

# Agenda

## Standards Committee

Date: **Friday 2 December 2011**

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Time: **9.30 am**

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Place: **Oxford Town Hall, St Aldate's, Oxford**

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For any further information please contact:

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# Standards Committee

## Membership

<b>Chair</b>	<b>John Lay</b>	Independent Member
<b>Vice Chair</b>	<b>Dr Anne Gwinnett</b>	Independent Member
	<b>Councillor Clark Brundin</b>	Local Authority Representative
	<b>Councillor Michael Gotch</b>	Local Authority Representative
	<b>Councillor Gill Sanders</b>	Local Authority Representative
	<b>Councillor Val Smith</b>	Local Authority Representative
	<b>Councillor Dick Wolff</b>	Local Authority Representative
	<b>Chris Ballinger</b>	Independent Member
	<b>Meryll Dean</b>	Independent Member
	<b>Martin Gardner</b>	Independent Member
	<b>Nils Bartleet</b>	Parish Council Representative
	<b>Fred Mogridge</b>	Parish Council Representative

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# AGENDA

	Pages
<b>1 APOLOGIES FOR ABSENCE</b>	
The Constitution does not permit substitutions	
<b>2 DECLARATIONS OF INTEREST</b>	
Members serving on the Committee are asked to declare any personal or personal prejudicial interests they may have in any of the following agenda items.	
<b>3 MINUTES</b>	1 - 24
To approve as a correct record the minutes of the meeting held on:	
<ul style="list-style-type: none"><li>• 9 September 2011</li><li>• 15<sup>th</sup>. September</li><li>• 4<sup>th</sup>. October</li></ul>	
<b>4 ASSESSMENT PANEL OUTCOMES</b>	25 - 28
To inform the committee of the decision taken by the Assessment Panel on the 4 <sup>th</sup> . October	
<b>5 LOCALISM ACT</b>	29 - 44
The Localism Bill has now received Royal Assent. The Head of Law and Governance has submitted a report informing the Standards Committee of the provisions of the Act and how they will affect the Standards regime.	
<b>6 ANNUAL AUDIT LETTER</b>	45 - 60
The Committee is responsible for considering anything relevant (to its responsibilities) in the Annual Audit Letter.	
The Monitoring Officer will guide the committee to any relevant sections for discussion	
<b>7 LOCAL GOVERNMENT OMBUDSMAN - COMPLAINT</b>	61 - 68

To advise the Committee of the results of an investigation by the Local Government Ombudsman that concerns their work.

## **8 CORPORATE COMPLAINTS**

69 - 84

The Head of Law and Governance has submitted a report providing information on corporate complaints received by the Council.

The committee is asked to note the report and make comments on it.

## **9 DATES AND TIMES OF FUTURE MEETINGS**

9 March 2012, 3.00 pm

## **DECLARING INTERESTS**

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

### **What do I need to do if I have a personal interest?**

You must declare it when you get to the item on the agenda headed “Declarations of Interest” or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

### **What is a prejudicial interest?**

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

### **What do I need to do if I have a prejudicial interest?**

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

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## STANDARDS COMMITTEE

Friday 9 September 2011

**PRESENT:** John Lay (Chair), Anne Gwinnett (Vice-Chair), Meryll Dean (Independent Member), Councillor Smith (Local Authority Representative) and Nils Bartleet (Parish Council Representative).

### **14. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Brundin, Gotch, Sanders and Wolff (Local Authority Representatives); Chris Ballinger and Martin Gardner (Independent Members) and Fred Mogridge (Parish Council Representative).

### **15. DECLARATIONS OF INTEREST**

None made.

### **16. MINUTES**

Resolved that the minutes (previously circulated) of the meeting held on 10 June 2011 be confirmed as a correct record.

### **17. REVIEW OF WHISTLE BLOWING POLICY**

The existing Whistle Blowing Policy (previously circulated, now appended) was examined by the Committee.

The Head of Law and Governance advised that he was not aware that the policy had been used in the time since the Committee last reviewed it. He added that he hoped this was a reflection of the open culture in the authority.

Resolved to not make any amendments to the policy.

### **18. REVIEW OF PLANNING CODE CONDUCT**

The current Planning Code of Conduct (previously circulated, now appended) was examined by the Committee.

The Head of Law and Governance said that he was satisfied that members were aware of the Code's importance because he had routinely been asked to advise members on declaring interests at planning meetings.

The Committee proposed the following changes to the code:-

- 1) To amend paragraph 24.2 to make it clear that only those Councillors who were members of a planning committees were expected to attend planning training

- 2) To re word paragraphs 24.6 and 24.3 (c) in order to make clear the definition of bias and pre-determination.

Resolved to authorise the Head of Law and Governance to RECOMMEND that Council updates the Planning Code of Conduct as set out above.

## **19. LOCALISM BILL AND FUTURE OF THE STANDARDS COMMITTEE/MEETING WITH GROUP LEADERS**

The Head of Law and Governance provided the following information to update the Committee on the progress of the Localism Bill and other recent developments:-

- The Bill was currently at the report stage in the House of Lords with a third reading due to get underway shortly.
- Amendments to the Bill proposed by opposition members were due for debate in October. These amendments called for the reversal of the decision to eliminate statutory standards committees and the code of conduct. Further amendments also proposed the preservation of independent members as part of retained standards committees.
- If it was still the authority's wish to have a voluntary code of conduct this would likely be in place early in the new year.

The Committee discussed its relationship with Parish Councils and it was felt that it would be worthwhile to maintain some sort of support going forward. It was decided to include an item on the next Parish Council liaison meeting to seek the views of Parish Councils.

As the Localism Bill had not progressed to the point of royal assent, it was decided to postpone the six-monthly meeting between Group Leaders, the Chief Executive and Chair and Vice-Chair until the end of November.

## **20. MEMBERS' MANDATORY TRAINING PLAN 2011/12**

The Head of Law and Governance reported that the all members had attended the required annual Code of Conduct training for this year. A small number of Councillors were still to attend planning training and this was due for completion shortly.

For this year a further programme of optional training for members had been put together. This included training on housing policies, charring skills, accounts training and performance data training. The training had so far received positive feedback from members and was being delivered largely in-house.

Resolved to note the position.



## **21. ASSESSMENT AND REVIEW PANEL DECISION NOTICES**

The Committee was presented with the decision notices (previously circulated, now appended) of Panels held since the last meeting.

Resolved to note the Decision notices.

## **22. CORPORATE COMPLAINTS**

The Head of Law and Governance advised that continuing problems with the customer relationship management software had led no complaints data being available for the meeting. He apologised for the absence of a report and assured the Committee that information would be forthcoming to the December meeting. The report submitted to the December meeting would give extensive analysis of complaints received for the full year ending March 2011 as well as the current year to date.

Resolved to note the position.

## **23. DATES AND TIMES OF FUTURE MEETINGS**

2 December 2011 at 9.30 am  
9 March 2012 at 3 pm

**The meeting started at 3.00 pm and ended at 4.10 pm**

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# **STANDARDS COMMITTEE**

Thursday 15 September 2011

**PRESENT:** John Lay (Chair) Chris Ballinger, Meryll Dean (Independent Members); Councillors Gotch, Sanders and Wolff (Local Authority Representatives); Nils Bartleet and Fred Mogridge (Parish Council Representatives).

## **24. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Anne Gwinnett and Martin Gardner (Independent Members) and Councillors Brundin and Smith (Local Authority Representatives)

## **25. DECLARATIONS OF INTEREST**

3. Hearing of Complaint Reference 703/4/31.  
Councillor Gill Sanders, Personal, serves as Labour Group whip.

## **26. HEARING OF COMPLAINT REFERENCE 703/4/31**

The Head of Law and Governance submitted a report (previously circulated, now appended) detailing the procedure to be followed in respect of conducting a local determination hearing.

The Committee confirmed that the subject members were content for the complaint against each of them to be considered at the same time as the conduct complained of related to the same meeting and the same declaration of interest.

In accordance with the Local Government Act 2000, the Committee conducted a hearing into complaint reference 703/4/31. A copy of the full decision notices are appended to the minutes.

## **27. DATES AND TIMES OF FUTURE MEETINGS**

2 December 2011 at 9.30 am  
9 March 2012 at 3 pm

**The meeting started at 2.00 pm and ended at 3.33 pm**

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**STANDARDS COMMITTEE - WRITTEN DECISION NOTICE OF HEARING  
IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE CODE OF CONDUCT**

<b>Case reference number:</b>	703/4/31
<b>Name of authority:</b>	Oxford City Council
<b>Subject member, who the allegation has been made about:</b>	Councillor Mohammed Abbasi
<b>Member representative</b>	N/A
<b>Name of the person(s) who made the original allegation:</b>	Councillor David Williams
<b>Investigating officer(s):</b>	Nick Graham
<b>Investigating officer representative:</b>	N/A
<b>Date of hearing:</b>	15 September 2011
<b>Chair of the standards committee hearing:</b>	John Lay
<b>Standards committee members attending the hearing:</b>	John Lay (Chair), Meryll Dean, Chris Ballinger (Independent Members) Councillors Gill Sanders, Mike Gotch and Dick Wolff (Local Authority) Nils Bartleet and Fred Mogridge (Parish Council Representatives)
<b>Legal advisor to the hearing :</b>	Helen Lynch
<b>Clerk for the hearing:</b>	Alec Dubberley
<b>Date of report:</b>	13 July 2011

<b>Summary of the allegation:</b>	It was alleged that the Subject Member failed to declare a personal and/or prejudicial interest at a meeting of Full Council on the 21 February 2011 when the budget setting item was discussed and determined on the grounds that an item for consideration in the Council's budget concerned taxi licence fees and the subject member holds such a licence.
<b>Code of Conduct:</b>	Oxford City Council Members' Code of Conduct paragraphs 9(1) and 10(1).
<b>Hearing panel's decision on any procedural matter:</b>	The Committee confirmed with the Subject Member and the Clerk to the Committee that the pre-hearing process had been completed. There was no dispute as to the finding of facts contained within the Investigating Officers' report dated 13 July 2011. The Committee also confirmed that the subject member was content for the complaint against him to be considered at the same time as similar complaints against two other Councillors at one hearing.
<b>Summary of the evidence considered and representations made:</b>	The Committee invited the Investigating Officer to introduce his report and summarise his findings. The Subject Member was invited to make representations to the Committee. The Subject Member confirmed that he agreed with the conclusions of the Investigating Officer and acknowledged that it had been a mistake not to declare a personal interest. The Subject Member apologised for his failure to declare a personal interest in the budget item and had nothing further to add.
<b>Findings of fact:</b>	The Committee accepted the findings of fact as set out in the Investigating Officer's report as these were accepted by the Subject Member.
<b>Findings as to whether or not the member failed to follow the Code of Conduct including the reasons for that finding:</b>	<p><u>Paragraph 9(1): Declaring Personal Interests</u></p> <p>The Committee found that Councillor Abbasi had breached paragraph 9(1) of the Oxford City Council's Code of Conduct in that he failed to declare a personal interest at the meeting of Full Council on 21 February 2011.</p> <p>The Committee concluded that because Councillor Abbasi holds a dual Hackney Carriage and Private Hire license he should have declared a personal interest because, as part of the budget proposals, the authority proposed to make a series of amendments to the fees and charges made for services connected to taxi licensing. The Committee concluded that regardless of the length of the report, the Subject Member ought to have known that taxi licence fees were referred to in one or two lines of the report.</p> <p>The Committee also concluded that the Subject Member must have been aware of the interest as he had declared his employment as a Hackney Carriage Taxi Driver on his Register of Interests form. The Code requires that where a Councillor has a personal interest in any business of the</p>

	<p>authority and attends a meeting at which the business is considered, the Councillor must disclose that interest.</p> <p><u>Paragraph 10(1): Declaring Prejudicial Interests</u></p> <p>The Committee found that Councillor Abbasi did not fail to declare a prejudicial interest at the same meeting of Full Council on 21 February 2011. Therefore there was no breach of paragraph 10(1) of the Members' Code of Conduct.</p> <p>The Committee concluded that the subject member would have been exempt from declaring a prejudicial interest by virtue of paragraph 10(2)(c)(vi) of the Code of Conduct. Paragraph 10(2)(c)(vi) states that Councillors are exempt from declaring a prejudicial interest when "setting the Council Tax precept under the Local Government Finance Act 1992." The Committee considered that the process of setting the Council's annual budget and the Council tax are inextricably linked. The Committee also had regard to Standards for England Guidance, which states that members do not have a prejudicial interest in a general motion to adopt an annual budget, the details of which are set out in an Officer report.</p>
<b>Penalties applied:</b>	<p>The Committee took into account the guidance provided by Standards for England when considering sanctions.</p> <p>It took into account that subject member had acknowledged his failure to declare a personal interest at Full Council and accepted his apology.</p> <p>The Standards Committee decided to censure Councillor Abbasi for failing to declare a personal interest at the meeting of Full Council on 21 February 2011.</p>
<b>Recommendations to the authority:</b>	<p>The Committee instructed Jeremy Thomas as Monitoring Officer to issue a guidance note to Councillors accompanying the next budget council agenda papers explaining the need to declare personal interests in all matters contained within the budget. The Committee asked that the note includes an explanation of the exemptions under paragraph 10(2)(vi) of the Code of Conduct to be included in the guidance.</p>
<b>Right to appeal:</b>	<p>Under the provisions of Regulation 8(4) of the Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003, the member concerned may apply, within 28 days, for permission to appeal against the Committee's decision.</p>

Signed *John Lay*  
Chair of the Standards Committee

Dated: 23 September 2011

Standards Committee  
Oxford City Council  
St Aldate's, Oxford, OX1 1BX

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**STANDARDS COMMITTEE - WRITTEN DECISION NOTICE OF HEARING  
IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE CODE OF CONDUCT**

<b>Case reference number:</b>	703/4/31
<b>Name of authority:</b>	Oxford City Council
<b>Subject member, who the allegation has been made about:</b>	Councillor Shah Khan
<b>Member representative</b>	N/A
<b>Name of the person(s) who made the original allegation:</b>	Councillor David Williams
<b>Investigating officer(s):</b>	Nick Graham
<b>Investigating officer representative:</b>	N/A
<b>Date of hearing:</b>	15 September 2011
<b>Chair of the standards committee hearing:</b>	John Lay
<b>Standards committee members attending the hearing:</b>	John Lay (Chair), Meryll Dean, Chris Ballinger (Independent Members) Councillors Gill Sanders, Mike Gotch and Dick Wolff (Local Authority) Nils Bartleet and Fred Mogridge (Parish Council Representatives)
<b>Legal advisor to the hearing :</b>	Helen Lynch
<b>Clerk for the hearing:</b>	Alec Dubberley
<b>Date of report:</b>	13 July 2011

