

Code of Conduct complaints



Statistics and themes

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OFFICIAL - SENSITIVE

The importance of standards in public life

“Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence”

The Committee on Standards in Public Life

General Principles of Conduct

- Apply to anyone who works as a public office-holder – includes:
 - Members
 - Council employees
- Codes of conduct (and actions) must be consistent with the Principles:
 - (a) selflessness
 - (b) integrity
 - (c) objectivity
 - (d) accountability
 - (e) openness
 - (f) honesty
 - (g) leadership



Parish and Town Councils – role of NYC

- Since 1 April 2023, NYC is the principal authority for parish and town councils in North Yorkshire for the purposes of the standards complaints regime in the Localism Act 2011
- Responsible for upholding high standards of conduct by members by having a process in place for considering complaints of breach of Code of Conduct for Members
 - That is the extent of NYC's jurisdiction in respect of parish/town council governance; parish/town councils are separate legal entities and **North Yorkshire Council has no jurisdiction to consider other complaints eg about the way in which the parish council has or has not done something, or about particular parish council decisions.**
- Emailed all parish and town councils on 6 April 2023 advising of arrangements and encouraging local councils to adopt NYC's Code of Conduct which is based on the Local Government Association's Model Code.
- The adoption of NYC's code is recommended as there is value in having a consistent approach to a code of conduct across all councils in North Yorkshire, not least because it will facilitate the public's and elected members' understanding of the requirements of the code and how complaints can be framed and addressed.



Complaint Handling

- NYC must have in place:
 - a) Arrangements under which written complaints of breach of code can be **investigated**
 - b) Arrangements under which **decisions** on allegations can be made
- Such arrangements must include provision for the appointment of at least one **Independent Person**
 - a) Whose views **must** be sought and taken into account by the authority before it makes a decision on an allegations it has decided to **investigate** and
 - b) Whose views **may** be sought –
 - i. By the authority in relation to an allegation not being investigated
 - ii. By a subject Member
- NYC – **6 Independent Persons**
 - consulted on a rota basis where possible re complaints received
 - consulted at every stage of complaint handling
- Complaints not involving an alleged breach of the Code (eg complaint about the Council as a whole, one of its services or employees) should be referred to the CEO/Clerk
- NYC's assessment process enables the filtering out of trivial and vexatious matters at an early stage
 - misunderstandings can be dealt with swiftly and effectively
- No right of appeal but complainant can contact Ombudsman if dissatisfied
- Timescale for dealing with complaints - within 3 months of receipt, or as soon as possible thereafter

Assessment

- ALL formal standards complaints go to an initial **assessment** by MO/Deputy MO in consultation with IP
- Purpose - to decide whether a potential breach of the Code is disclosed and, if so, whether the complaint merits formal investigation or any other action

1st stage - Jurisdiction tests:

- (a) That the complaint is against a **named Member** of the relevant authority.
- (b) The named Member was **in office at the time** of the alleged conduct, and the relevant Code of Conduct was in force at the time.
- (c) The complaint, if proven, would be a **breach** of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint **fails one or more** of these tests it **cannot be investigated** and complainant must be informed that no further action will be taken.

If passes all, then look at Assessment Criteria.

2nd stage - Assessment Criteria

1. Capacity
2. Triviality
3. Sufficient Information
4. Current Membership
5. Prior Investigation/Action
6. Passage of Time
7. Underlying Motivation
8. Anonymous Complaints
9. Requests for Confidentiality
10. Withdrawal of Complaints

MO must reach one of following conclusions:

- (a) That **no action** should be taken in respect of the complaint.
- (b) Referral of the complaint for **investigation**.
- (c) Whether to seek **informal resolution** of the matter.

Where **difference of opinion** between MO and IP, allegation will be **investigated**.

Investigation

- Where complaint referred for **investigation**:
 - MO appoints **Nominated Officer** to undertake investigation
 - Nominated Officer prepares **investigation report**, copied to both parties and sent to the MO, with a **recommendation** as to whether it is considered that there has been a **breach** of the Code.
- **Conclusion of no breach of Code**
 - MO **receive and review** the report and **consult IP**. If MO satisfied that the report is sufficient, s/he will write to the Complainant and the subject Member notifying them that s/he is satisfied that **no further action** is required.
- **Conclusion of breach of Code**
 - MO will **review** the report and **consult the IP** as to whether **local resolution** may be possible without the need for a hearing.
 - If the matter **can** reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing they will **consult** the IP, with the Complainant and Subject Member, to seek to **agree** a fair resolution, eg apology and/or other remedial action
 - If the Member **complies** with the suggested resolution the matter will be **reported** to the Standards and Governance Committee but **no further action** will be taken.
 - If any suggested resolution is **not agreed**, the matter will be **referred to Hearings Panel** of the Committee for consideration.

