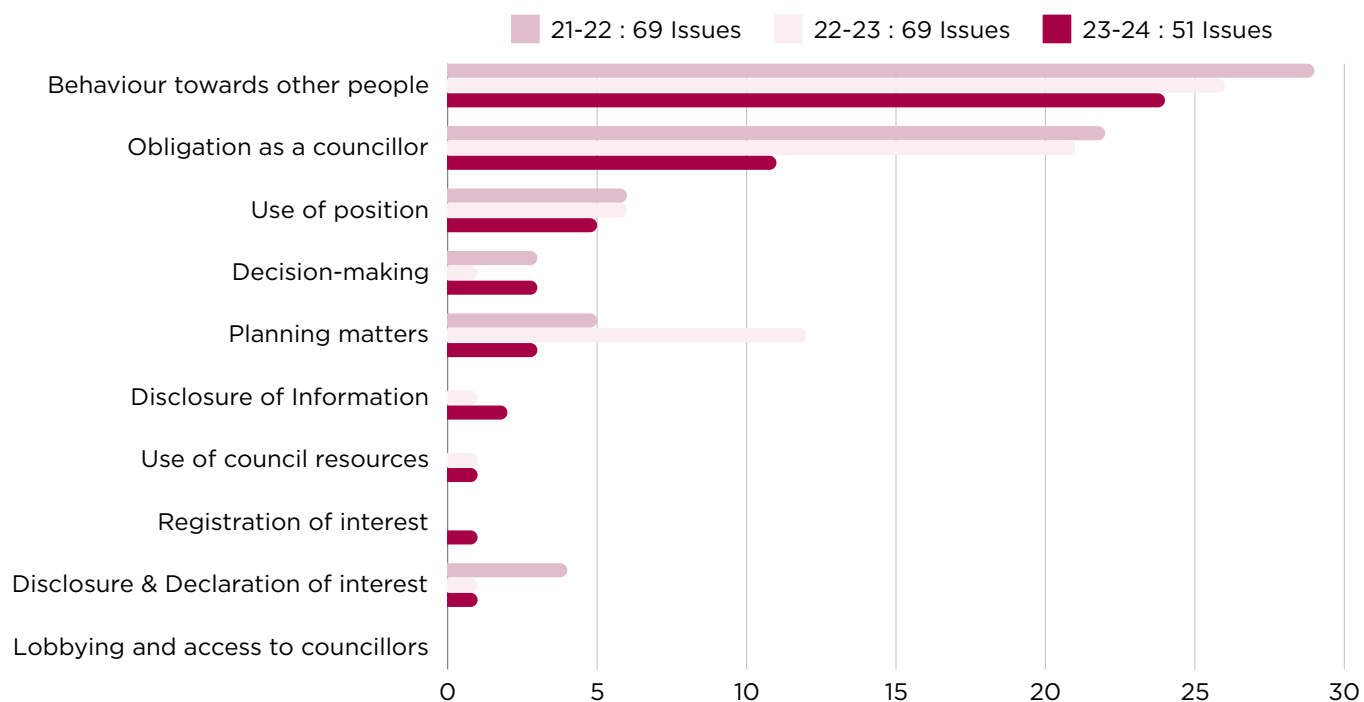
Issues of Complaint

The below pie-chart outlines each of the issues raised within the 31 written allegations received.



Each written allegation received may contain information indicating a potential breach of a number of rules in the Code of Conduct. A complaint may contain a number of allegations that a councillor has breached the Code. In 2034-24, **the 31 allegations that a councillor may have breached the Code of Conduct indicated 51 potential breaches.**

Issues of Complaint since 21-22



47%

of issues raised related to concerns about councillor's behaviour

Similar to previous years the largest area of concern raised in the allegations received related to the **behaviour of councillors towards others**. A total of **24 issues** were raised about councillors' behaviour. This compared to 26 issues about behaviour towards others being raised in 22-23.