<b>Summary of the allegation:</b>	It was alleged that the Subject Member failed to declare a personal and/or prejudicial interest at a meeting of Full Council on the 21 February 2011 when the budget setting item was discussed and determined on the grounds that an item for consideration in the Council's budget concerned taxi licence fees and the subject member holds such a licence.
<b>Code of Conduct:</b>	Oxford City Council Members' Code of Conduct paragraphs 9(1) and 10(1).
<b>Hearing panel's decision on any procedural matter:</b>	The Committee confirmed with the Subject Member and the Clerk to the Committee that the pre-hearing process had been completed. There was no dispute as to the finding of facts contained within the Investigating Officers' report dated 13 July 2011. The Committee also confirmed that the subject member was content for the complaint against him to be considered at the same time as similar complaints against two other Councillors at one hearing.
<b>Summary of the evidence considered and representations made:</b>	The Committee invited the Investigating Officer to introduce his report and summarise his findings. The Subject Member was invited to make representations to the Committee. The Subject Member confirmed that he agreed with the conclusions of the Investigating Officer and acknowledged that it had been a mistake not to declare a personal interest. The Subject Member apologised for his failure to declare a personal interest in the budget item and had nothing further to add.
<b>Findings of fact:</b>	The Committee accepted the findings of fact as set out in the Investigating Officer's report as these were accepted by the Subject Member.
<b>Findings as to whether or not the member failed to follow the Code of Conduct including the reasons for that finding:</b>	<p><u>Paragraph 9(1): Declaring Personal Interests</u></p> <p>The Committee found that Councillor Khan had breached paragraph 9(1) of the Oxford City Council's Code of Conduct in that he failed to declare a personal interest at the meeting of Full Council on 21 February 2011.</p> <p>The Committee concluded that because Councillor Khan holds a dual Hackney Carriage and Private Hire license he should have declared a personal interest because, as part of the budget proposals, the authority proposed to make a series of amendments to the fees and charges made for services connected to taxi licensing. The Committee concluded that regardless of the length of the report, the Subject Member ought to have known that taxi licence fees were referred to in one or two lines of the report.</p> <p>The Committee also concluded that the Subject Member must have been aware of the interest as he had declared his employment as a Hackney Carriage Taxi Driver on his Register of Interests form. The Code requires that where a Councillor has a personal interest in any business of the authority and attends a meeting at which the business is</p>

	<p>considered, the Councillor must disclose that interest.</p> <p><u>Paragraph 10(1): Declaring Prejudicial Interests</u></p> <p>The Committee found that Councillor Khan did not fail to declare a prejudicial interest at the same meeting of Full Council on 21 February 2011. Therefore there was no breach of paragraph 10(1) of the Members' Code of Conduct.</p> <p>The Committee concluded that the subject member would have been exempt from declaring a prejudicial interest by virtue of paragraph 10(2)(c)(vi) of the Code of Conduct. Paragraph 10(2)(c)(vi) states that Councillors are exempt from declaring a prejudicial interest when "setting the Council Tax precept under the Local Government Finance Act 1992." The Committee considered that the process of setting the Council's annual budget and the Council tax are inextricably linked. The Committee also had regard to Standards for England Guidance, which states that members do not have a prejudicial interest in a general motion to adopt an annual budget, the details of which are set out in an Officer report.</p>
<b>Penalties applied:</b>	<p>The Committee took into account the guidance provided by Standards for England when considering sanctions.</p> <p>It took into account that subject member had acknowledged his failure to declare a personal interest at Full Council and accepted his apology.</p> <p>The Standards Committee decided to censure Councillor Khan for failing to declare a personal interest at the meeting of Full Council on 21 February 2011.</p>
<b>Recommendations to the authority:</b>	<p>The Committee instructed Jeremy Thomas as Monitoring Officer to issue a guidance note to Councillors accompanying the next budget council agenda papers explaining the need to declare personal interests in all matters contained within the budget. The Committee asked that the note includes an explanation of the exemptions under paragraph 10(2)(vi) of the Code of Conduct to be included in the guidance.</p>
<b>Right to appeal:</b>	<p>Under the provisions of Regulation 8(4) of the Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003, the member concerned may apply, within 28 days, for permission to appeal against the Committee's decision.</p>

Signed *John Lay*  
Chair of the Standards Committee

Dated: 23 September 2011

Standards Committee  
Oxford City Council  
St Aldate's, Oxford, OX1 1BX

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**STANDARDS COMMITTEE - WRITTEN DECISION NOTICE OF HEARING  
IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE CODE OF CONDUCT**

<b>Case reference number:</b>	703/4/31
<b>Name of authority:</b>	Oxford City Council
<b>Subject member, who the allegation has been made about:</b>	Councillor Sajjad Malik
<b>Member representative</b>	N/A
<b>Name of the person(s) who made the original allegation:</b>	Councillor David Williams
<b>Investigating officer(s):</b>	Nick Graham
<b>Investigating officer representative:</b>	N/A
<b>Date of hearing:</b>	15 September 2011
<b>Chair of the standards committee hearing:</b>	John Lay
<b>Standards committee members attending the hearing:</b>	John Lay (Chair), Meryll Dean, Chris Ballinger (Independent Members) Councillors Gill Sanders, Mike Gotch and Dick Wolff (Local Authority) Nils Bartleet and Fred Mogridge (Parish Council Representatives)
<b>Legal advisor to the hearing :</b>	Helen Lynch
<b>Clerk for the hearing:</b>	Alec Dubberley
<b>Date of report:</b>	13 July 2011

<b>Summary of the allegation:</b>	It was alleged that the Subject Member failed to declare a personal and/or prejudicial interest at a meeting of Full Council on the 21 February 2011 when the budget setting item was discussed and determined on the grounds that an item for consideration in the Council's budget concerned taxi licence fees and the subject member holds such a licence.
<b>Code of Conduct:</b>	Oxford City Council Members' Code of Conduct paragraphs 9(1) and 10(1).
<b>Hearing panel's decision on any procedural matter:</b>	The Committee confirmed with the Subject Member and the Clerk to the Committee that the pre-hearing process had been completed. There was no dispute as to the finding of facts contained within the Investigating Officers' report dated 13 July 2011. The Committee also confirmed that the subject member was content for the complaint against him to be considered at the same time as similar complaints against two other Councillors at one hearing.
<b>Summary of the evidence considered and representations made:</b>	The Committee invited the Investigating Officer to introduce his report and summarise his findings. The Subject Member was invited to make representations to the Committee. The Subject Member confirmed that he agreed with the conclusions of the Investigating Officer and acknowledged that it had been a mistake not to declare a personal interest. The Subject Member apologised for his failure to declare a personal interest in the budget item and had nothing further to add.
<b>Findings of fact:</b>	The Committee accepted the findings of fact as set out in the Investigating Officer's report as these were accepted by the Subject Member.
<b>Findings as to whether or not the member failed to follow the Code of Conduct including the reasons for that finding:</b>	<p><u>Paragraph 9(1): Declaring Personal Interests</u></p> <p>The Committee found that Councillor Malik had breached paragraph 9(1) of the Oxford City Council's Code of Conduct in that he failed to declare a personal interest at the meeting of Full Council on 21 February 2011.</p> <p>The Committee concluded that because Councillor Malik holds a dual Hackney Carriage and Private Hire license he should have declared a personal interest because, as part of the budget proposals, the authority proposed to make a series of amendments to the fees and charges made for services connected to taxi licensing. The Committee concluded that regardless of the length of the report, the Subject Member ought to have known that taxi licence fees were referred to in one or two lines of the report.</p> <p>The Committee also concluded that the Subject Member must have been aware of the interest as he had declared his employment as a Hackney Carriage Taxi Driver on his Register of Interests form. The Code requires that where a Councillor has a personal interest in any business of the authority and attends a meeting at which the business is</p>

	<p>considered, the Councillor must disclose that interest.</p> <p><u>Paragraph 10(1): Declaring Prejudicial Interests</u></p> <p>The Committee found that Councillor Malik did not fail to declare a prejudicial interest at the same meeting of Full Council on 21 February 2011. Therefore there was no breach of paragraph 10(1) of the Members' Code of Conduct.</p> <p>The Committee concluded that the subject member would have been exempt from declaring a prejudicial interest by virtue of paragraph 10(2)(c)(vi) of the Code of Conduct. Paragraph 10(2)(c)(vi) states that Councillors are exempt from declaring a prejudicial interest when "setting the Council Tax precept under the Local Government Finance Act 1992." The Committee considered that the process of setting the Council's annual budget and the Council tax are inextricably linked. The Committee also had regard to Standards for England Guidance, which states that members do not have a prejudicial interest in a general motion to adopt an annual budget, the details of which are set out in an Officer report.</p>
<b>Penalties applied:</b>	<p>The Committee took into account the guidance provided by Standards for England when considering sanctions.</p> <p>It took into account that subject member had acknowledged his failure to declare a personal interest at Full Council and accepted his apology.</p> <p>The Standards Committee decided to censure Councillor Malik for failing to declare a personal interest at the meeting of Full Council on 21 February 2011.</p>
<b>Recommendations to the authority:</b>	<p>The Committee instructed Jeremy Thomas as Monitoring Officer to issue a guidance note to Councillors accompanying the next budget council agenda papers explaining the need to declare personal interests in all matters contained within the budget. The Committee asked that the note includes an explanation of the exemptions under paragraph 10(2)(vi) of the Code of Conduct to be included in the guidance.</p>
<b>Right to appeal:</b>	<p>Under the provisions of Regulation 8(4) of the Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003, the member concerned may apply, within 28 days, for permission to appeal against the Committee's decision.</p>

Signed *John Lay*  
Chair of the Standards Committee

Dated: 23 September 2011

Standards Committee  
Oxford City Council  
St Aldate's, Oxford, OX1 1BX

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# **STANDARDS COMMITTEE**

**Tuesday 4 October 2011**

**PRESENT:** Anne Gwinnett (Vice-Chair, in the Chair), Meryll Dean and Martin Gardner (Independent Members); Councillors Brundin, Gotch, Sanders and Smith (Local Authority Representatives) and Fred Mogridge (Parish Council Representative).

## **28. APOLOGIES FOR ABSENCE**

Apologies for absence were received from John Lay and Chris Ballinger (Independent Members); Councillor Wolff (Local Authority Representative) and Nils Bartleet (Parish Council Representative).

## **29. DECLARATIONS OF INTEREST**

None made.

## **30. HEARING OF COMPLAINT REFERENCE 703/4/30**

The Head of Law and Governance submitted a report (previously circulated, now appended) detailing the procedure to be followed in respect of conducting a local determination hearing.

In accordance with the Local Government Act 2000, the Committee conducted a hearing into complaint reference 703/4/30. A copy of the full decision notice is appended to the minutes.

## **31. DATES AND TIMES OF FUTURE MEETINGS**

2 December 2011 at 9.30 am  
9 March 2012 at 3 pm

**The meeting started at 10.00 am and ended at 12.21 pm**

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**STANDARDS COMMITTEE - WRITTEN DECISION NOTICE OF HEARING  
IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE CODE OF CONDUCT**

<b>Case reference number:</b>	703/4/30
<b>Name of authority:</b>	Oxford City Council
<b>Subject member, who the allegation has been made about:</b>	Councillor Nuala Young
<b>Member representative</b>	N/A
<b>Name of the person(s) who made the original allegation:</b>	Councillor Ed Turner
<b>Investigating officer(s):</b>	Tim O'Gara
<b>Investigating officer representative:</b>	N/A
<b>Date of hearing:</b>	4 October 2011
<b>Chair of the standards committee hearing:</b>	Anne Gwinnett
<b>Standards committee members attending the hearing:</b>	Anne Gwinnett (Chair), Meryll Dean and Martin Gardner (Independent Members) Councillors Clark Brundin, Mike Gotch, Gill Sanders, and Val Smith (Local Authority) Fred Mogridge (Parish Council Representative)
<b>Legal advisor to the hearing :</b>	Jeremy Thomas
<b>Clerk for the hearing:</b>	Alec Dubberley
<b>Date of report:</b>	25 July 2011

<b>Summary of the allegation:</b>	The complainant alleges that the Subject Member failed to declare a personal and prejudicial interest at the meeting of Full Council on 21 February 2011 in respect of her employment as a freelance tour guide. It is further alleged that she used her position as Councillor to confer an advantage on herself.
<b>Code of Conduct:</b>	Oxford City Council Members' Code of Conduct paragraphs 6(a), 8(1)(a)(iii), 8(1)(b), 9(1), 10(1) and 12(1).
<b>Hearing panel's decision on any procedural matter:</b>	The Committee confirmed with the Subject Member and the Clerk to the Committee that the pre-hearing process had been completed. There was no dispute as to the finding of facts contained within the Investigating Officers' report dated 25 July 2011.
<b>Summary of the evidence considered and representations made:</b>	<p>The Committee invited the Investigating Officer to introduce his report and summarise his findings. The Subject Member was invited to make representations to the Committee. The Subject Member confirmed that she agreed with the conclusions of the Investigating Officer and went on to give the following justification for not declaring an interest at the Council meeting on 21 February 2011:</p> <ol style="list-style-type: none"> <li>1) As the interest arose from asking questions at a meeting of Full Council and not from an item for decision or debate, Councillor Young felt that it was not necessary to declare a personal or prejudicial interest</li> <li>2) She felt that the complaint was unjustified as she considered that the questions she asked in Council would not have had a direct effect on her financial position and that her specialist knowledge of tourism should not have precluded her from participating in the meeting of Council. She added that she did not think the Code was very clear about when interests needed to be declared.</li> </ol>
<b>Findings of fact:</b>	The Committee accepted the findings of fact as set out in the Investigating Officer's report as these were accepted by the Subject Member.
<b>Findings as to whether or not the member failed to follow the Code of Conduct including the reasons for that finding:</b>	<p><u>Paragraphs 8 and 9: Declaring Personal Interests</u></p> <p>The Committee found that Councillor Young had breached paragraph 8(1)(a) of the Oxford City Council's Code of Conduct in that she failed to declare a personal interest at the meeting of Full Council on 21 February 2011.</p> <p>The Committee concluded that because Councillor Young works as a freelance tour guide in Oxford that she should have declared an interest when she asked questions in Council relating to tourism and services provided to/by tour guides operating from the City's Tourist Information Centre.</p>

	<p>The Committee agreed that it was important that Councillors were able to draw on their own specialist knowledge/expertise when acting as a Councillor. The declaration of a personal interest does not preclude a member from taking in part in the business of the Authority to which the interest relates.</p> <p><u>Paragraphs 10 and 12: Declaring Prejudicial Interests</u></p> <p>The Committee concluded that the personal interest was not so significant in this case that it would prejudice Councillor Young's judgement of the public interest. The Committee also found that the personal interest did not have any bearing on Councillor Young's financial position.</p> <p>The Committee therefore found that Councillor Young did not fail to declare a prejudicial interest at the same meeting of Full Council on 21 February 2011. There was no breach of paragraph 10(1) of the Members' Code of Conduct.</p> <p><u>Paragraph 6(a): Conferring an advantage on oneself</u></p> <p>The Committee found that Councillor Young was not attempting to directly confer an advantage on herself as the questions that she asked at the Council meeting did not in any way seek to confer an advantage either financially or otherwise on herself.</p>
<p><b>Penalties applied:</b></p>	<p>The Committee took into account the guidance provided by Standards for England when considering sanctions.</p> <p>It took into account that throughout the complaints process and hearing Councillor Young maintained her view that she should not have declared an interest of any kind when addressing her questions to Council. The Committee was concerned that Councillor Young's understanding of the Code was not as it should be. She should have been aware of the importance of declaring an interest particularly when the issues under discussion clearly affected the interests of Councillor Young. Furthermore the Committee was concerned about Councillor Young's assertion that she did not regard the Code of Conduct as an integral part of the paperwork she needed to refer to in her role as Councillor.</p> <ol style="list-style-type: none"> <li>I. The Standards Committee decided to censure Councillor Young for failing to declare a personal interest at the meeting of Full Council on 21 February 2011.</li> <li>II. Having regard to Councillor Young's apparent unfamiliarity with and lack of understanding of the Code of Conduct, the Committee directed that the Monitoring Officer should arrange training specifically covering the declaration of interests and how this is important to the role of Councillor. This training must be completed by 16 December 2011.</li> </ol>