Hearings

- If local resolution is not appropriate or fails, the investigation report goes to a Hearings Panel of 3 Members from the Committee.
- Panel meets to decide whether the Subject Member has failed to comply with the Code and, if so, whether to take any action
- IP will attend and be consulted
- Panel may conclude:
 - a) that the Member **did not fail to comply** with the Code of Conduct;
 - a) that the Member **did fail to comply** with the Code of Conduct; and, if it so concludes, the Panel may determine whether any action is necessary and, if so, what, if any, sanction is appropriate.

Sanctions

- A Hearings Panel may:
 - issue a letter of **censure** to the Member
 - require an **apology** to be given to the Complainant;
 - **recommend** to the Member's Group Leader that they be **removed** from any or all committees or sub-committees of the Council;
 - instruct the Monitoring Officer to arrange **training** for the Member.
- **No** power to suspend or disqualify or to withdraw allowances.
- Panel consults the IP and decides what, if any, **publicity** should be undertaken eg publish a notice on the Council's website or a press release. Until this point, standards complaints are treated **in confidence**.
- MO prepares a **Decision Notice** which will be given to the Subject Member and the Complainant within 10 working days.
- **No** right of appeal through standards regime.
 - Complainant may make complaint to the **Local Government and Social Care Ombudsman** if dis-satisfied.

Context: Complaint statistics – 1 April 2023 to date

147 formal standards complaints received

a) 24 – NYC Members

- i. 5 are connected complaints against the same Councillor raised in relation to a particular parish council (also linked to the 10 such connected parish council complaints)
- ii. 1 is connected to 15 related complaints against a particular town council

b) other 123 - PC/TC members

- i. 10 are connected complaints against parish councillors raised by connected complainants in relation to a particular parish council (also linked to the connected 5 NYC complaints mentioned above);
- ii. 47 are connected complaints, brought by the same complainant against members of a particular town council, in relation to connected issues. These 47 cases are linked to another 2 of the 123 parish council complaints
- iii. 15 are connected complaints against members of a particular town Council (also linked to an NYC complaint mentioned above).

123 of 147 cases assessed so far:

- i. 100 cases did not merit any further action;
- ii. 5 cases were recommended for informal resolution;
- iii. 17 cases are to be investigated through a total of five Investigations:
 - ♦ One investigation covers related complaints made against 11 town councillors. Only one allegation within the complaints is to be investigated (no action on the other complaint allegations);
 - ♦ one investigation covers related complaints made against two parish councillors;
 - ♦ one investigation covers two related complaints about the same town councillor;
 - ♦ two investigations are in relation to complaints against a single councillor (one an NYC councillor and one a parish councillor).