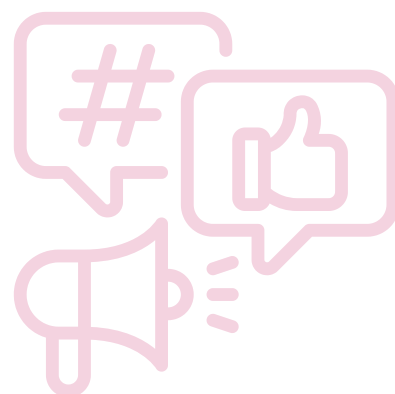
Concerns raised about the behaviour of councillors include comments made both at council meetings and on social media. Social media and online platforms are powerful tools for councillors to engage with constituents, share information, and participate in public discussion. However, **their immediacy and wide reach present unique challenges and responsibilities, making it essential for councillors to use these channels responsibly and in line with the Code.**

11

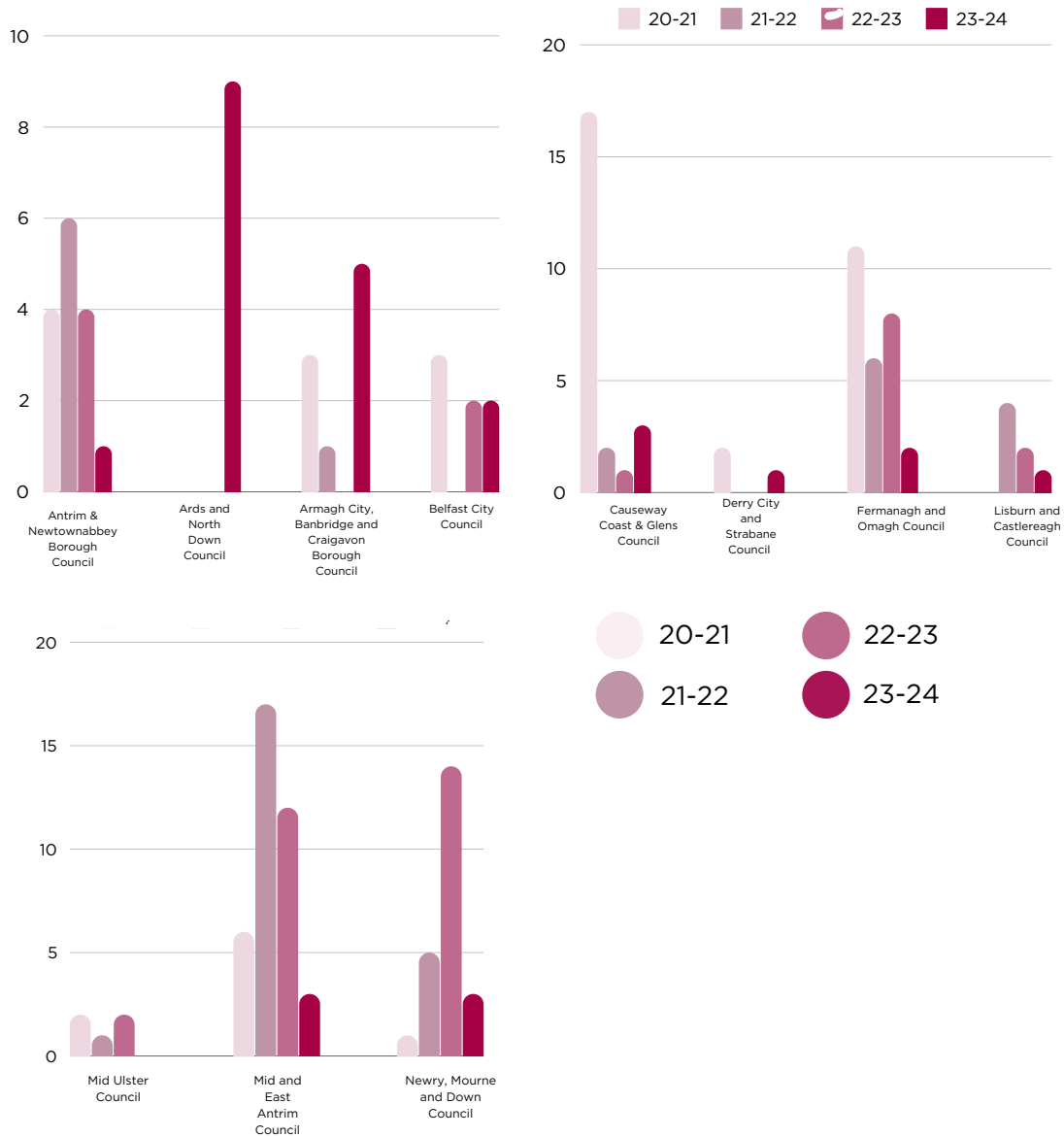
issues raised related to obligations as a councillor

The second largest area of concern (11) raised in the allegations related to the sections of the Code of Conduct relating to obligations as a councillor. This section requires councillors to act lawfully, in accordance with the Code, and not to act in a manner which could bring their position as a councillor, or their council, into disrepute.