	<p>III. In the event that Councillor Young fails to complete such training by 16 December 2011, she will be suspended for a period of one month with effect from 17 December 2011.</p> <p>The Committee emphasised that suspension would be a last resort, only being implemented in the event that Councillor Young did not participate in the required training. Members added that there was no reason to expect Councillor Young would not cooperate fully with the Committee's direction.</p>
<b>Recommendations to the authority:</b>	<p>The Committee instructed Jeremy Thomas as Monitoring Officer to take the following actions:-</p> <p>To write to the editors of local newspapers to explain the nature of Standards Committee hearings and the importance of accurate coverage of such matters in the local media. It should be made clear that prior to the relevant hearing a final decision as to whether or not there has been a breach of the Code has not been made. It is therefore inaccurate to quote conclusions reached by investigating officers as the final outcome, as had occurred in this case. It is the job of the Standards Committee to make a determination (taking into account the investigating officer's report and representations from the Subject Member) on whether or not members have breached the Code of Conduct.</p> <p>To remind elected members of the Council of the need to be cautious when speaking to journalists prior to Standards Committee hearings. Members should also be reminded that it is the role of the Standards Committee to determine whether or not the Code of Conduct has been breached.</p>
<b>Right to appeal:</b>	<p>Under the provisions of Regulation 8(4) of the Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003, the member concerned may apply, within 28 days, for permission to appeal against the Committee's decision.</p>

Signed *Anne Gwinnett*  
Chair of the Standards Committee

Dated: 10 October 2011

Standards Committee  
Oxford City Council  
St Aldate's, Oxford, OX1 1BX

## STANDARDS COMMITTEE

### ASSESSMENT PANEL

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**Members:** Anne Gwinnett (Chair)  
Martin Gardner  
Councillor Val Smith

**Tuesday 4 October 2011**

### **DECISION NOTICE: REFERRAL TO MONITORING OFFICER FOR ALTERNATIVE ACTION**

**Councillor Elise Benjamin (Oxford City Council)**  
**Case Reference 703/4/33**

#### **1. ALLEGATION AND FUNCTION OF PANEL**

It is alleged that Councillor Elise Benjamin (a member of Oxford City Council) failed to comply with the Members' Code of Conduct. The function of the Assessment Panel is to decide if allegations of breaches of the Members' Code of Conduct merit investigation.

#### **2. SUMMARY OF COMPLAINT**

It is alleged that Councillor Benjamin failed to comply with the Members' Code of Conduct during a repatriation ceremony held at the John Radcliffe Hospital. The complainant alleges that the subject member behaved inappropriately by the manner in which she addressed the complainant at the ceremony. It is claimed that the subject member "berated" the complainant for complaining to the media about her previous non-attendance at repatriation ceremonies in a "harassing and strident" tone which disrupted the solemn occasion. The complainant then goes on to claim that the subject member's attire and arrival by cycle was not appropriate to the event.

These allegations could potentially engage the following sections of the Members' Code of Conduct:

Paragraph 3(1) states that you must treat others with respect

Paragraph (3)(2)(b) of the Code states that you must not “bully any person”

Paragraph 5 states that “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”

### **3. DECISION**

In accordance with Section 57A(2)(c) of the Local Government Act 2000, as amended, the Assessment Panel of the Standards Committee decided to refer the allegation to the Monitoring Officer for alternative action in the form detailed below.

The Panel was satisfied that the Councillor was both holding the office of Councillor and acting in her official capacity (as Lord Mayor) at the time of and in relation to the alleged conduct and that the Code of Conduct was therefore engaged.

#### Reasons for the decision

The Panel carefully considered the circumstances giving rise to the complaint and concluded that the complaints related to the attire of the Subject Member and her mode of transport did not merit any further action. In relation to the complaint that the Member breached the Code by the tone and content of her remarks to the complainant the Panel concluded that, if true, they were sufficiently serious so as to merit some action but that a formal investigation would not be the most effective way forward.

The Panel directed that the Monitoring Officer should arrange to speak with the Subject Member to discuss with her an appropriate response to the complaint.

The Monitoring Officer subsequently met with Councillor Elise Benjamin on the 6 October 2011. Councillor Benjamin denied the version of events as presented by the complainant but agreed that an appropriate response to the complaint would be to avoid directly approaching the complainant at any such future event.

### **4. ADDITIONAL HELP**

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.



We can also help if English is not your first language.

Please contact Alec Dubberley, Democratic Services Officer on 01865 252402 or [adubberley@oxford.gov.uk](mailto:adubberley@oxford.gov.uk) if you require any further assistance.

**Signed** Anne Gwinnett

**Date** 11 October 2011

**Anne Gwinnett**  
**Chair of the Standards Committee Assessment Panel**

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### **Authority under which the decision is made**

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000 which now provides for the local assessment of complaints that members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of authority members and the requirements for dealing with this.

The regulations set out a framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2000, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 as amended.

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**To: Standards Committee**

**Date: 2<sup>nd</sup> December 2011**

**Item No:**

**Report of: Head of Law and Governance/Monitoring Officer**

**Title of Report: Localism Act and implications for the ethical standards framework**

## **Summary and Recommendations**

**Purpose of report:** To report on the provisions of the Localism Act 2011 in relation to the ethical standards framework.

**Key decision? No**

**Executive lead member: Councillor Bob Price**

**Policy Framework:** Not applicable.

**Recommendation(s):**

(1) That the Committee notes the new statutory provisions and requests that the Monitoring Officer report to the next meeting of the Committee on the adoption of a new Code of Conduct by the Authority and the drawing up of satisfactory arrangements for the receipt, filtering, investigation and determination of complaints of breaches of the Code of Conduct having regard to the political consensus within the Authority that such functions should continue to be discharged through an effective Standards Committee.

## **Introductions**

1. The Localism Act 2011 received Royal Assent on the 15<sup>th</sup> November 2011. The provisions relating to the ethical standards framework were amended at the 3<sup>rd</sup> reading of the Bill in the House of Lords and those amendments crucially included a requirement for each Authority to adopt a Code of Conduct for Members.

2. I have appended to this report Chapter 7 of Part 1 of the Act which deals with “Standards”.

### Summary of Provisions

3. The Authority must promote and maintain high standards of conduct by Members and co-opted Members and must adopt a Code of Conduct.
4. The Code of Conduct must be consistent with the seven principles of public life (often referred to as the “Nolan” principles) and must include provisions for the registration and disclosure of pecuniary and other interests.
5. The Authority must make arrangements for the investigation and determination of complaints which must involve at least one independent person.
6. The Authority will remain responsible, within its arrangements, for the investigation and determination of complaints against Parish Councillors within the City.
7. The Monitoring Officer must maintain a register of interests for Members and it must be available for inspection and published on the Authority’s website, as must the registers for Parish Councillors.
8. The Act provides for disclosable pecuniary interests to be registered but defers their description to regulations to be made by the Secretary of State.
9. If a Member has a disclosable pecuniary interest in any matter he or she may not participate in a discussion or a vote on that matter.
10. There are provisions for the non-disclosure of sensitive interests and dispensations from the restrictions on acting in the light of disclosable pecuniary interests.
11. Sections 34 creates a series of criminal offences in relation to interests. The offences are summary only (i.e. are dealt with by the Magistrates Court) and the maximum fine is £5,000. The court may also disqualify a person from being or becoming a Member for up to 5 years. Offences may only be prosecuted by or on behalf of the Director of Public Prosecutions.

### Next Steps

12. The Oxfordshire Monitoring Officer group have agreed that the adoption of a common Code of Conduct throughout the Oxfordshire authorities (and parishes) is preferable. There is likely to be a national precedent available (through the Association of Council Secretaries and Solicitors) and if that precedent is a good one then achieving a

national commonality would undoubtedly be beneficial. The Oxfordshire Monitoring Officer group also renewed their commitment to joint training.

13. The drafting of the Code must necessarily await the making of Regulations by the Secretary of State. The provisions of the Act in relation to Standards are not yet in force and require a Commencement Order to be made.

**Name and contact details of author:-**

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# Localism Act 2011

## 2011 CHAPTER 20

### PART 1

#### LOCAL GOVERNMENT

#### CHAPTER 7

##### STANDARDS

#### **26 Amendments of existing provisions**

Schedule 4 (which amends the existing provisions relating to the conduct of local government members and employees in England and makes related provision) has effect.

#### **27 Duty to promote and maintain high standards of conduct**

- (1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.
- (2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- (3) A relevant authority that is a parish council—
  - (a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and
  - (b) may for that purpose assume that its principal authority has complied with section 28(1) and (2).
- (4) In this Chapter "co-opted member", in relation to a relevant authority, means a person who is not a member of the authority but who—

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- (a) is a member of any committee or sub-committee of the authority, or
  - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
- and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- (5) A reference in this Chapter to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.
- (6) In this Chapter “relevant authority” means—
- (a) a county council in England,
  - (b) a district council,
  - (c) a London borough council,
  - (d) a parish council,
  - (e) the Greater London Authority,
  - (f) the Metropolitan Police Authority,
  - (g) the London Fire and Emergency Planning Authority,
  - (h) the Common Council of the City of London in its capacity as a local authority or police authority,
  - (i) the Council of the Isles of Scilly,
  - (j) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
  - (k) a police authority (in England or in Wales) established under section 3 of the Police Act 1996,
  - (l) a joint authority established by Part 4 of the Local Government Act 1985,
  - (m) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,
  - (n) a combined authority established under section 103 of that Act,
  - (o) the Broads Authority, or
  - (p) a National Park authority in England established under section 63 of the Environment Act 1995.
- (7) Any reference in this Chapter to a member of a relevant authority—
- (a) in the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;
  - (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.
- (8) Functions that are conferred by this Chapter on a relevant authority to which Part 1A of the Local Government Act 2000 applies are not to be the responsibility of an executive of the authority under executive arrangements.
- (9) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (10) In this Chapter except section 35—
- (a) a reference to a committee or sub-committee of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to—



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- (i) a committee or sub-committee of the London Assembly, or
  - (ii) the standards committee, or a sub-committee of that committee, established under that section,
  - (b) a reference to a joint committee on which a relevant authority is represented is, where the relevant authority is the Greater London Authority, a reference to a joint committee on which the Authority, the London Assembly or the Mayor of London is represented,
  - (c) a reference to becoming a member of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to becoming the Mayor of London or a member of the London Assembly, and
  - (d) a reference to a meeting of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to a meeting of the London Assembly;
- and in subsection (4)(b) the reference to representing the relevant authority is, where the relevant authority is the Greater London Authority, a reference to representing the Authority, the London Assembly or the Mayor of London.

## 28 Codes of conduct

- (1) A relevant authority must secure that a code adopted by it under section 27(2) (a “code of conduct”) is, when viewed as a whole, consistent with the following principles—
  - (a) selflessness;
  - (b) integrity;
  - (c) objectivity;
  - (d) accountability;
  - (e) openness;
  - (f) honesty;
  - (g) leadership.
- (2) A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—
  - (a) pecuniary interests, and
  - (b) interests other than pecuniary interests.
- (3) Sections 29 to 34 do not limit what may be included in a relevant authority’s code of conduct, but nothing in a relevant authority’s code of conduct prejudices the operation of those sections.
- (4) A failure to comply with a relevant authority’s code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.
- (5) A relevant authority may—
  - (a) revise its existing code of conduct, or
  - (b) adopt a code of conduct to replace its existing code of conduct.
- (6) A relevant authority other than a parish council must have in place—
  - (a) arrangements under which allegations can be investigated, and
  - (b) arrangements under which decisions on allegations can be made.

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- (7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
  - (b) whose views may be sought—
    - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
    - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
    - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.
- (8) For the purposes of subsection (7)—
- (a) a person is not independent if the person is—
    - (i) a member, co-opted member or officer of the authority,
    - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or
    - (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);
  - (b) a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—
    - (i) a member, co-opted member or officer of the authority, or
    - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;
  - (c) a person may not be appointed under the provision required by subsection (7) unless—
    - (i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
    - (ii) the person has submitted an application to fill the vacancy to the authority, and
    - (iii) the person's appointment has been approved by a majority of the members of the authority;
  - (d) a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.
- (9) In subsections (6) and (7) "allegation", in relation to a relevant authority, means a written allegation—
- (a) that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or
  - (b) that a member or co-opted member of a parish council for which the authority is the principal authority has failed to comply with the parish council's code of conduct.
- (10) For the purposes of subsection (8) a person ("R") is a relative of another person if R is—
- (a) the other person's spouse or civil partner,

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- (b) living with the other person as husband and wife or as if they were civil partners,
  - (c) a grandparent of the other person,
  - (d) a lineal descendant of a grandparent of the other person,
  - (e) a parent, sibling or child of a person within paragraph (a) or (b),
  - (f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or
  - (g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.
- (11) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—
- (a) whether to take action in relation to the member or co-opted member, and
  - (b) what action to take.
- (12) A relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.
- (13) A relevant authority's function of adopting, revising or replacing a code of conduct may be discharged only by the authority.
- (14) Accordingly—
- (a) in the case of an authority to whom section 101 of the Local Government Act 1972 (arrangements for discharge of functions) applies, the function is not a function to which that section applies;
  - (b) in the case of the Greater London Authority, the function is not a function to which section 35 (delegation of functions by the Greater London Authority) applies.

## **29 Register of interests**

- (1) The monitoring officer of a relevant authority must establish and maintain a register of interests of members and co-opted members of the authority.
- (2) Subject to the provisions of this Chapter, it is for a relevant authority to determine what is to be entered in the authority's register.
- (3) Nothing in this Chapter requires an entry to be retained in a relevant authority's register once the person concerned—
  - (a) no longer has the interest, or
  - (b) is (otherwise than transitorily on re-election or re-appointment) neither a member nor a co-opted member of the authority.
- (4) In the case of a relevant authority that is a parish council, references in this Chapter to the authority's monitoring officer are to the monitoring officer of the parish council's principal authority.
- (5) The monitoring officer of a relevant authority other than a parish council must secure—
  - (a) that a copy of the authority's register is available for inspection at a place in the authority's area at all reasonable hours, and

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- (b) that the register is published on the authority's website.
- (6) The monitoring officer of a relevant authority that is a parish council must—
  - (a) secure that a copy of the parish council's register is available for inspection at a place in the principal authority's area at all reasonable hours,
  - (b) secure that the register is published on the principal authority's website, and
  - (c) provide the parish council with any data it needs to comply with subsection (7).
- (7) A parish council must, if it has a website, secure that its register is published on its website.
- (8) Subsections (5) to (7) are subject to section 32(2).
- (9) In this Chapter "principal authority", in relation to a parish council, means—
  - (a) in the case of a parish council for an area in a district that has a district council, that district council,
  - (b) in the case of a parish council for an area in a London borough, the council of that London borough, and
  - (c) in the case of a parish council for any other area, the county council for the county that includes that area.
- (10) In this Chapter "register", in relation to a relevant authority, means its register under subsection (1).