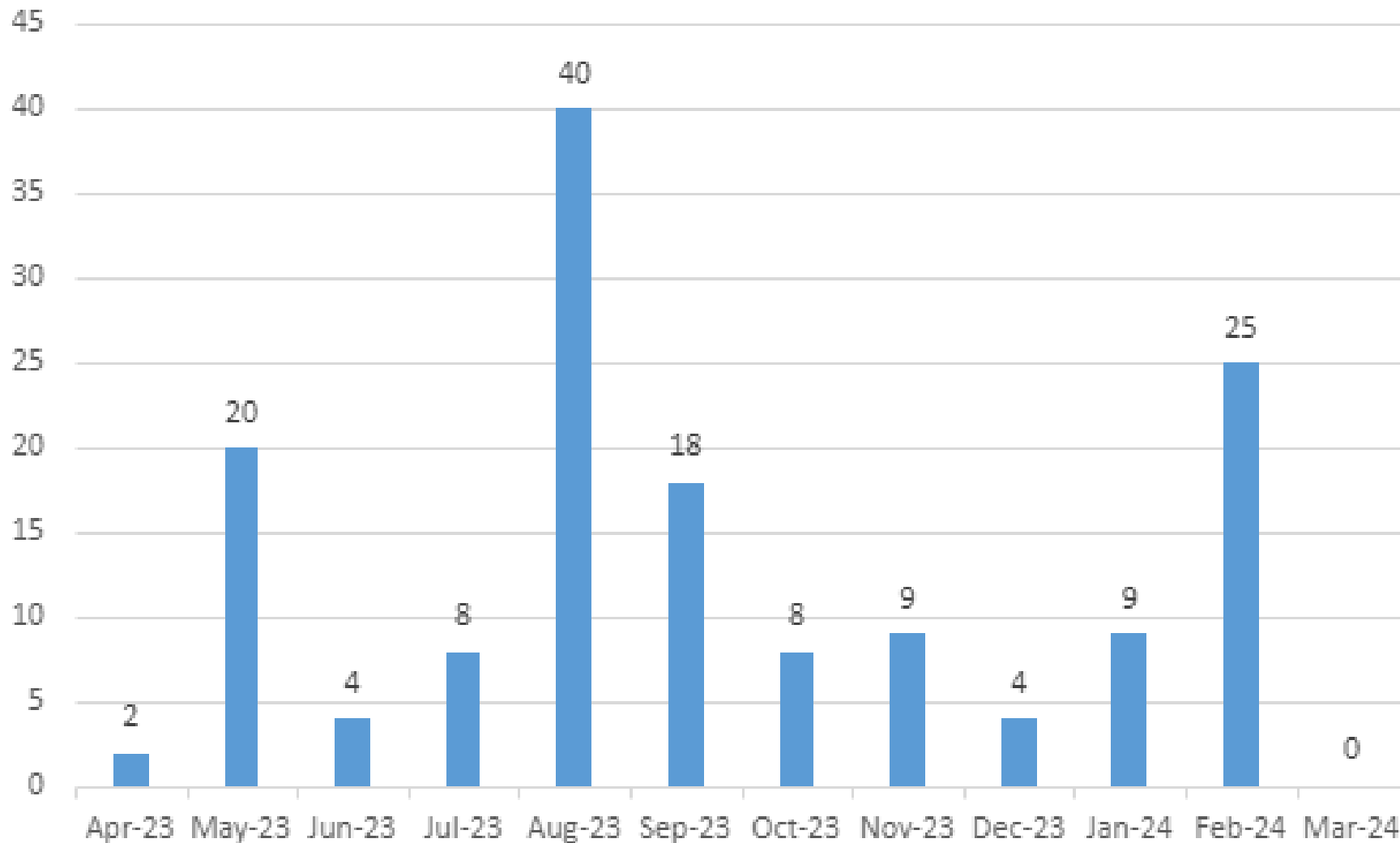
All investigations are currently live.

- iv. One case was not pursued as the subject was no longer a Councillor.
- v. the remainder are in preparatory stages or awaiting assessment

Context: Complaint themes

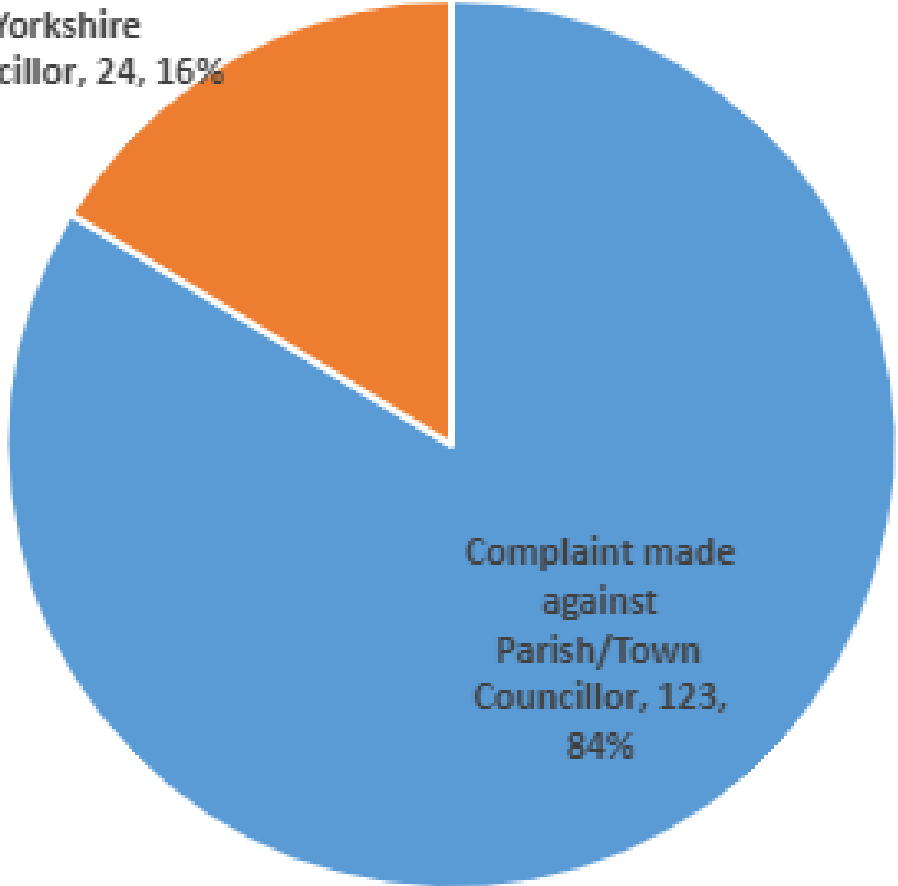
- Communications
 - Lack of response/timely response to complainant
 - Tone of response to complainant – eg lack of respect/civility
 - Terminology used
 - ❖ Swearing
 - ❖ Lack of equality/diversity awareness
 - Comments/posts on social media
 - Comments/behaviour at meetings
- Behaviour – bullying, aggressive, sexist
- Discrimination
- Failure to register/declare interests
- Biased behaviour/closed mind
- Compromising officers' impartiality
- Using position improperly
- Disclosure of confidential information