The registration, disclosure and declaration of interests are key requirements of the Code. They are intended to give members of the public confidence that decisions are taken in their best interests, not in the interests of councillors or their family, friends or personal associates. A councillor's failure to act in accordance with these sections of the Code may reduce public confidence in their role as councillor but also harm the reputation of the council as a whole.



Written Allegations Received by Council Area



Council	20-21	21-22	22-23	23-24
Antrim & Newtownabbey Borough Council	4	6	4	1
Ards and North Down Council	0	0	0	9
Armagh City, Banbridge and Craigavon Borough Council	3	1	0	5
Belfast City Council	3	0	2	2
Causeway Coast & Glens Council	17	2	1	3
Derry City and Strabane Council	2	0	0	1
Fermanagh and Omagh Council	11	6	8	2
Lisburn and Castlereagh Council	0	4	2	1
Mid Ulster Council	2	1	2	0
Mid and East Antrim Council	6	17	12	3
Newry, Mourne and Down Council	1	5	14	3
Total	48	42	42	30*

*One councillor was not named in a complaint received so it is not possible to determine the council

Allegations by Closure Stage

Closure Stage		Cases Determined in 23-24
Initial Assessment	Examines whether the allegations relate to conduct covered by the Code	4
Assessment	Examines whether there is evidence of conduct which, if proven, indicates a breach of the Code	13
Investigation	Where it was decided that there was no evidence of any failure to comply with the Code	20
Adjudication	Referred to the Commissioner with a request that she consider an Adjudication on the issues raised	7*
	Total	44

*These were consolidated into 3 Adjudications

During the year the LGES team have been working to ensure that decisions on allegations are taken at the most appropriate stage of the case handling process. This approach has resulted in a considerable reduction in the time taken for cases to be determined. This change has been possible through early engagement with councillors about whom the allegations were made, encouraging participation in the process and ensuring that it is fully understood that the process is inquisitorial and not adversarial.

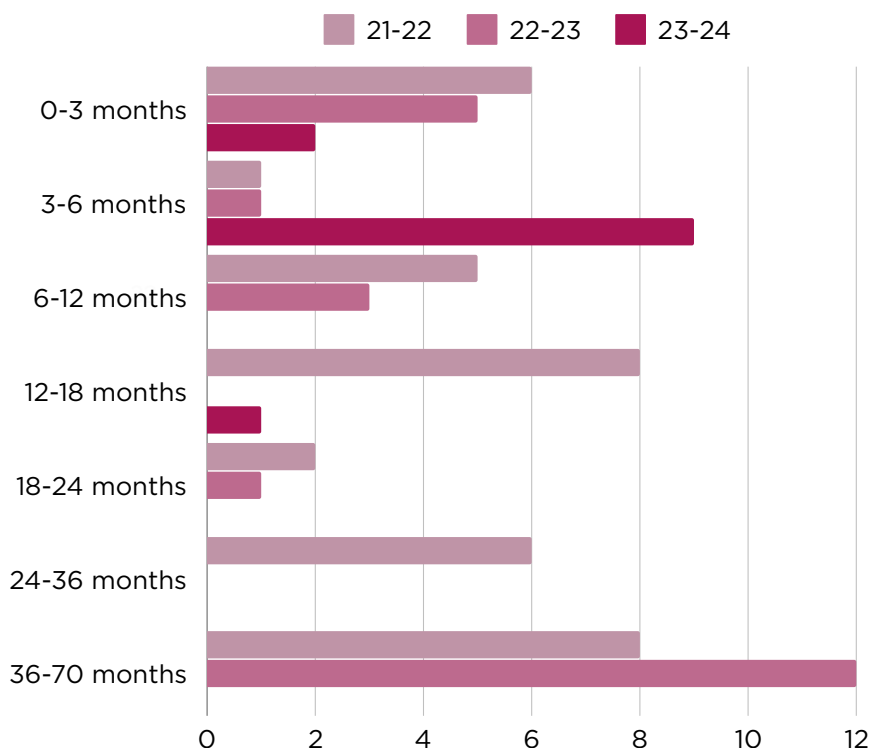
In considering the allegations made about a councillor the team take a proportionate approach which ensures a balance is struck between the effective use of resources while upholding high standards of conduct. In order to achieve this balance where an alleged breach of the code of conduct is unlikely to lead to a significant sanction following an adjudication the LGES team will explore whether the issues may be resolved without the need for adjudication.