### **30 Disclosure of pecuniary interests on taking office**

- (1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.
- (2) Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.
- (3) For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either—
  - (a) it is an interest of M's, or
  - (b) it is an interest of—
    - (i) M's spouse or civil partner,
    - (ii) a person with whom M is living as husband and wife, or
    - (iii) a person with whom M is living as if they were civil partners,
 and M is aware that that other person has the interest.
- (4) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).



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### **31 Pecuniary interests in matters considered at meetings or by a single member**

- (1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority—
  - (a) is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,
  - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
  - (c) is aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).
- (3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) The member or co-opted member may not—
  - (a) participate, or participate further, in any discussion of the matter at the meeting, or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting, but this is subject to section 33.
- (5) In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1) (a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.
- (6) Subsections (7) and (8) apply if—
  - (a) a function of a relevant authority may be discharged by a member of the authority acting alone,
  - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
  - (c) the member is aware that the condition in paragraph (b) is met.
- (7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.
- (8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (9) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).
- (10) Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.

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- (11) For the purpose of this section, an interest is “subject to a pending notification” if—
- (a) under this section or section 30, the interest has been notified to a relevant authority’s monitoring officer, but
  - (b) has not been entered in the authority’s register in consequence of that notification.

## **32 Sensitive interests**

- (1) Subsections (2) and (3) apply where—
- (a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and
  - (b) the nature of the interest is such that the member or co-opted member, and the authority’s monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
- (2) If the interest is entered in the authority’s register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).
- (3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

## **33 Dispensations from section 31(4)**

- (1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
- (2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—
- (a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) considers that granting the dispensation is in the interests of persons living in the authority’s area,
  - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority’s executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority’s executive, or
  - (e) considers that it is otherwise appropriate to grant a dispensation.

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- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

### **34 Offences**

- (1) A person commits an offence if, without reasonable excuse, the person—
  - (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
  - (b) participates in any discussion or vote in contravention of section 31(4), or
  - (c) takes any steps in contravention of section 31(8).
- (2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—
  - (a) knows that the information is false or misleading, or
  - (b) is reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years—
  - (a) after the commission of the offence, or
  - (b) in the case of a continuous contravention, after the last date on which the offence was committed.
- (8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (9) The Local Government Act 1972 is amended as follows.
- (10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after "2000" insert "or section 34 of the Localism Act 2011".
- (11) In section 87(1)(ee) (date of casual vacancies)—
  - (a) after "2000" insert "or section 34 of the Localism Act 2011 or", and
  - (b) after "decision" insert "or order".

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- (12) The Greater London Authority Act 1999 is amended as follows.
- (13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after subparagraph (i) insert—  
 “(ia) under section 34 of the Localism Act 2011,”.
- (14) In section 9(1)(f) (date of casual vacancies)—
  - (a) before “or by virtue of” insert “or section 34 of the Localism Act 2011”, and
  - (b) after “that Act” insert “of 1998 or that section”.

### **35 Delegation of functions by Greater London Authority**

- (1) The Mayor of London and the London Assembly, acting jointly, may arrange for any of the functions conferred on them by or under this Chapter to be exercised on their behalf by—
  - (a) a member of staff of the Greater London Authority, or
  - (b) a committee appointed in accordance with provision made by virtue of this section.
- (2) Standing orders of the Greater London Authority may make provision regulating the exercise of functions by any member of staff of the Authority pursuant to arrangements under subsection (1).
- (3) Standing orders of the Greater London Authority may make provision for the appointment of a committee (“the standards committee”) to exercise functions conferred on the Mayor of London and the London Assembly by or under this Chapter in accordance with arrangements under subsection (1).
- (4) Standing orders of the Greater London Authority may make provision about the membership and procedure of the standards committee.
- (5) The provision that may be made under subsection (4) includes—
  - (a) provision for the standards committee to arrange for the discharge of its functions by a sub-committee of that committee;
  - (b) provision about the membership and procedure of such a sub-committee.
- (6) Subject to subsection (7), the standards committee and any sub-committee of that committee—
  - (a) is not to be treated as a committee or (as the case may be) sub-committee of the London Assembly for the purposes of the Greater London Authority Act 1999, but
  - (b) is a committee or (as the case may be) sub-committee of the Greater London Authority for the purposes of Part 3 of the Local Government Act 1974 (investigations by Commission for Local Administration in England).
- (7) Sections 6(3)(a) (failure to attend meetings) and 73(6) (functions of monitoring officer) of the Greater London Authority Act 1999 apply to the standards committee or any sub-committee of that committee as they apply to a committee of the London Assembly or any sub-committee of such a committee.
- (8) Part 5A of the Local Government Act 1972 (access to meetings and documents) applies to the standards committee or any sub-committee of that committee as if—



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- (a) it were a committee or (as the case may be) a sub-committee of a principal council within the meaning of that Part, and
  - (b) the Greater London Authority were a principal council in relation to that committee or sub-committee.
- (9) Arrangements under this section for the exercise of any function by—
- (a) a member of staff of the Greater London Authority, or
  - (b) the standards committee,
- do not prevent the Mayor of London and the London Assembly from exercising those functions.
- (10) References in this section to the functions of the Mayor of London and the London Assembly conferred by or under this Chapter do not include their functions under this section.
- (11) In this section “member of staff of the Greater London Authority” has the same meaning as in the Greater London Authority Act 1999 (see section 424(1) of that Act).

### **36 Amendment of section 27 following abolition of police authorities**

In section 27(6) (which defines “relevant authority” for the purposes of this Chapter) omit—

- (a) paragraph (f) (the Metropolitan Police Authority), and
- (b) paragraph (k) (police authorities).

### **37 Transitional provision**

- (1) An order under section 240(2) may, in particular, provide for any provision made by or under Part 3 of the Local Government Act 2000 to have effect with modifications in consequence of any partial commencement of any of the amendments to, or repeals of, provisions of that Part made by Schedule 4.
- (2) An order under section 240(2) may, in particular, make provision for an allegation or a case that is being investigated under Part 3 of the Local Government Act 2000 by the Standards Board for England or an ethical standards officer—
  - (a) to be referred to an authority of a kind specified in or determined in accordance with the order;
  - (b) to be dealt with in accordance with provision made by the order.
- (3) The provision that may be made by virtue of subsection (2)(b) includes—
  - (a) provision corresponding to any provision made by or under Part 3 of the Local Government Act 2000;
  - (b) provision applying any provision made by or under that Part with or without modifications.

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# Annual Audit Letter

Oxford City Council

Audit 2010/11






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## Traffic light explanation

Red  Amber  Green 



# Key messages

This report summarises the findings from my 2010/11 audit. My audit comprises two elements:

- the audit of your financial statements; and
- my assessment of your arrangements to achieve value for money in your use of resources.

I have included only significant recommendations in this report. The Council has accepted these recommendations.

Key audit risk		Our findings
47	Unqualified audit opinion	●
	Proper arrangements to secure value for money	●

## Value for money

I issued an unqualified VFM conclusion. I concluded the Council has proper arrangements to secure, economy, efficiency and effectiveness in its use of resources. Maintaining effective management arrangements including financial resilience are essential for the Council as it continues to receive less funding from central government.

## Audit opinion and financial statements

I issued an unqualified opinion on the Council's 2010/11 financial statements on 30 September 2011.

# Financial statements and annual governance statement

The Council's financial statements and annual governance statement are an important means by which the Council accounts for its stewardship of public funds.

## Overall conclusion from the audit

I issued an unqualified opinion on the Council's 2010/11 financial statements on 30 September 2011.

## Financial statements

4 It has been a challenging year for the Council with the introduction of IFRS and staffing changes during the year but against this backdrop it was pleasing to have good cooperation from the finance team. Performance has improved on the previous year with fewer errors identified this year.

Key issues arising from the audit are:

- The need to review of the Council's treatment of the provision for bad debts on investments with Icelandic banks;
- An adjustment required for £78 million in the lease note;
- Classification adjustment required of £5.788m income from investment properties in the Comprehensive Income and Expenditure Statement;
- Delays in providing restated IFRS compliant financial statements;
- Financial statements and notes needing extra work and explanation to gain assurance on them.

While there has been an improvement on last year there is more to do to ensure the accounts and working papers are prepared to the standard required and remove the need for extra audit work and resulting additional fee. I had to do more work on the IFRS restated accounts. I have also had to do extra work on agreeing the financial statements to the trial balance and ledger and supporting working papers.

## Annual Governance Statement

I have reviewed the Council's Annual Governance Statement. My review focused on:

- considering the completeness of the disclosures in the governance statement and whether it complies with proper practice as specified by CIPFA; and
- identifying any inconsistencies between the disclosures and the information that I am aware of from my work on the financial statements and other work.

In my view the statement is compliant and complete. I did not identify any inconsistencies between the disclosures and the information that I am aware of from my work on the financial statements and other work.

## Internal control

I did not identify any significant weaknesses in your internal control arrangements. I did identify some areas for improvement from my review of the Council's material financial systems and from my audit of the financial statements. I identified control weaknesses around the monthly reconciliations. This meant that I could not place reliance on them and I had to complete more substantive testing at the year end.

49 I will review progress in implementing my recommendation as part of my audit for 2011/12.

## Significant matters discussed with the Council

I have discussed with the Council the impact of IAS39 and LAAP Bulletin 82 update 4 issued by CIPFA in May 2011 about the treatment of Icelandic bank deposits. This requires Councils to come to a 'best estimate' based on information available to them and LAAP Bulletin 82 provided advice on estimating the impairments to be recognised.

I reviewed the Council's response to the LAAP Bulletin and I am comfortable that the explanation provided supports the Council's best estimate of the liability and this is in line with IAS 39.

Another significant matter discussed with officers was a property, Ramsey House with a value of £2.2million, which was included in assets held for sale. Following my discussions the asset was reclassified as a surplus asset.

## Questions and objections

I received some questions from local residents. None of the questions I received met the criteria for an objection as they did not contain details of any item in the accounts which broke the law. I therefore did not accept the questions as an objection. Where appropriate I have followed up questions with the Council to ensure that they are considering these and what action they may need to consider as a result.

## Audit fees

I reduced the audit fee in 2010/11 on the expectation there would be further efficiency savings and improvements to the financial statements, supporting notes and working papers. While there have been improvements on last year there is more to do to get the supporting notes and working papers to the standard expected therefore I have had to undertake extra work.

On top of the original fee of £200,000 a fee of £8,000 has been charged for the extra work I undertook on IFRS restatements and £15,000 for the extra final accounts work, resulting from the issues with notes, supporting documentation and also additional work needed in specific areas to gain assurance required. Audit fees in previous years have been higher, the fee for 2009/10 was £227,000 and in 2008/09 was £273,032.

## Recommendation

### Recommendation

**R1** The Council must monitor and ensure the timely implementation of recommendations I have made in the following reports to achieve the required improvements:

- Annual Governance Report
- Final accounts memo
- Interim memo.



# Value for money

I considered whether the Council is managing and using its money, time and people to deliver value for money. I assessed your performance against the criteria specified by the Audit Commission and have reported the outcome as the value for money (VFM) conclusion.

I assess your arrangements to secure economy, efficiency and effectiveness in your use of resources against two criteria specified by the Audit Commission. My overall conclusion is that the Council has adequate arrangements to secure, economy, efficiency and effectiveness in its use of resources.

My conclusion on each of the two areas is set out below.

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## Value for money criteria and key messages

Criterion	Key messages
<b>1. Financial resilience</b> <b>The organisation has proper arrangements in place to secure financial resilience.</b> Focus for 2010/11: The organisation has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.	<p>The Council has put in place systems for monitoring and managing financial performance including a sound project and programme methodology for delivering its transformation savings. I found that the Council had responded well to the decrease in funding from central government by developing financial plans that reflected reduced grant income.</p> <p>The indications are, for example a balanced budget was set for 2010/11 and kept to, that the Council has a stable financial position for 2011/12 at half year and should be able to achieve its plans provided financial control remains effective.</p>

Criterion	Key messages
<p><b>2. Securing economy efficiency and effectiveness</b></p> <p><b>The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.</b></p> <p>Focus for 2010/11:</p> <p>The organisation is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.</p>	<p>The Council has put in place arrangements for budget setting involving both Members and budgetholders to ensure there is a focus on priority areas and that cost reductions are deliverable.</p> <p>The Council has a cost reduction target of £10 million in its 4 year Medium Term Financial Plan and aims to achieve them through a combination of efficiency savings £6 million, service reductions £1.8 million and fees and charges of £2.2 million. The Council's efficiency savings are front loaded (£3.2 million in 2011/12) will be delivered in part through its officer rationalisation programme and its customer contact services review.</p>

# Current and future challenges

Economic downturn and pressure on the public sector

The economic climate and the constraints on public finances will require the Council to meet cost pressures more through increasing efficiency and looking at new income generating activities.

The Council has reduced its workforce by voluntary redundancy and has developed new ways of working such as the new call centre. It is also on target to meet its savings targets in 2011/12.

Financial pressures remain. Cuts in the spending of other public sector bodies and changes in the benefits regime put pressure on the Council to maintain or increase spending. The key challenge will be in maintaining sound financial control through effective integrated performance reporting.

Operational performance

The Council reported improved performance against the National and retained Best Value Performance Indicators. Of the 79 performance figures measured 65 (82%) were at or above target. The Council also reported good performance against targets in the Corporate Plan with 78% of these being achieved. Only eight were not achieved. Of particular note is that the Council for the first time was able to report a lower number of average days lost to sickness than the target.

This is good performance given the economic backdrop and financial pressures and the Council needs to maintain this going forward. The Council have invested in the development of its management information system, Corvu to facilitate integrated performance reporting. The Council has also received IIP accreditation and is continuing to invest in staff development through Action Learning and coaching.

Financial statements and IFRS

The Council met the challenge of implementing IFRS. There is the need to embed processes to make them routine and less time-consuming for the finance team. Some aspects, such as assets held for sale, need to be considered on a routine basis to ensure that they are picked up accurately and in a timely manner.

The Finance team are keen to build on the success achieved in 2010/11 and are working on improving the quality of working papers.

Following a health check of the Council's financial ledger, a project is underway to streamline the coding structure, better integrate the system and enable the automatic generation of key reports thus providing productivity gains.

# Closing remarks

I have discussed and agreed this letter with the Chief Executive and the Director of Finance. I will present this letter at the Audit and Governance Committee on 28 November 2011.