Standards Complaints Received by month



Comparison of Complaints made against North Yorkshire Councillors and Parish/Town Councillors

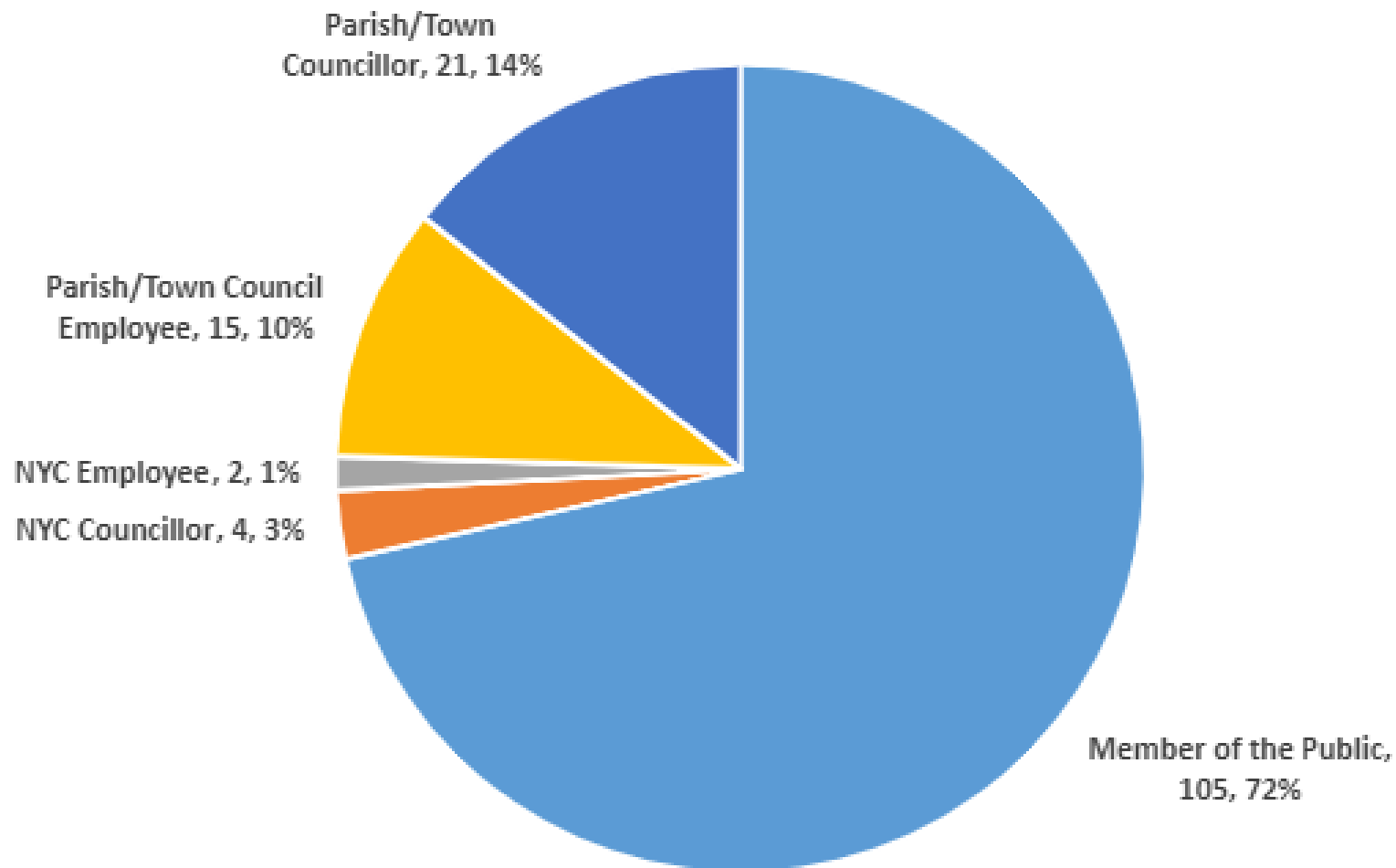
Complaint made against North Yorkshire Councillor, 24, 16%