Investigations Ongoing at Year End

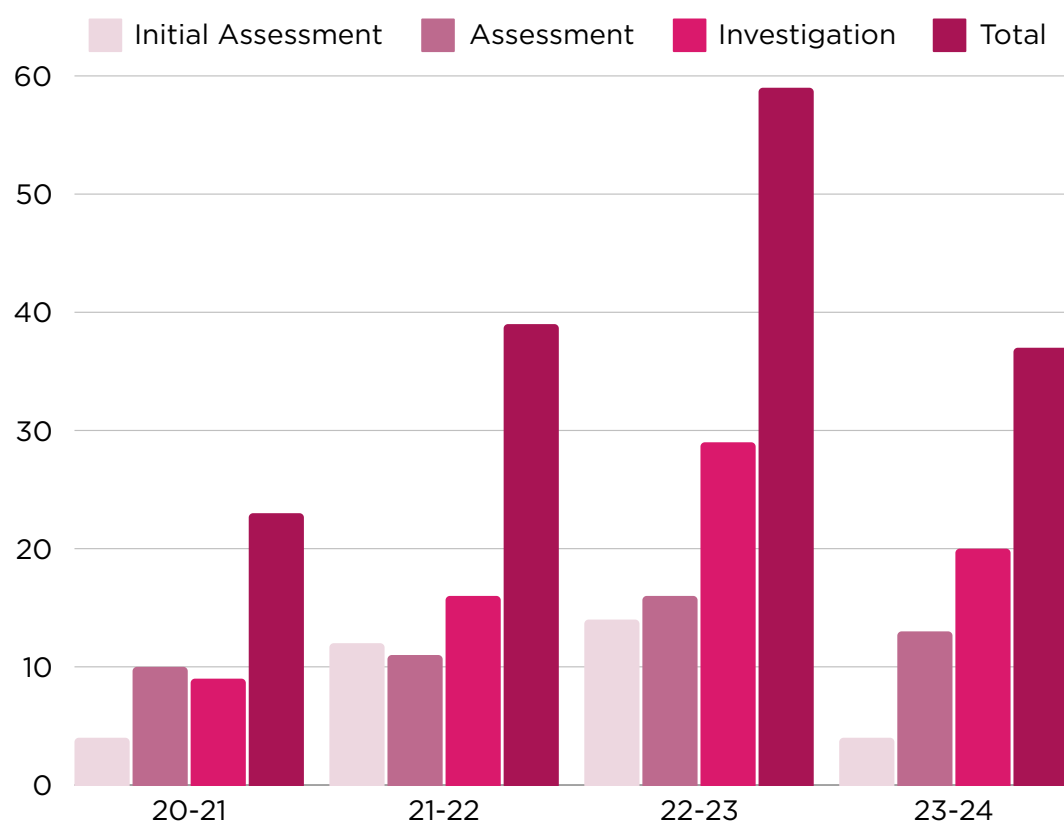
This graph shows investigations ongoing at year end by age of case over the past 3 years.

In the last two years **8 cases (4 cases in each year) have been resolved through action taken by the councillor without the need for an adjudication.** The number of investigations and the number of older investigations ongoing have been dramatically reduced. There has also been a focus on resolution through alternative action.

As a result of taking a proportionate approach involving early engagement and the cooperation of the councillors concerned, the workload carried forward has reduced from **78** carried forward into 2021/22, to **32** carried forward in 2024/25.