Further detailed findings, conclusions and recommendations in the areas covered by our audit are included in the reports issued to the Council during the year.

Report	Date issued
Audit plan	January 2011 and reported to January 2011 Audit and Governance Committee
Interim memo	May 2011 and reported to June 2011 Audit and Governance Committee
Final accounts memo	October and reported to November 2011 Audit and Governance Committee
Annual governance report	September 2011 and reported to September 2011 Audit and Governance Committee
Auditor's opinion on the financial statements and vfm conclusion	30 September 2011
Audit completion certificate	30 September 2011
Annual Audit Letter	28 November 2011 and reported to November Audit and Governance Committee

I can confirm the audit has been carried out in accordance with the Audit Commission's policies on integrity, objectivity and independence. The Council has taken a positive and constructive approach to our audit. The final audit fees for the Council for 2010/11 are set out in Appendix 1.

I wish to thank the Council staff for their support and co-operation during the audit.

Maria Grindley

District Auditor

November 2011

# Appendix 1 - Fees

	Actual	Proposed	Variance
Scale fee	223,000	200,000	23,000
Non-audit work	0	0	0
<b>Total</b>	<b>223,000</b>	<b>200,000</b>	<b>23,000</b>

The Audit Commission paid a rebate of £10,673 to the Council in April 2010 to reduce the 2010/11 audit fee.

My proposed fees for grant claim work is £82,000. My work on grant claims is in progress and I will report the final fee once my work is complete.

56

# Appendix 2 - Glossary

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## **Annual governance statement**

Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities.

The annual governance statement is a public report by the Council on the extent to which it complies with its own local governance code, including how it has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period.

## **7 Audit opinion**

On completion of the audit of the financial statements, I must give my opinion on the financial statements, including:

- whether they give a true and fair view of the financial position of the audited body and its spending and income for the year in question; and
- whether they have been prepared properly, following the relevant accounting rules.

## **Opinion**

If I agree that the financial statements give a true and fair view, I issue an unqualified opinion. I issue a qualified opinion if:

- I find the statements do not give a true and fair view; or
- I cannot confirm that the statements give a true and fair view.

### **Value for money conclusion**

The auditor's conclusion on whether the audited body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources based on criteria specified by the Audit Commission.

If I find that the audited body had adequate arrangements, I issue an unqualified conclusion. If I find that it did not, I issue a qualified conclusion.



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- any third party.



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**To:** Standards Committee  
**Date:** 2 December 2011  
**Report of:** Head of Law and Governance  
**Title of Report:** Local Government Ombudsman - Complaint

www.oxford.gov.uk



## **Summary and Recommendations**

**Purpose of report:** To advise the Committee of a complaint made to the Local Government Ombudsman and the results of his investigation.

**Recommendation:** The Committee is asked to note the report.

## **Introduction**

1. In November 2010 the Monitoring Officer received a complaint from a member of the public concerning a member of Oxford City Council. Following pre-assessment enquiries the matter was referred to an assessment panel in January 2011. The panel decided to refer the allegations back to the Monitoring Officer in order for an investigation to be carried out.
2. An investigation officer (IO) was appointed and a report, which concluded that the subject member did not breach the code of conduct, was submitted to the June meeting of this Committee. The Committee agreed with the IO's findings and accordingly the matter was closed. Standards for England guidelines do not provide an opportunity for the complainant to appeal. All parties were informed of the Committee's decision.

## **Local Government Ombudsman**

3. The Complainant remained unsatisfied by the outcome of the case so referred her complaint to the Local Government Ombudsman. The Ombudsman does not have any jurisdiction over Standards Committee decisions but can take action where he feels there has been maladministration in the complaints or investigation processes.
4. On 28 October the Chief Executive received the outcome of the Ombudsman's examination of the case. The letter stated that no further investigations would take place and appended was a statement from

the Ombudsman giving reasons for his decision. The complaint therefore has been dismissed.

5. The correspondence from the Ombudsman is attached for the Committee's information.

#### **Additional Documents**

- Letter from the Local Government Ombudsman
- Statement of reasons from the Ombudsman

#### **Name and contact details of author:**

Alec Dubberley  
Democratic Services Officer  
Email: [adubberley@oxford.gov.uk](mailto:adubberley@oxford.gov.uk)

Tel: 01865 252402

# Local Government OMBUDSMAN

26 October 2011

Mr Peter Sloman  
Chief Executive  
St Aldates Chambers  
OXFORD  
OX1 1DS

Your ref: MN/11/12  
Our ref: 11 004 400/B2/KB1

(Please quote our reference when contacting us and, if using email, please put the reference number in the email subject header)

**If telephoning please contact: 024 7670 5438**  
**email address: K.Burns@coinweb.lgo.org.uk**

Dear Mr Sloman

I have decided to discontinue my investigation into this complaint by Mrs Alexander. I enclose a copy of the statement of my final decision that explains my reasons.

Yours sincerely

Kim Burns  
Investigator

Enc: final statement

*The Commission will include this complaint in the published figures for the year ending 31 March 2012. We will record the category as: Corporate & Other Services and the decision as: To discontinue investigation (OD - S.24A(6), formerly 26(10)).*

The Oaks No 2  
Westwood Way  
Westwood Business Park  
Coventry  
CV4 8JB

T: 024 7682 0000  
F: 024 7682 0001  
W: [www.lgo.org.uk](http://www.lgo.org.uk)  
Advice **63** 0300 061 0614

**Jane Martin**  
Local Government Ombudsman  
**Neville Jones**  
Deputy Ombudsman

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## Statement of reasons

**Complaint ref:** 11 004 400

**Council:** Oxford City Council

**Date:** 26 October 2011

### The complaint

1. The complainant says that the Council, in investigating her complaint about an incident involving a Member she says behaved inappropriately towards her, failed to properly investigate her complaint. She is particularly concerned that the Council failed to interview witnesses she had identified, failed to follow up on her statement about what a police officer said to her, misrepresented her complaint, unreasonably included a Council officer's statement when he had not witnessed the alleged assault and failed to provide her with adequate time to reply to the Council's draft report.

### The role of the Ombudsman

2. The Ombudsman's role is to consider complaints of service failure and maladministration causing injustice. The Ombudsman must consider whether the Council has acted reasonably in accordance with the law, its own policies and generally accepted standards of local administration. We look at the administrative actions of the Council but we do not challenge decisions that have been made properly even though people may disagree with them. Nor can we challenge the professional judgement of the Council's officers.

### Investigation

3. As part of the investigation, I have:
  - considered the complaint and the complainant's comments;
  - made enquiries of the Council and considered the comments and documents the Council provided.

### Key facts

4. The complainant attended a Council meeting on 3 November 2010. She says that a Member behaved inappropriately towards her at that meeting. She submitted a complaint to the Council on 28 December. On 17 January 2011 the standards committee assessment panel referred the allegation to the monitoring officer for investigation. The complainant was informed of that on 18 January. The police officer present at the meeting was interviewed on 7 February. The complainant was interviewed on 7 February and the Member was interviewed on 15 February. The Council sent the complainant a note of her interview responses on 13 April. A draft report was sent to her on 18 May, requesting a response within 7 days. The complainant requested more time to comment and the Council declined her request. She was advised on 24 May that Committee would consider the report on 10 June. The complainant submitted comments on 25 May. On 10 June Committee considered the case and determined that there was no evidence that the Member had failed to comply with the code of conduct. A decision notice was issued on 20 June.

## Analysis

5. The complainant's first concern is that the Council failed to interview additional witnesses before completing its investigation. This is a point the Council concedes. However, it states that it did not consider it necessary to interview additional witnesses given that it had an independent witness in the form of a police officer that attended the meeting in question. Notwithstanding the fact that I have seen no evidence to suggest that the complainant provided details of any additional witnesses to the Council I am satisfied that Committee was made aware that she had made such a request given that she mentioned it in her response to the draft report and her comments were made available to Committee Members. I also note that in its reasons for its decision on 10 June 2011 Committee specifically referred to the complainant's request for additional witnesses to be interviewed, recording its view that there was no merit in interviewing further witnesses on the basis that it was satisfied, based largely on the evidence submitted by the police officer, that the Member's actions were intended to be passive and conciliatory and there was insufficient evidence to suggest that the Member deliberately set out to intimidate or threaten the complainant. While I recognise that the complainant strongly disagrees with that view and believes Committee should have interviewed additional witnesses it is not my role to determine how the Council should have investigated the complaint. There is no requirement for the Council to have interviewed additional witnesses and as I am satisfied that the complainant's request for that to happen was considered by Committee, and rejected, I have no grounds on which I could criticise it.
6. In reaching that view I recognise that the complainant alleges that an officer advised her that she did not need to provide details of witnesses at an early stage because that was an option once a hearing took place. I have seen no evidence to suggest that this was information the complainant was given. Instead, I note that she was informed in writing that no hearing would take place unless Committee considered there had been a breach of the code of conduct after considering the final report. As I said in the previous paragraph, Committee determined that there was no evidence of a breach. Consequently a hearing was not necessary. In those circumstances I have no grounds on which I could criticise the Council.
7. The complainant is also concerned because she says that the police officer that was present at the meeting subsequently advised her that the Member's action in touching her constituted assault. She believes her allegation in relation to that point should have been put to the police officer. Having considered the statement submitted by the police officer I note that he states on more than one occasion that any contact which occurred between the complainant and the Member did not constitute assault and that the Member's attitude was one of courtesy. I further note that he concluded his statement by saying that although he understood the complainant may have been advised by someone after the meeting that the Member's action could be considered an assault it was his view that it was not. Given all of that I see no reason why the Council would have gone back to the police officer as his statement is clear that his view is that she was not assaulted. In any event, I note that her allegations about what the police officer said to her in relation to whether the contact between her and the Member in question was an assault was mentioned in her response to the draft report. I further note that those comments were made available to Committee. I am therefore satisfied that it was open to Committee to pursue the point further and make further enquiries if it had considered that to be necessary. I have seen no evidence to suggest that it did so.
8. The complainant is also concerned that her complaint was misrepresented by the Council. I have seen no evidence to support that allegation. Indeed, I note that the summary of her complaint was read to the complainant during her investigation interview on 9 February 2011. Her statement records that she agreed with the contents and she was given a copy of



her statement and an opportunity to correct any mistakes. I have seen no evidence to suggest that she queried how her complaint had been expressed at that point.

9. The complainant is also concerned that a Council officer's e-mail was included in the report for Committee, indicating that it supported the Member's version of events rather than the complainant's, when that e-mail made clear that the officer had not observed any assault. While I understand the complainant's concern about that point I have seen no evidence that the Council officer's email influenced Committee in any way. I say that because it is not mentioned in the reasons for the Committee's decision. Instead, it is clear that Committee relied largely on the police officer's statement and the complainant's statement that the Member was trying to pacify her and backed off as soon as she protested. So, even if I were to conclude that the inclusion of the e-mail was misleading I could not conclude that this had any influence on the final decision.
10. Finally, the complainant is concerned that the Council gave her inadequate time to respond to the draft report. I note that the complainant was provided with seven days. While I am aware that the complainant is concerned about that not being adequate time to put together her response I am not aware of any guidance specifying a period of time for responses to draft reports. In any event, I am satisfied that the complainant was able to submit her comments to the Council within the seven days given and, as I said earlier, those comments were made available to Committee. I further note that she referred in her comments to her concern about the length of time she was given to respond to the draft report. Again, it was open to Committee to determine that further investigation was necessary or that a decision should be deferred. I have seen no evidence to suggest that it did so.

## **Decision**

11. For the reasons I have given I do not consider there are grounds to pursue the complaint further.

**Kim Burns**

**On behalf of the Local Government Ombudsman**

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**Report of** Head of Law and Governance

**To:** Standards Committee

**Date:** 2<sup>nd</sup> December 2011 **Item No:**

**Title of Report:** Complaints Monitoring

## Summary and Recommendations

**Purpose of report:** To provide analysis of customer feedback through complaints

**Key decision:** No

**Portfolio Holder:** Councillor Bob Price

**Scrutiny Responsibility:** N/A

**Ward(s) affected:** All

**Report Approved by:** William Reed, Democratic Services Manager

**Policy Framework:** Corporate Governance

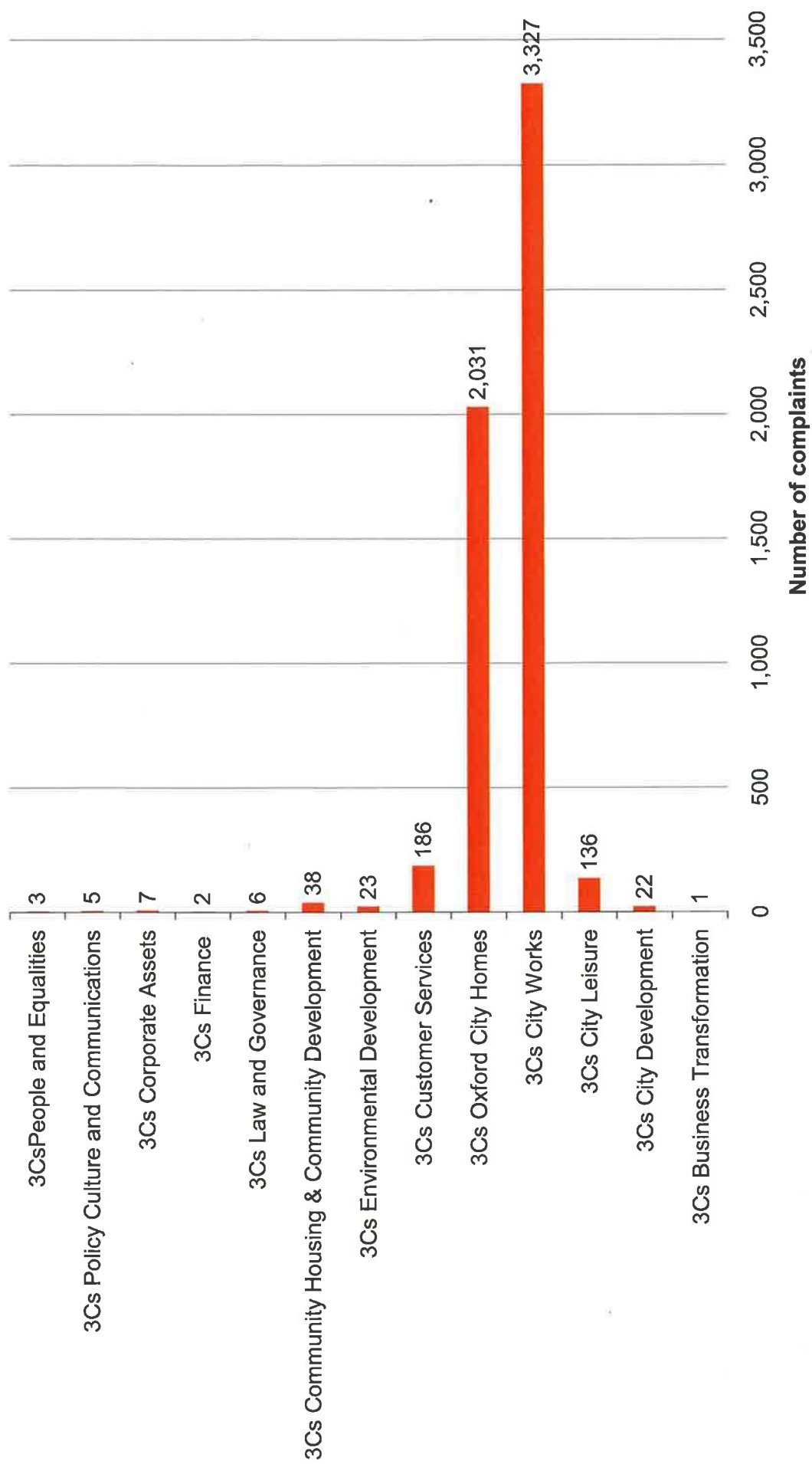
**Recommendation(s):** The Committee is asked to note and comment on the report

1. For a number of year's Committee has received a half yearly report that gives an analysis of the complaints received and determined by the Council, together with comparable information from previous years, where available. Latterly, information has been presented using graphs and percentage tables to accord with the wishes expressed by Committee at its meeting in June 2010.
2. Since April 2010, complaints data has been logged using the Lagan Customer Relationship Management (CRM) system. Data for 2010/2011 was recorded initially on a trial basis. The Head of Customer Services, who is responsible for the system, has worked to produce, where possible, reports that provide information similar to that previously reported to the Committee.