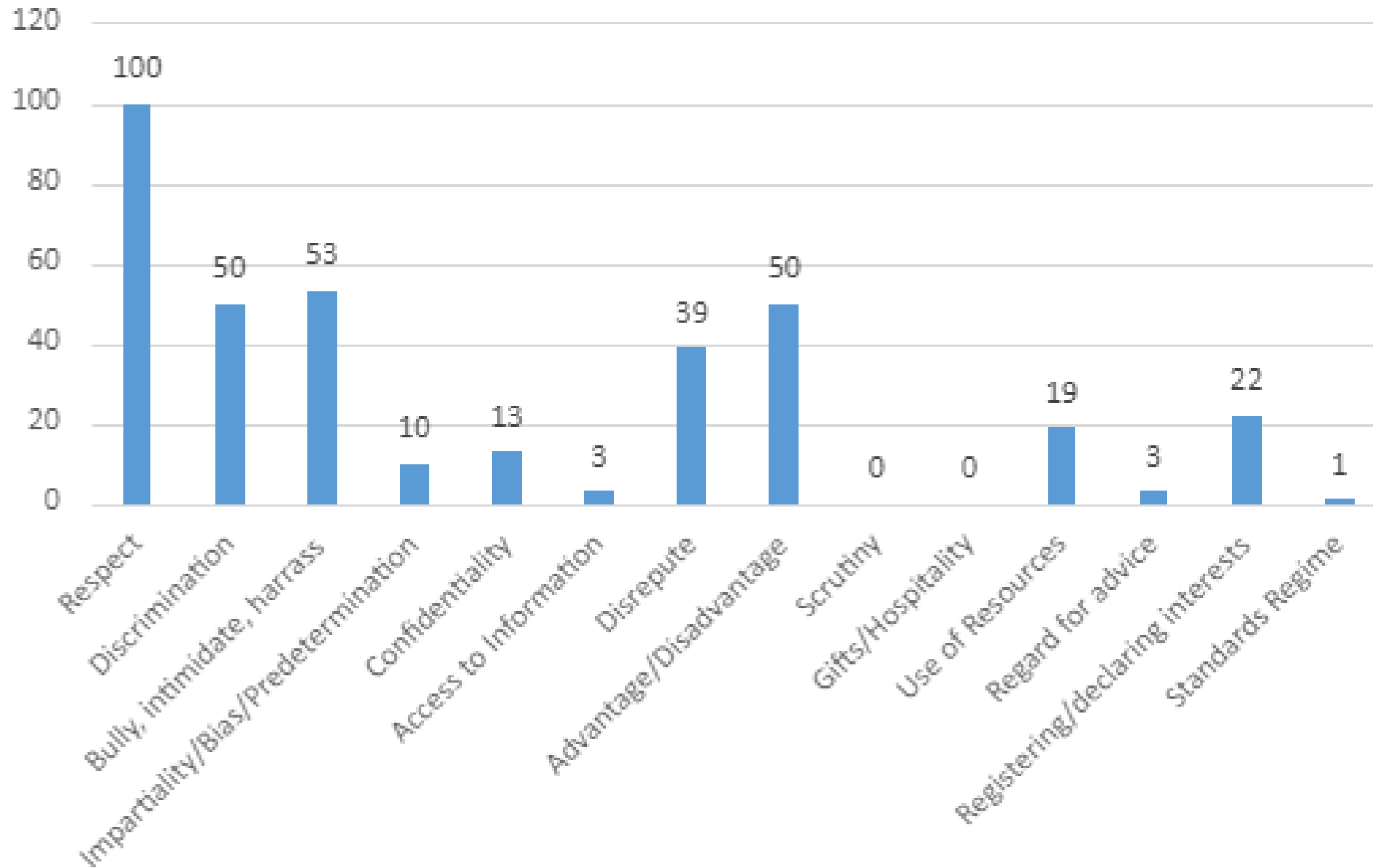
Complaint made against Parish/Town Councillor, 123, 84%