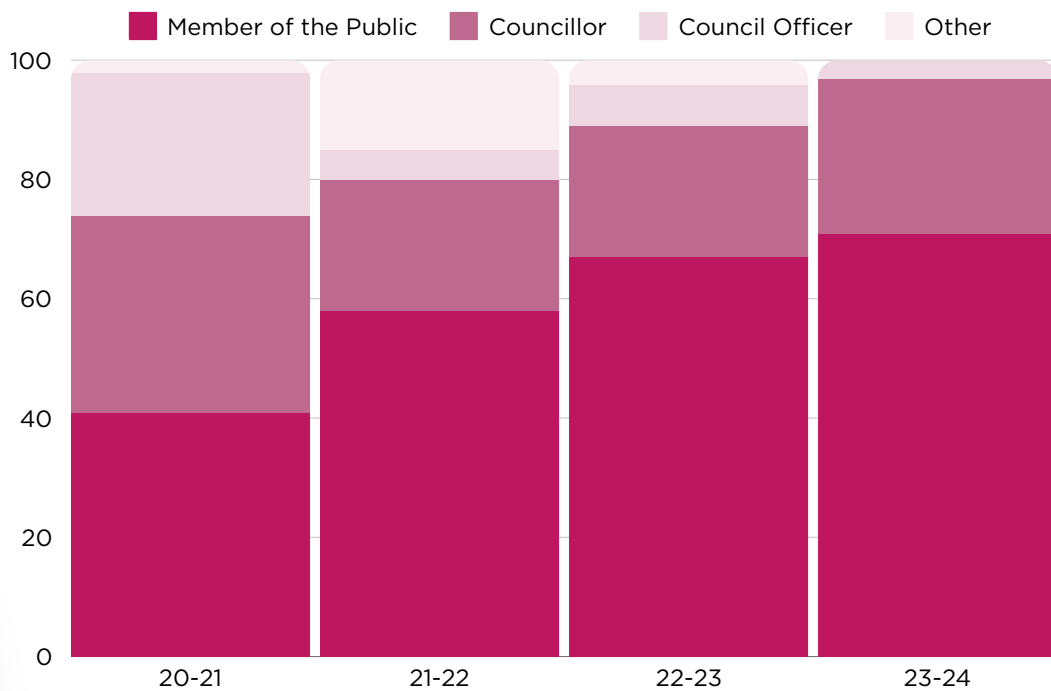


The graph below shows **the stages at which decisions were made** on the allegations considered in each of the last four years.



Written Allegations Received by Referral Source

The chart below shows **the source of written allegations** since 20-21. The number of written allegations received from members of the public has increased steadily over the past 4 years.



Performance

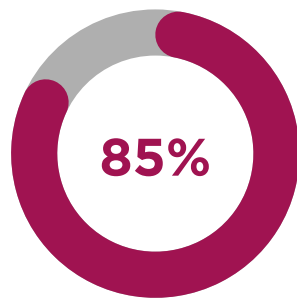
The Commissioner has established two Key Performance Indicators (KPI's) for the Investigation team. **In 23-24 these KPI targets were met.**

KPI 1 establishes a target for the timeframe within which a decision should be made on whether an allegation should progress to investigation:

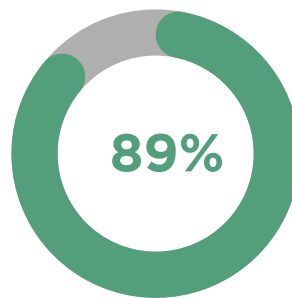
Target: In 85% of cases, the person making the allegation and the relevant councillor is told whether the allegation will be investigated within 4 weeks.

Result: Target was exceeded by 4% and KPI 1 was **achieved in 89% of cases.**

KPI 1 Target 23-24



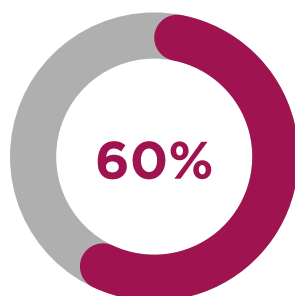
KPI 1 Result 23-24



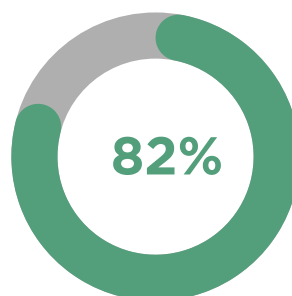
KPI 2 sets a timescale for completion of the investigation and reporting to the councillor on the outcome of that investigation.

Target: In 60% of cases, to complete an investigation within 40 weeks of the complaint being received.

Result: Target was exceeded by 22% and KPI 2 was **achieved in 82% of cases.**



KPI 2 Target 23-24



KPI 2 Result 23-24

Case Summaries

Allegations that a councillor made inaccurate and defamatory comments closed without need for investigation

A councillor was alleged to have made an inaccurate and defamatory statement about a mining company during a meeting of the council's Environmental Services Committee.

It was claimed he had accused the organisation of systemically intimidating members of the council for a period of ten years. By doing so he was accused of bringing his position as a councillor into disrepute.

Having reviewed the audio recording of the council meeting the Deputy Commissioner found that the councillor, whilst making comments about the companies actions did not bring his position as a councillor into disrepute.

As he could not find any evidence which would indicate a potential breach of the Code of Conduct the Deputy Commissioner decided the complaint should be closed without the need for an investigation.