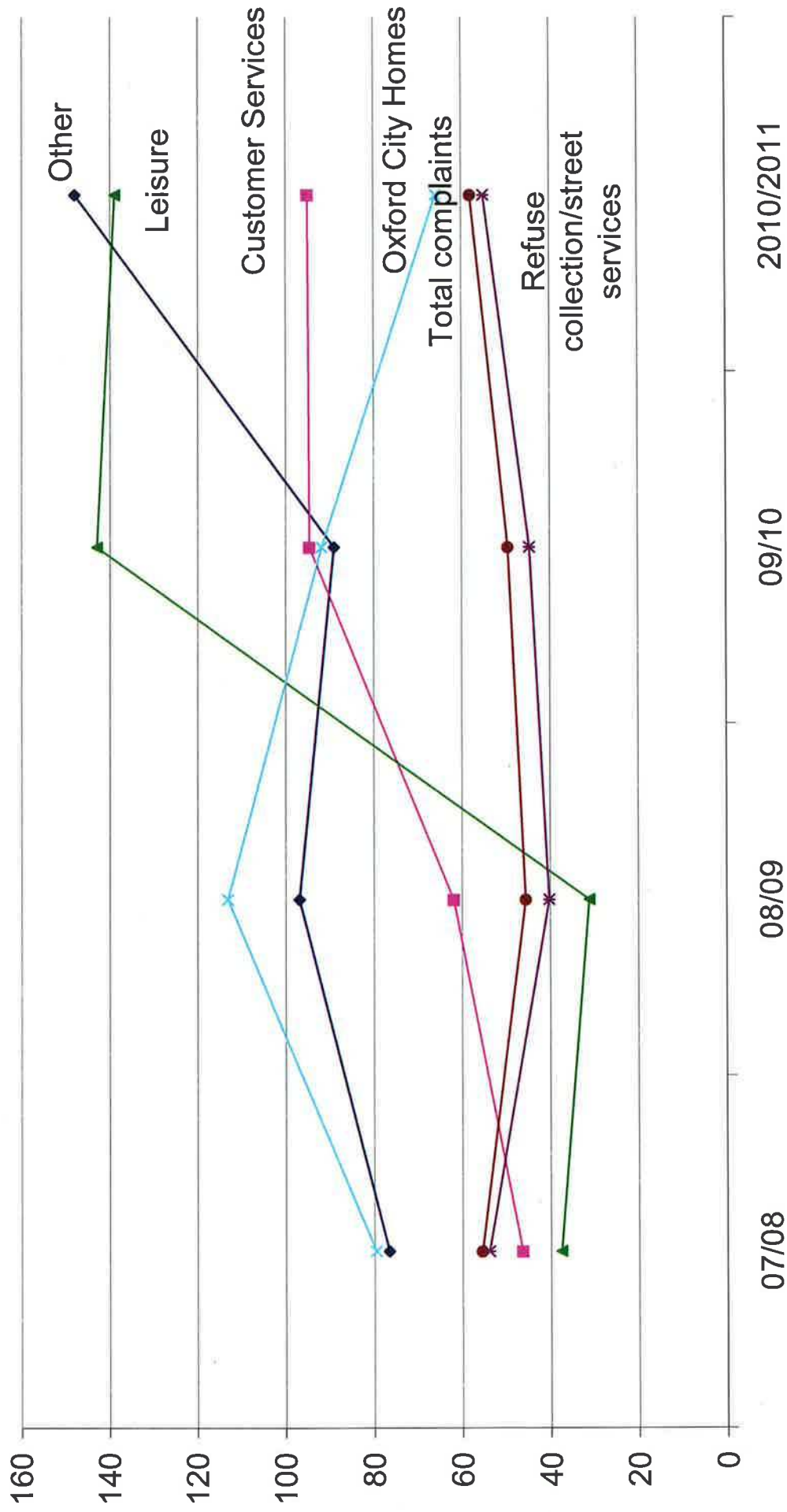
3. During 2010, there was a significant restructuring of the Council's service areas, which has meant that it has not been possible to always provide comparable information, despite attempts to record information at operational level. Inevitably, this means that it is difficult to compare details from earlier years and trends that may have occurred.
4. The appendices attached to this report provide complaints data in graphs and percentage tables for 2010/2011 from information recorded in Lagan. Similar information for the first six months of 2011/2012 will be circulated separately before the meeting. Detailed information in respect of Stage 3 complaints and cases investigated by the Local Government Ombudsman in the first half of the current year taken from separate records maintained by the Corporate Secretariat Manager is also appended.
5. Complaints data is being monitored at service and directorate level, and by the Corporate Management Team, and it is the intention that future reports will include comments from Directors and Service Heads
6. Committee is asked to note the report and make further suggestions on the information that it would like to see in the future.

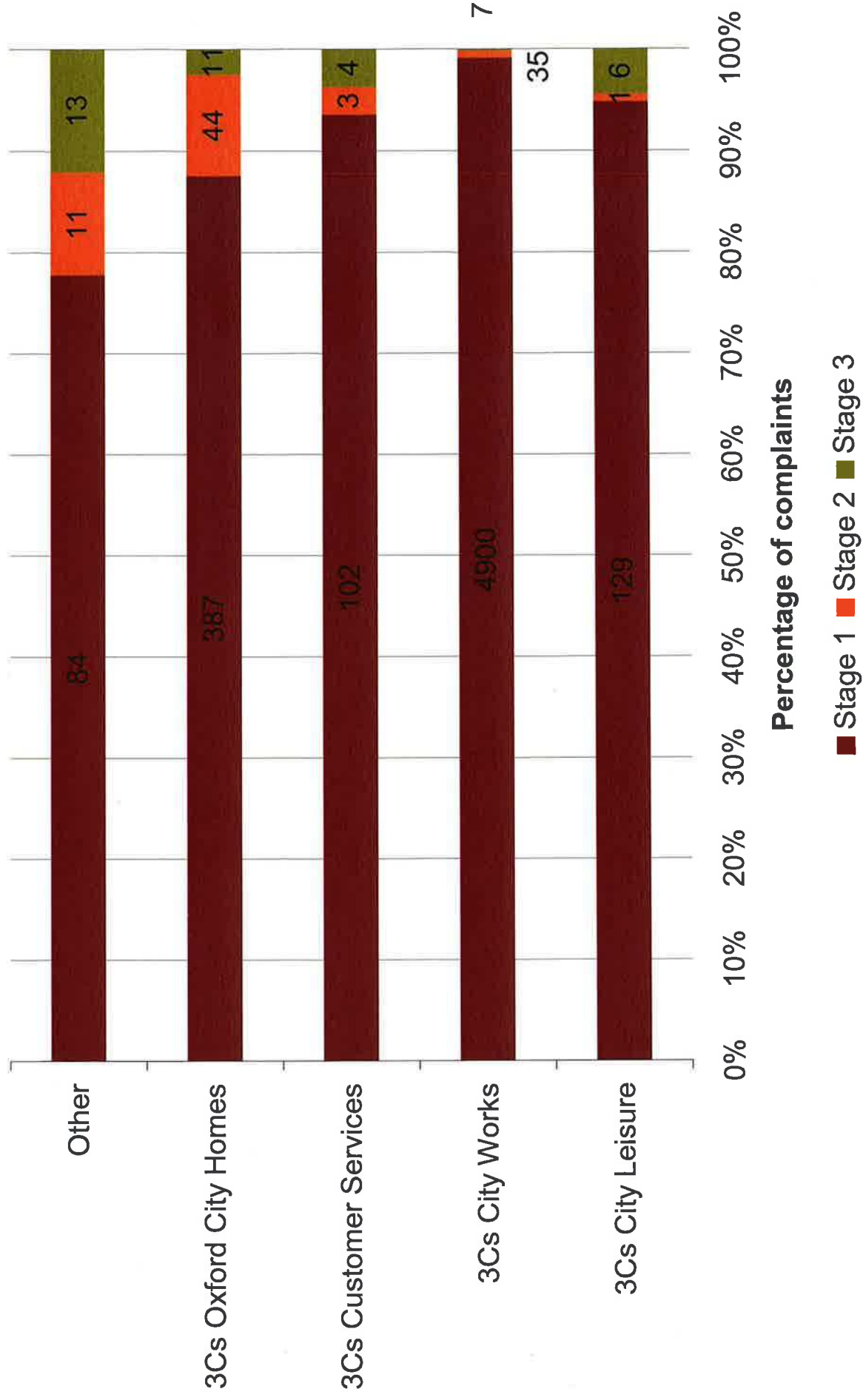
**Name and contact details of author:** Michael Newman,  
Corporate Secretariat Manager