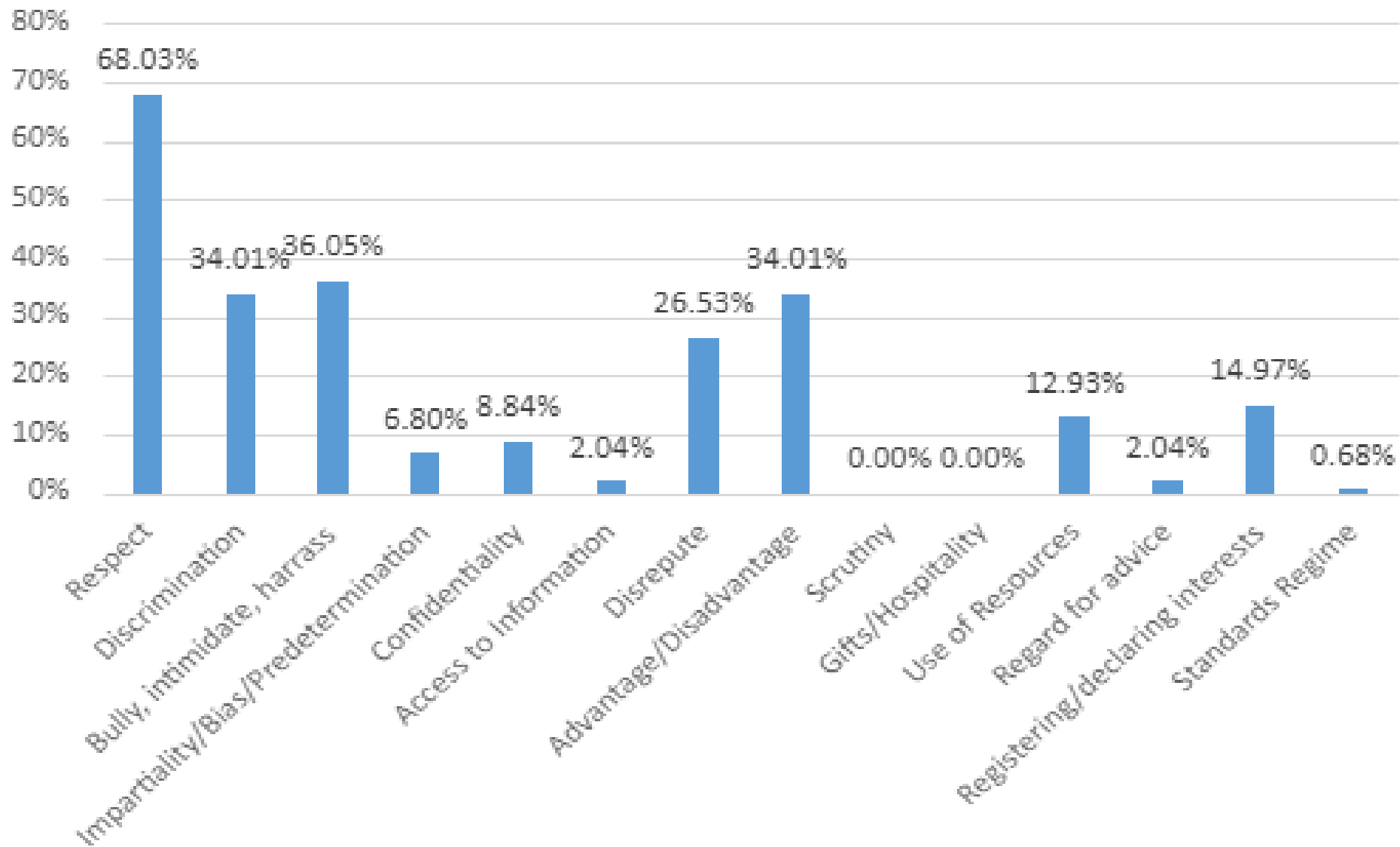
Complaints by Type of Complainant