Apology resolves councillor 'liking' inappropriate twitter post

The Deputy Commissioner considered an allegation that a councillor had breached the Code of Conduct because he had 'liked' an inappropriate post on Twitter.

The councillor provided a response to the allegation in which he accepted that he 'liked' the tweet but said this was unintentional as he did not see the comment "2 deviants and an enabler" above the graphic. He said that once he became aware that he had 'liked' the comment with the tweet he 'unliked' it.

The Deputy Commissioner verified that the councillor had 'unliked' the tweet prior to having been made aware of the allegation that he may have breached the code of conduct. Taking account of the step taken by the councillor of his own accord the Deputy Commissioner considered it was possible to deal with the alleged breach of the code of conduct without the need for an adjudication taking into consideration the Commissioner's 'Alternative Action' policy.

The Deputy Commissioner considered a public apology to the relevant individuals would be an appropriate way to uphold the public interest in ensuring respect. Following the councillor making a public apology on Twitter the case was closed.

Councillor's comments protected under Article 10 of the ECHR

A councillor alleged that another councillor directed 'highly disrespectful' comments towards her at a council meeting.

She said that the other councillor accused her of having a 'little tantrum' in relation to comments she made during a heated debate at a council meeting. She said the comment was sexist as she believed the other councillor would not have used the term about a male councillor.

She also said she took personal offence at his comment that she 'had represented terrorist organisations'. She said the comments were disrespectful and beyond the free speech limitations afforded to councillors under Article 10 of the European Convention on Human Rights.

The councillor who made the comments told investigators that he was responding to an 'outburst' from the female councillor, and stated that the word 'tantrum' can be levied at either sex.

He also said that his comments were not a personal attack, they were an attack on the party the councillor represents and that as group leader for her party she was speaking on behalf of it

The councillor's comments were considered against the Code of Conduct and the requirement to uphold the principles of the code and to show respect to others.

As the comment was on a political issue and occurred during a debate at a council meeting the Deputy Commissioner considered he had to consider the comments in the light of the enhanced protection available to councillors on matters of political expression as set out in article 10 of the European Convention on Human Rights.

In the Deputy Commissioner's view the 'little tantrum' comment could reasonably be considered disrespectful and discourteous. The councillor who the comments were directed at considered them offensive however when the comments were considered in the context of the debate the Deputy Commissioner considered they fell just short of the threshold for a referral to the Commissioner.

Therefore, as there was no evidence of a failure to comply with the Code the investigation was closed.

Investigation into councillor's acceptance of hospitality

A councillor alleged that a fellow councillor had breached the Code of Conduct by accepting hospitality from a business in the council area.

She said that this was a conflict of interest because as Chair of the council's Planning Committee he had recommended the planning application be refused which was the position being advocated by the business from whom he received hospitality. The planning officers recommendation to the planning committee was that the application be refused.

The councillor making the allegation said that shortly after proposing to the committee that the application be refused (the position the business advocated) he accepted an offer of a trip to a sports event in London.

The minutes and audio recording of the Planning Committee meeting were considered as well as the council's policy relating to the acceptance and registration of hospitality and the sections of the code of conduct relating to disrepute, gifts and hospitality and seeking preferential treatment.

Enquiries were also made with the business about the nature of the hospitality and the reason it was offered.

The councillor was interviewed and provided an explanation for his conduct. He explained he had voted in line with the recommendations put forward by the Council's planning department.

Having considered the evidence, the Deputy Commissioner was satisfied that at the time of the Planning Committee meeting the business had no intention of offering the councillor the hospitality, nor had the councillor any knowledge of the event in question or of a potential invite.

He was satisfied that the reason the hospitality was offered was not linked to the councillor's role, either as a councillor or as chair of the Planning Committee.

After concluding there was no evidence of a failure to comply with Code he ceased any further investigation of the complaint.

Complaint about social media posts resolved by alternative action

An allegation was received that two councillors had inappropriately shared confidential information on Twitter (X) about an ongoing legal challenge against their council. The allegation was investigated and it was felt that confidential information had been disclosed.

The information that was disclosed by the councillors was a matter of public interest, and would have come into the public domain at a future point. The Deputy Commissioner considered the councillors should not have commented on the information until the outcome of the legal challenge was known. Taking account of all the information it was felt that the matter could be resolved by action short of an adjudication.

The Deputy Commissioner decided that the case should be closed following an apology by the councillors for their breach of confidentiality at a full Council meeting.