**Background papers:** None

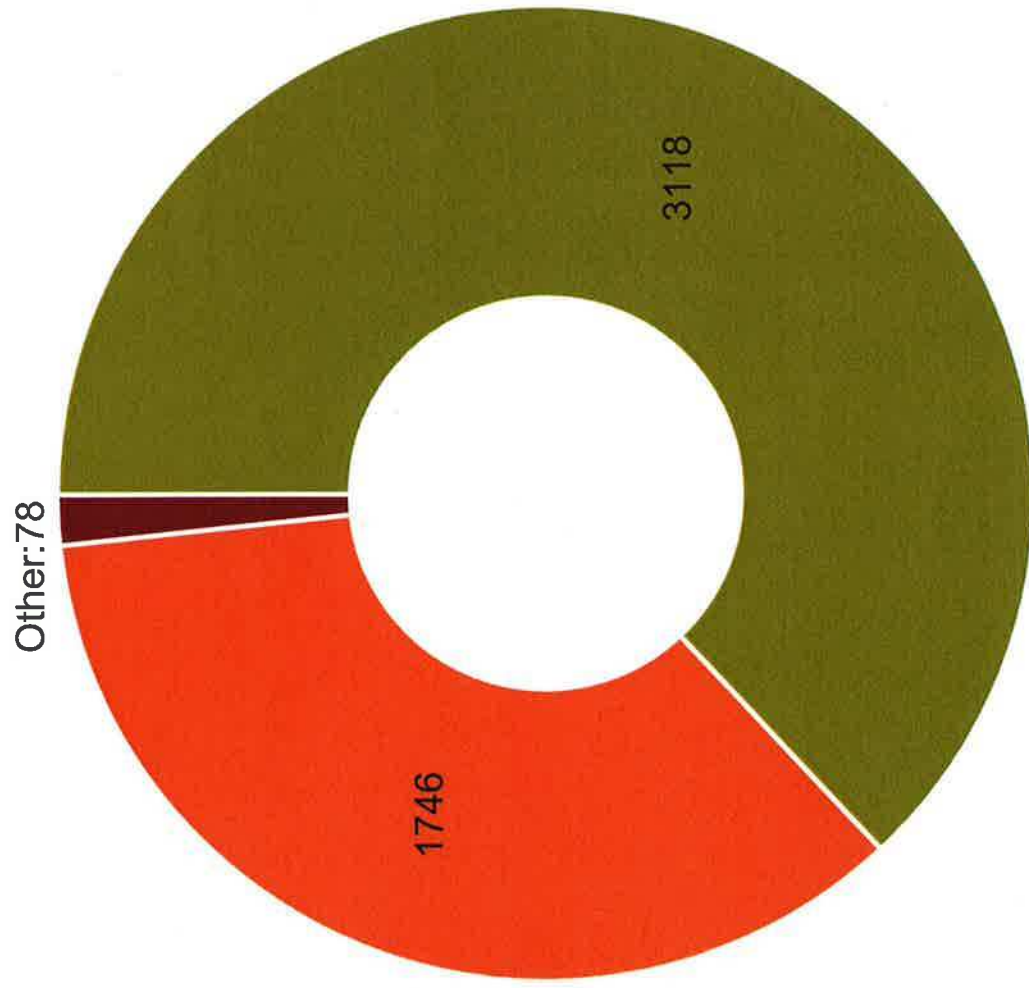


**Total complaints by service 2007-11 (indexed with 2006/07=100)**



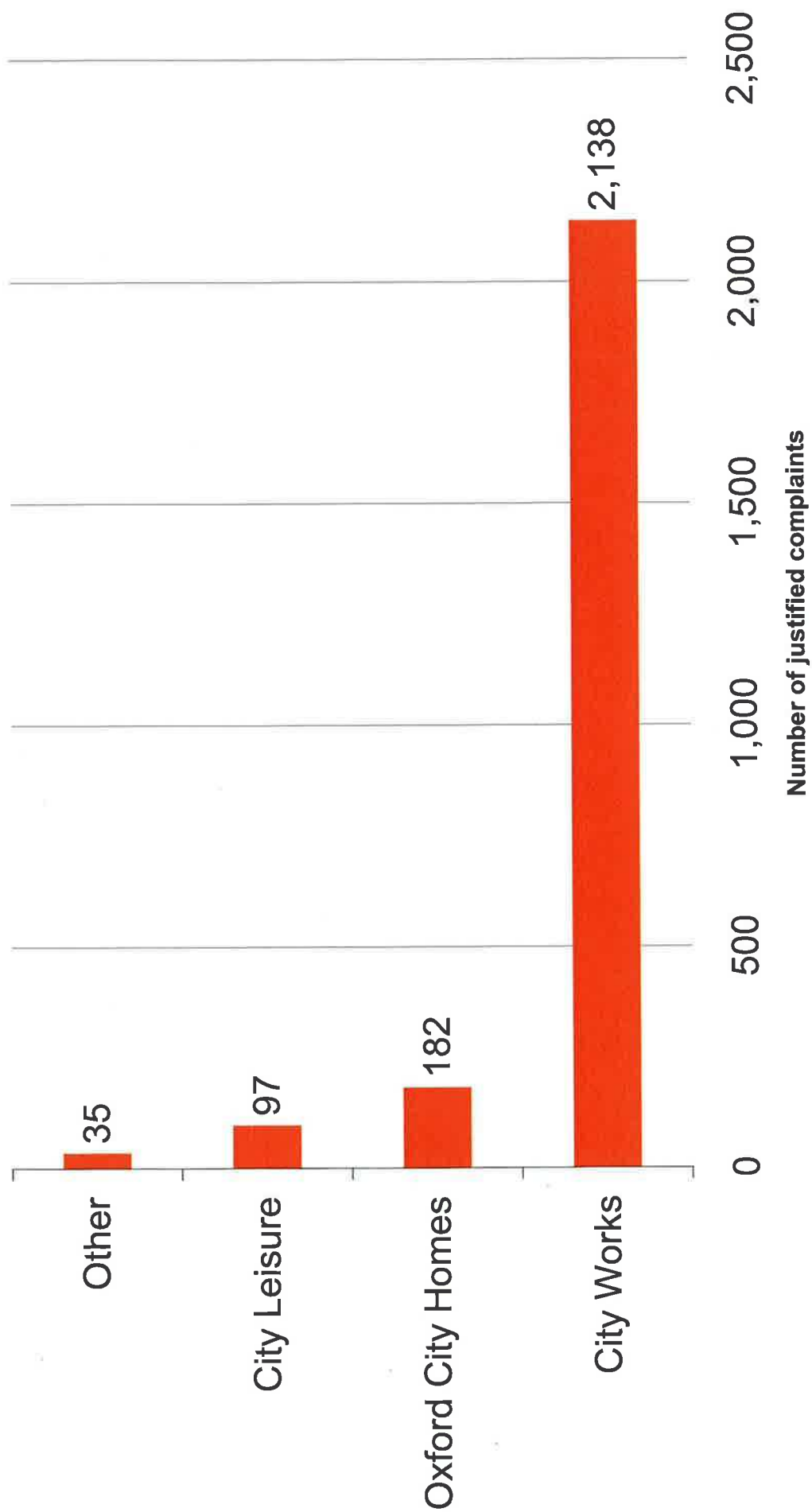


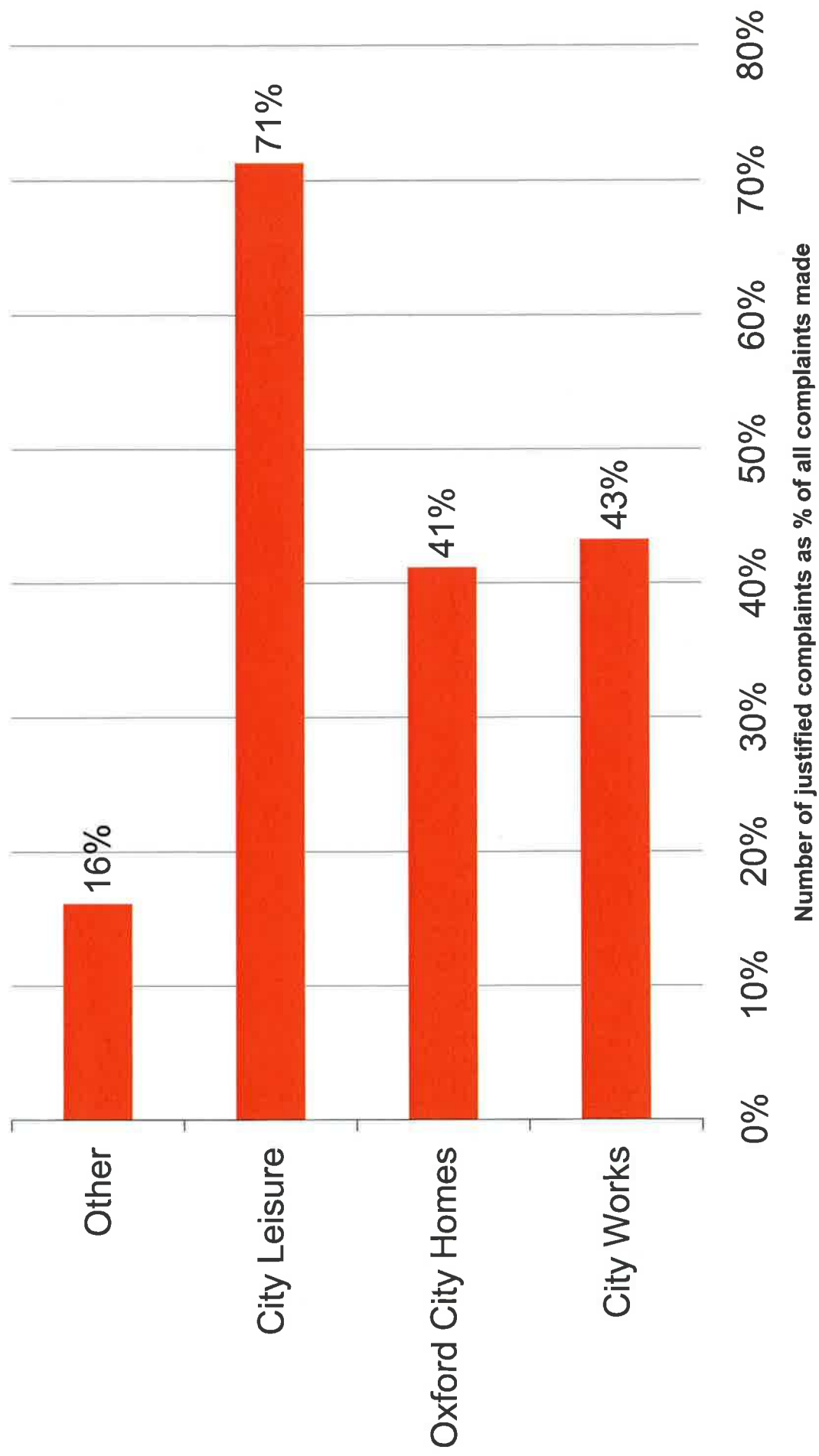
**City Works complaints at Stage 1, 2 & 3 2010/2011**