Adjudications

Adjudication Caseload		23-24
Cases ongoing at the start of the year		3
Cases referred to the Commissioner for consideration of adjudication		3
Cases accepted		3
Cases not accepted		0
Cases closed		3
Cases ongoing at year end		3

3

adjudications
completed 23-24

Adjudication Decisions		23-24
No breach		0
Breach - No Further Action		0
Breach - Alternative Action		0
Breach - Censure		1
Breach - Suspension/Partial Suspension		1
Breach - Disqualification		1
	Total	3

When an investigation is completed by the Deputy Commissioner and the evidence indicates **a breach of the Code of Conduct**, the Deputy Commissioner may refer the case to the Commissioner for consideration if the threshold for **adjudication** has been reached.

The Commissioner can decide whether or not to proceed with an adjudication or take other action to resolve the matter as appropriate.

Case Summaries

Former councillor disqualified after failure to declare conflict of interest

Former councillor Luke Poots (Lisburn and Castlereagh Borough Council) was disqualified from holding the office of councillor for 4 years following an Adjudication Hearing.

Adjudication Commissioner Ian Gordon determined that former councillor Poots had breached the Local Government Code of Conduct for Councillors by failing to declare conflicts of interest while sitting on the Council's Planning Committee between 2015 and 2019.

The Adjudication Commissioner also made reference to a planning application submitted originally in the maiden name of former councillor Poots' mother, and the lack of clarity in the original application that the former councillor was a joint owner of the land.

Between February 2016 and February 2018 there were 35 occasions when the former councillor took part in the consideration of and voting on planning applications where his father, a public representative, was advocating either in favour of or objecting to the planning application being considered. Even when the former councillor declared the interest he continued to participate in the consideration of the applications and voted on them.

The Adjudication Commissioner found that the former councillor had received legal advice that his continuing to participate and, on occasion, Chair the Committee in these circumstances could give the appearance of bias. He referred to the councillor's Code of Conduct, which states that if there are conflicts of interest councillors should make a declaration and withdraw from the meeting.

He considered that in not doing so members of the public could conclude that former councillor Poots had not acted fairly.

He highlighted it was the former councillor's personal responsibility to comply with the Code, finding that he was in breach of paragraphs of the code of conduct relating to declaration of significant non-pecuniary interest and decision making.

He also found that by his actions the former councillor had brought his position as a councillor into disrepute.

Referring to the fact there were multiple breaches of the Code over a long period of time, and the former councillor's non-cooperation with the process, the Adjudication Commissioner concluded that a disqualification of 4 years was an appropriate sanction to ensure the public interest was upheld.

Alderman partially suspended over conflict of interest breach

Alderman John Smyth (Antrim and Newtownabbey Borough Council) was suspended from sitting on the council's Planning Committee for three months following an Adjudication Hearing.

The Alderman sat on the council's Planning Committee when his employer an MLA, made representations to the Committee on three planning applications. In one application the MLA, was the Agent for the application via his private planning consultancy business. During the meeting Alderman Smyth did not make a declaration of interest in respect of any matter and did not leave the meeting.

Although all of the planning applications were refused, the investigation looked at the Alderman's actions in line with the paragraphs the Code relating to declarations of significant private or personal non-pecuniary interest in a matter arising at a council or committee meeting.

Where a councillor makes a declaration of interest at a meeting the code also requires that they do not take part in discussion or voting on the issues and must withdraw from the meeting.

At the Hearing, Adjudication Commissioner Ian Gordon concluded that the presence of Alderman Smyth's employer advocating on particular applications at the planning committee gave rise to a potential conflict of interest. The Alderman should have erred on the side of caution by removing himself from the meeting,

Although he noted his previous record of good service and compliance with the code, and that his actions had no detrimental effect on the outcome of the planning applications, the Adjudication Commissioner noted that the Alderman was an experienced councillor with approximately 20 years of service. The adjudication Commissioner considered Alderman Smyth should therefore have been aware of how his actions would have been viewed under the Code.

He decided that a partial suspension from the council's Planning Committee for 3 months was an appropriate and proportionate reflection of the seriousness of the breaches.

Former councillor's actions brought council into disrepute

At an Adjudication Hearing former councillor Patrick Brown was censured by Adjudication Commissioner Ian Gordon after accepting he breached the Northern Ireland Local Government Code of Conduct for Councillors while a member of Newry, Mourne and Down District Council.