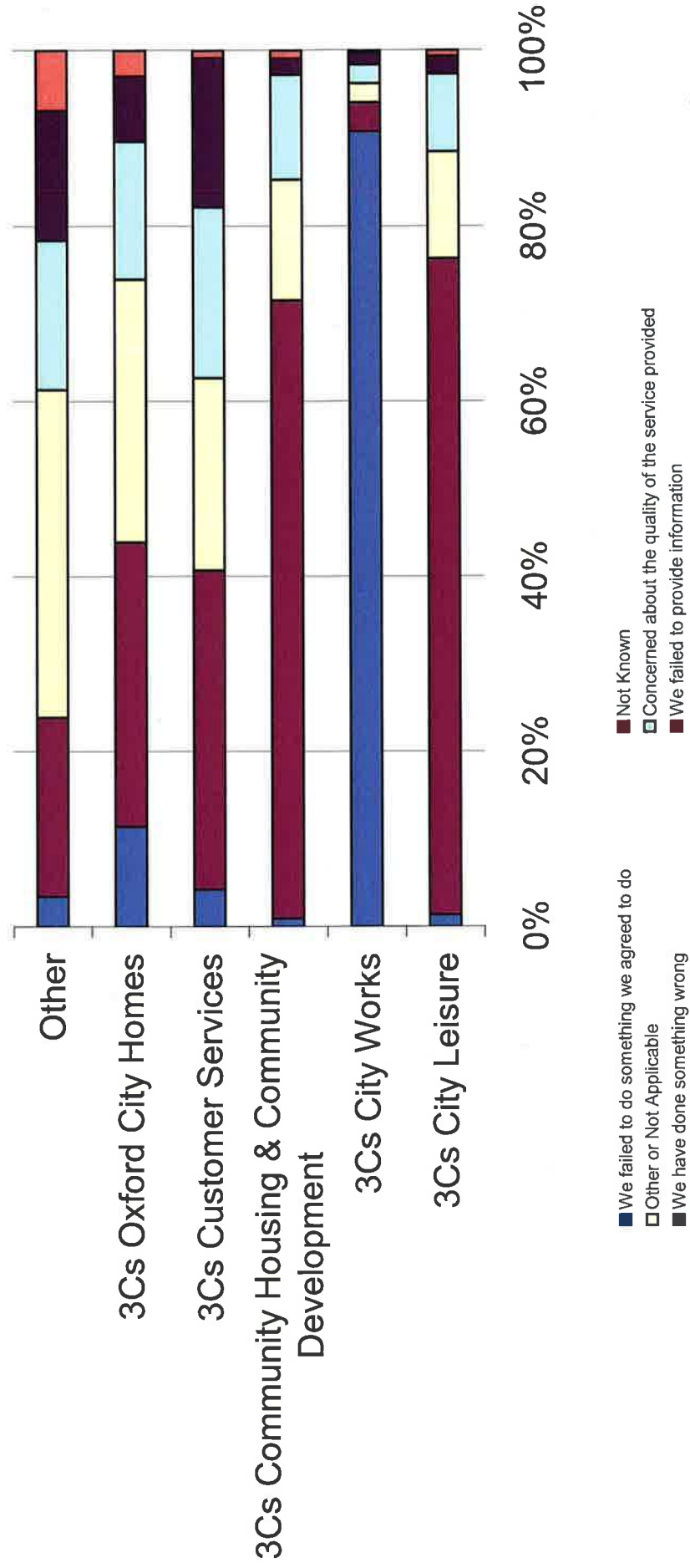


# Justified Complaints 2010/2011

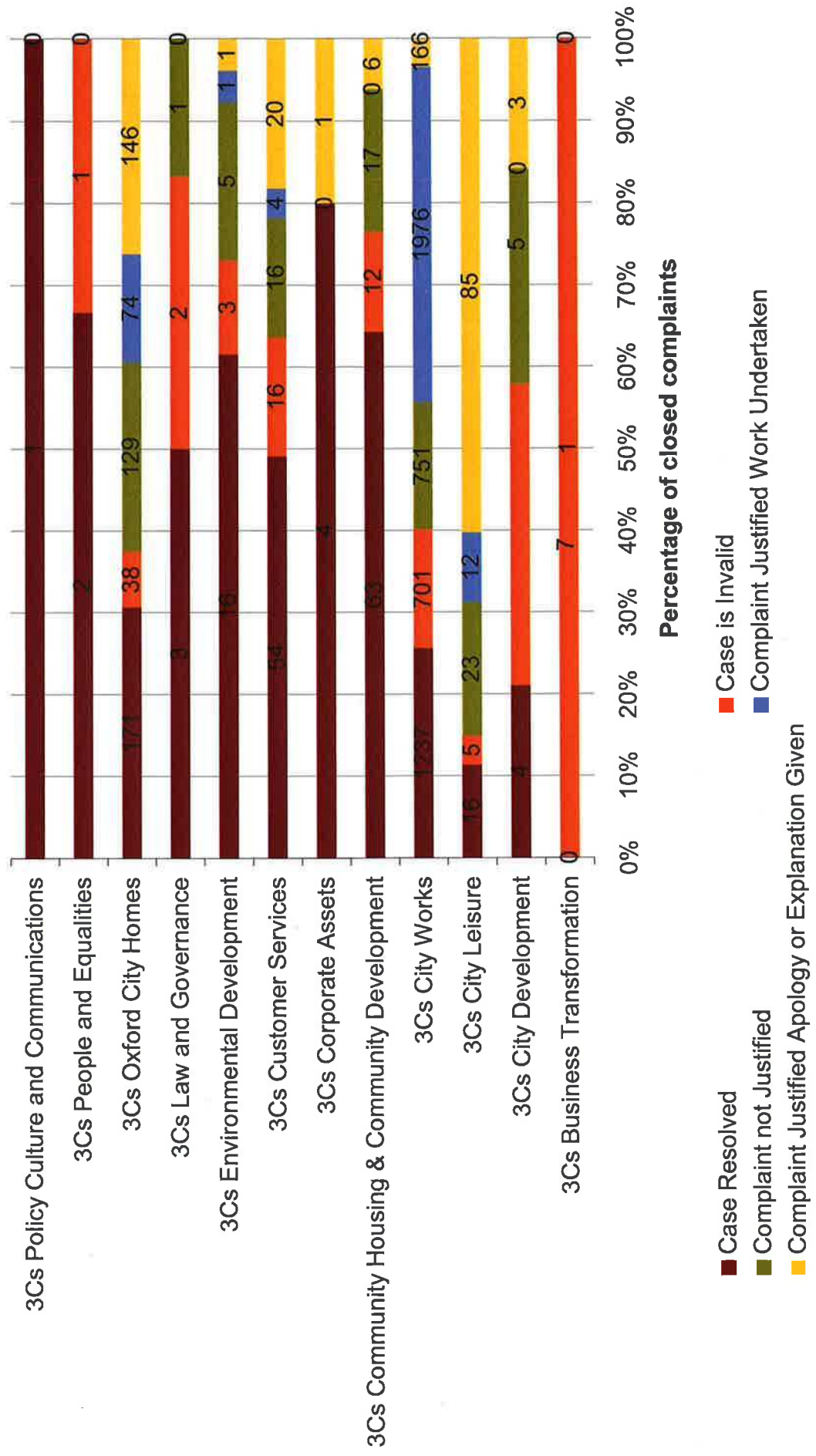




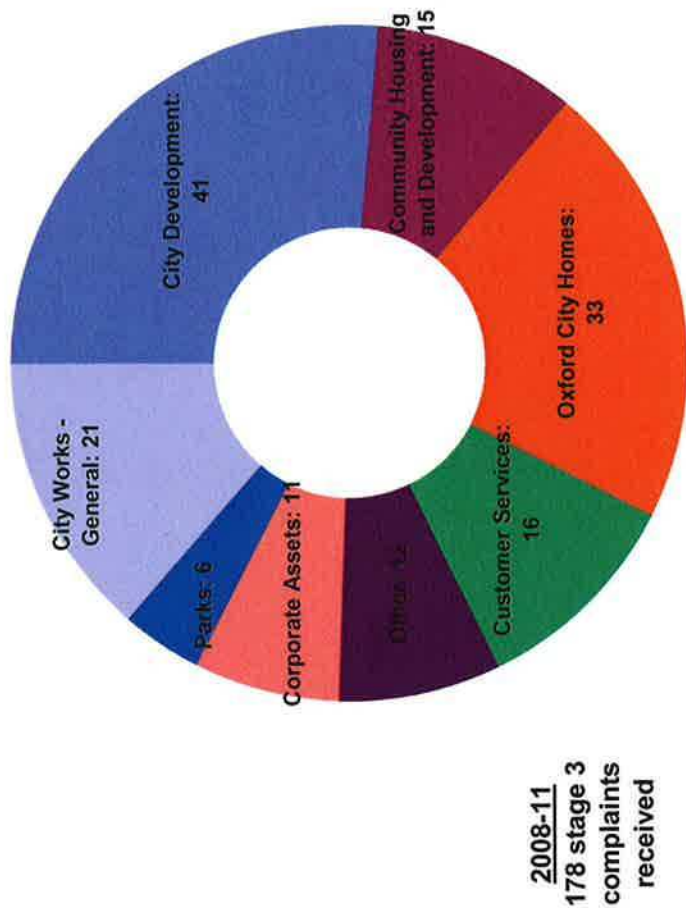
## Nature of Complaints



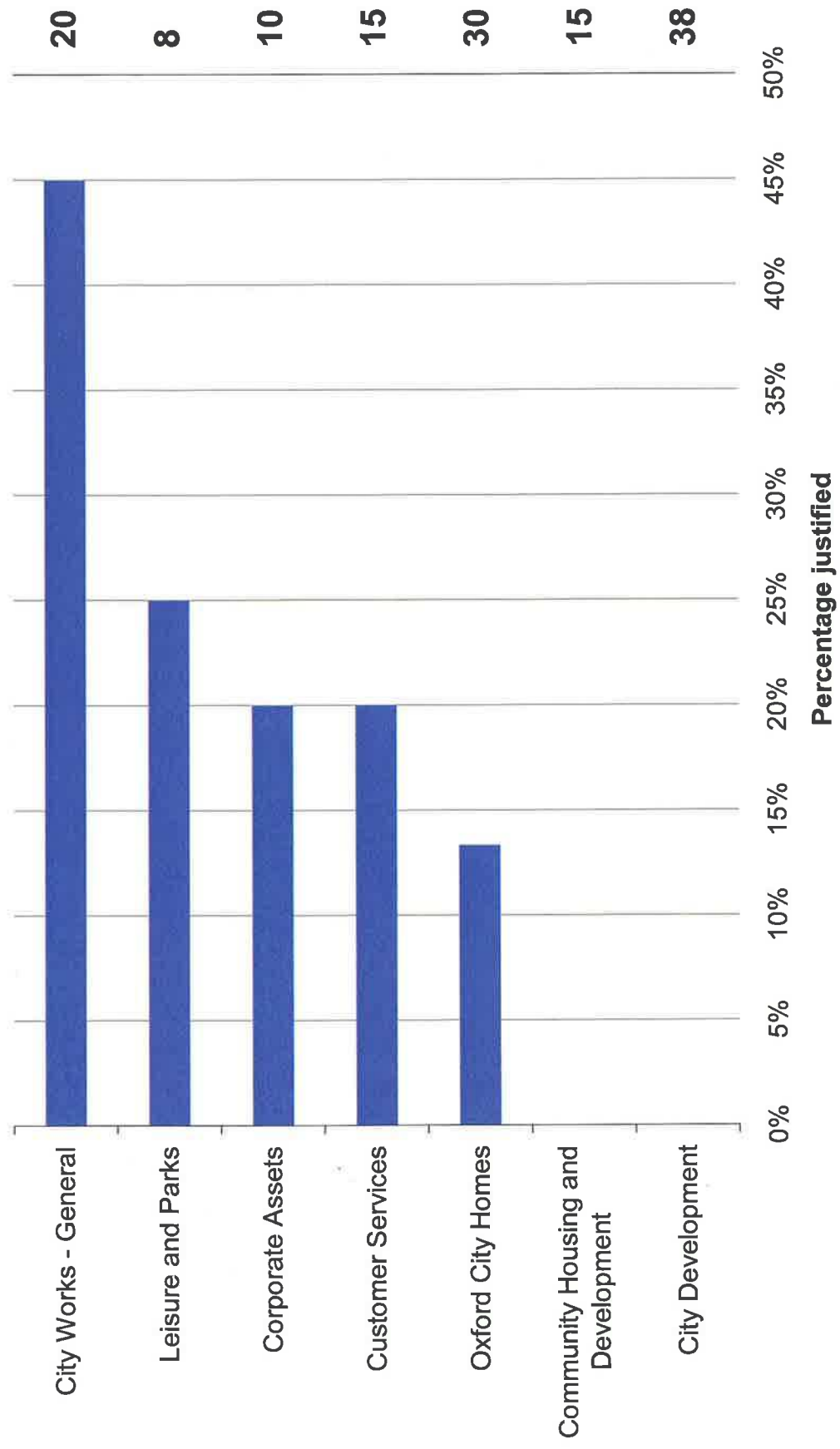
## All Complaints 2010/2011



	Received
City Development	41
Community Housing and Development	15
Oxford City Homes	33
Customer Services	16
Other	12
Corporate Assets	11
Parks	6
City Works - General	21



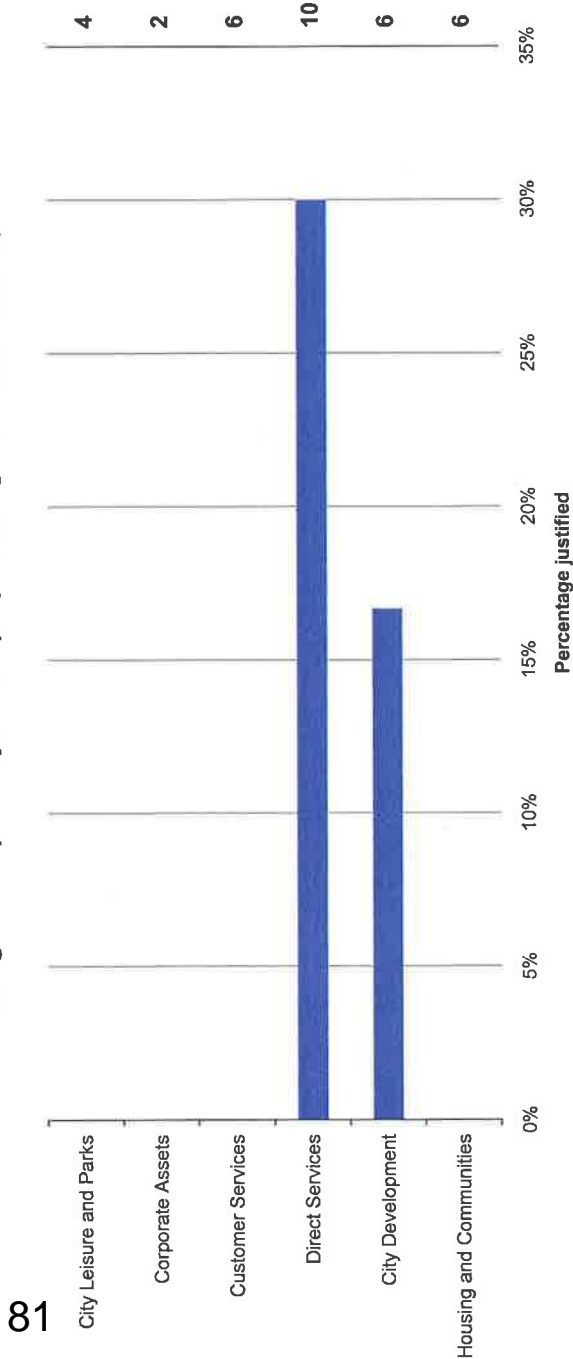
**Stage 3 complaints justified (as percentage of all determined)**



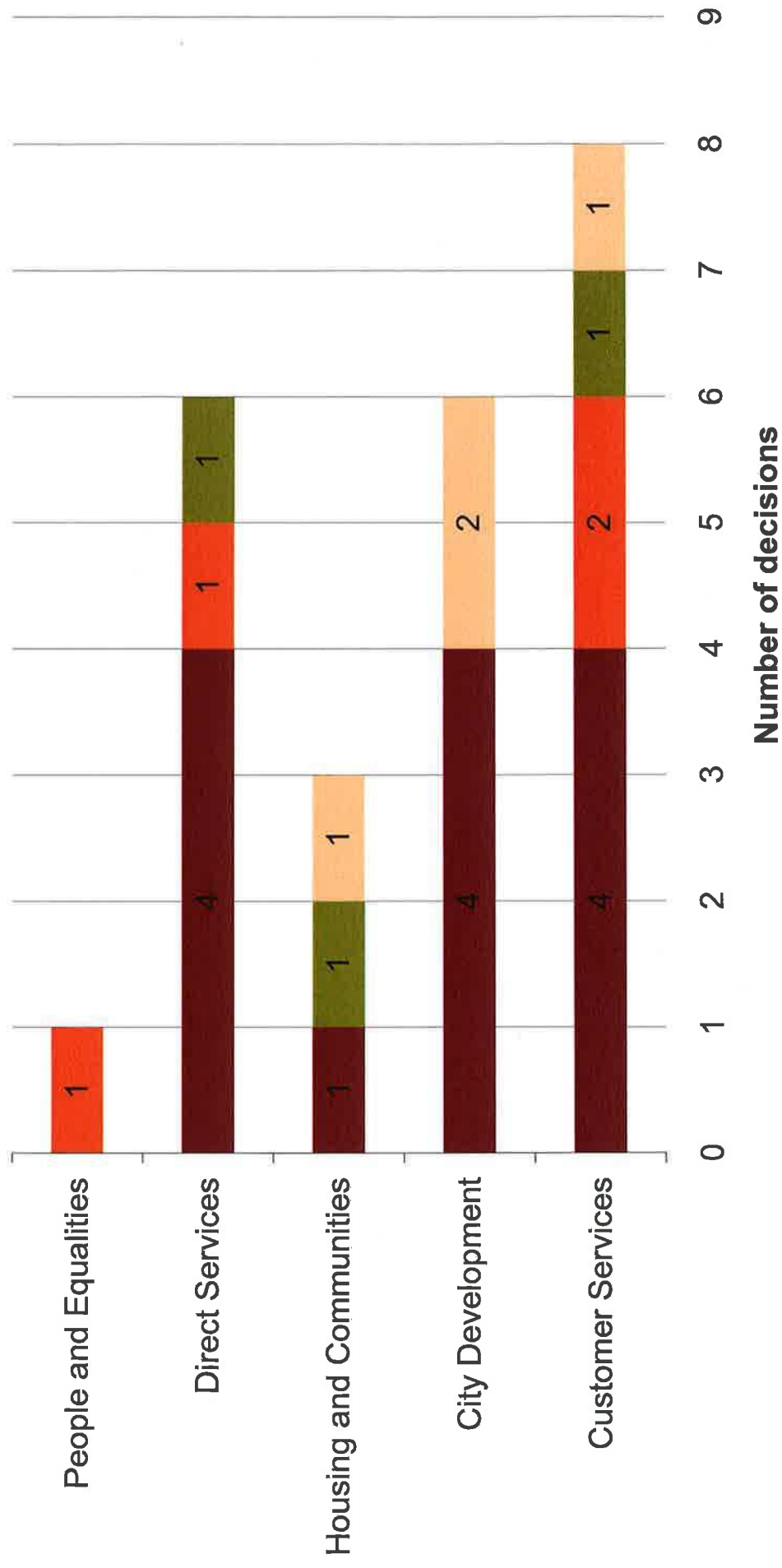
Stage 3 Complaints - 2011/2012

	Received	Determined	Justified
Housing and Communities	11	6	0
City Development	6	6	1
Direct Services	8	10	3
Customer Services	8	6	0
Corporate Assets	4	2	0
City Leisure and Parks	4	4	0
Other	2	2	0
Total	43	36	4

Stage 3 complaints justified (as percentage of all determined)



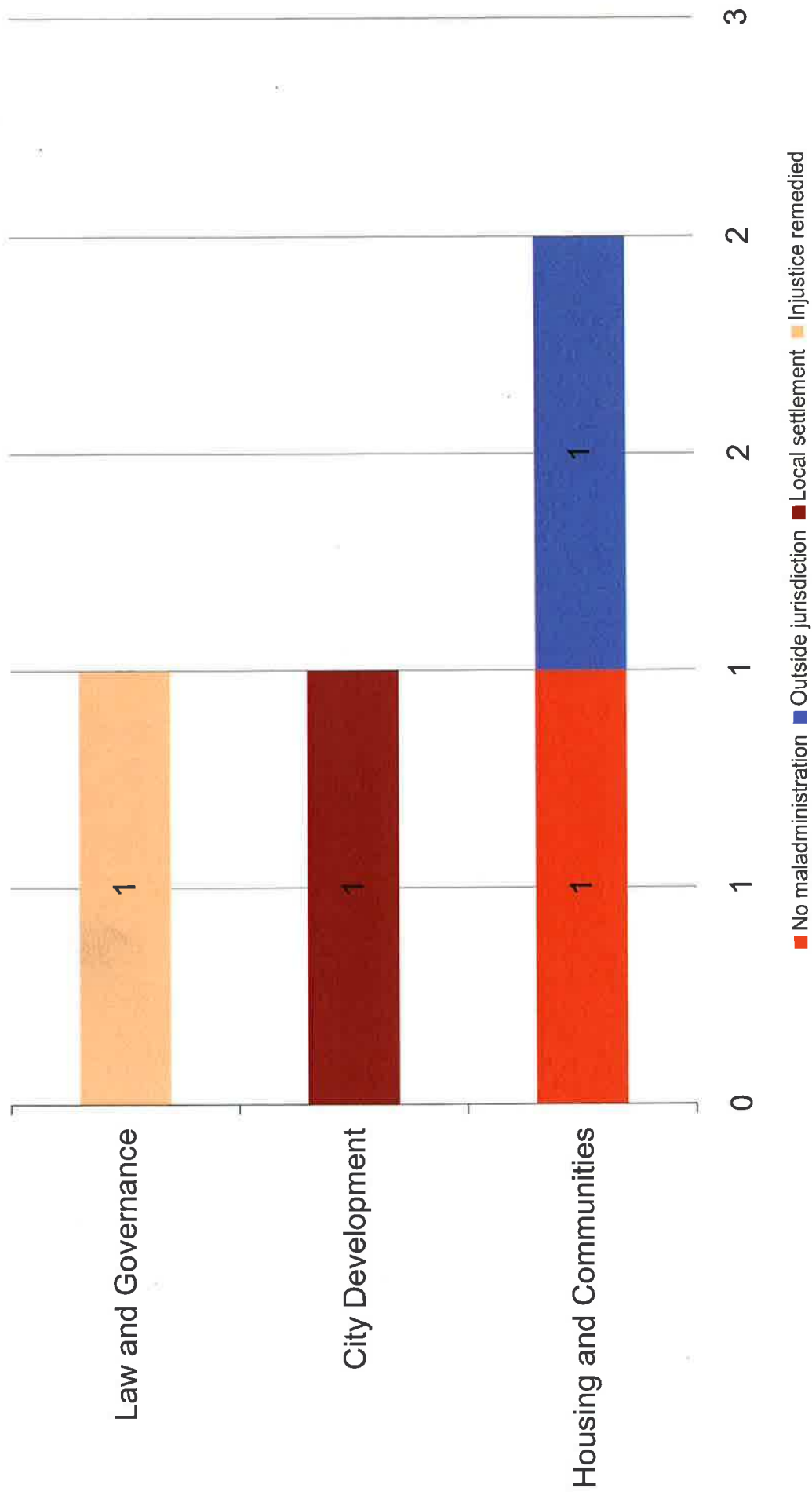
## Ombudsman Decisions 2010/2011



■ No maladministration ■ Outside jurisdiction ■ Ombudsman discretion ■ Local settlement



## Ombudsman Decisions 2011/2012



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