The breach related to an incident in which the former councillor put information on Facebook about the content of a meeting held 'in committee' regarding the appointment of an interview panel for the post of Council Chief Executive Officer (CEO).

The allegation indicated that the former councillor had suggested that the recruitment process was political rather than merit based. This had the potential to damage relationships between council political parties and damage the newly appointed CEO's prospective relationship with party groupings. It was alleged his actions had brought the council's recruitment process into disrepute.

Former councillor Brown's actions relating to the information he put online, his subsequent contact with the former Chief Executive of the Council, and his conduct during the investigation were held to be in breach of the Code of Conduct relating to respect, disrepute and cooperation with the Commissioner's staff.

In considering an appropriate sanction, the Adjudication Commissioner took into account that the former councillor had accepted that his conduct was inappropriate and had brought the council into disrepute. It was also noted that he had quickly taken down the comments and took steps to ameliorate the damage through contact with local newspapers.

The Adjudication Commissioner said that his consideration of the wider public interest involved the need to act proportionately when seeking a fair and efficient outcome, and that this should be reflected in his decision. He noted that a short period of suspension may have been an appropriate sanction for a sitting councillor. However this was not an option, so in the circumstances he decided that a Censure was the correct sanction.

It was agreed that former councillor Brown would issue an apology to the members of the selection panel and the former Chief Executive of the council.

Engagement

10

We delivered 10 information sessions throughout the year



11 out of 11

We engaged in multiple ways with all 11 councils in 23-24



38%

We met with 38% of all Councillors in NI this year



160+

In total we met with over 160 councillors throughout the year



In 2022/23 three surveys were carried out to identify further steps that could be taken to aid understanding of the code of conduct and to help councillors meet their responsibilities and obligations outlined in the code. The surveys were issued to all councillors, those who had made an allegation about a breach of the code and to council CEOs, senior council staff, and other relevant local government agencies with an interest in the Code.

As a result of the significant response received, work was commenced in 2023/24 to create bespoke training resources on specific issues such as conflicts of interest, the use of social media, and the Code itself. It is anticipated that these resources will be available during 2024/25.



Work is ongoing to provide further resources (including e-learning resources) and guidance on the issues most commonly giving rise to a breach of the code.



To ensure that the requirements of the code and the conduct expected are fully understood by councillors, work has commenced to update the Commissioner's guidance on the Code of Conduct. It is anticipated resources will be available during 24-25.

Commissioner and Assistant Commissioners



Margaret Kelly - Commissioner

Margaret Kelly took up the post of Local Government Commissioner for Standards in August 2020. Margaret has worked extensively in the voluntary and community sector for over 30 years and gained a range of experience in leading and managing services, developing policy and working in partnership with the public sector.



Ian Gordon OBE QPM LL.B - Adjudication Commissioner

Ian Gordon is a retired Deputy Chief Constable of Tayside Police. Seconded to HM Inspectorate of Constabulary for 3 years, he was the lead police officer on the annual statutory inspection of five UK police forces. Mr Gordon was a Convener for the Standards Commission for Scotland between 2010 and 2017 and led a focused improvement, to awareness of the Codes of Conduct, for elected members and Boards of Public Bodies.



Katrin Shaw - Adjudication Commissioner

Katrin was admitted as a Solicitor in 1996 and worked as a local government lawyer before she joined the Welsh Ombudsman's office as an Investigator in 2001. Since then, Katrin has held managerial roles in the office and is now the Public Services Ombudsman for Wales's Chief Legal Adviser & Director of Investigations overseeing casework, including investigations under the ethical standards framework for local government members in Wales.

Appendix

Funding and Expenditure

The Local Government Ethical Standards (LGES) directorate is funded from a separately identified portion of the overall annual budget for the Northern Ireland Public Services Ombudsman (NIPSO). The LGES budget is proactively managed by NIPSO over the course of each financial year to ensure that any emerging funding pressures are identified and addressed.

Similarly, where reduced requirements arise, under established arrangements with the Department for Communities (DfC), any such amounts are released back to DfC by NIPSO by means of a mutually agreed in-year transfer.

This is in accordance with normal in-year financial monitoring procedures, after which DfC pay the released funding back to Local Councils. Where applicable a final end of year adjustment must also be returned directly to DfC. In all cases the amounts returned are made available for redeployment within Local Government, thus ensuring that any unspent amounts are able to be utilised fully and effectively.

	21-22	22-23	23-24
Staff costs	386	461	395
Other administrative costs	148	153	196
Total	534	614	591





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