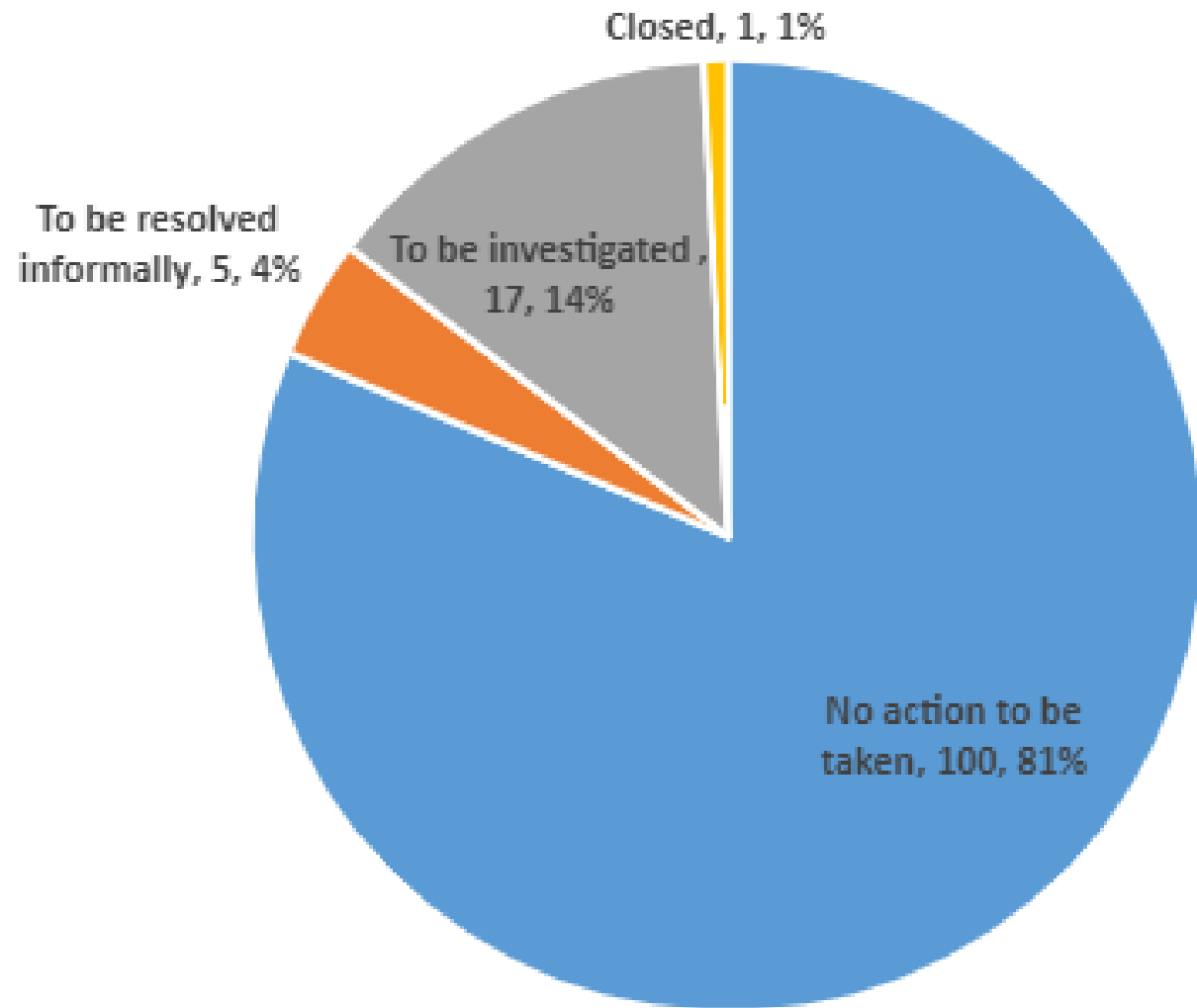
No. of complaints referencing these Code paragraphs



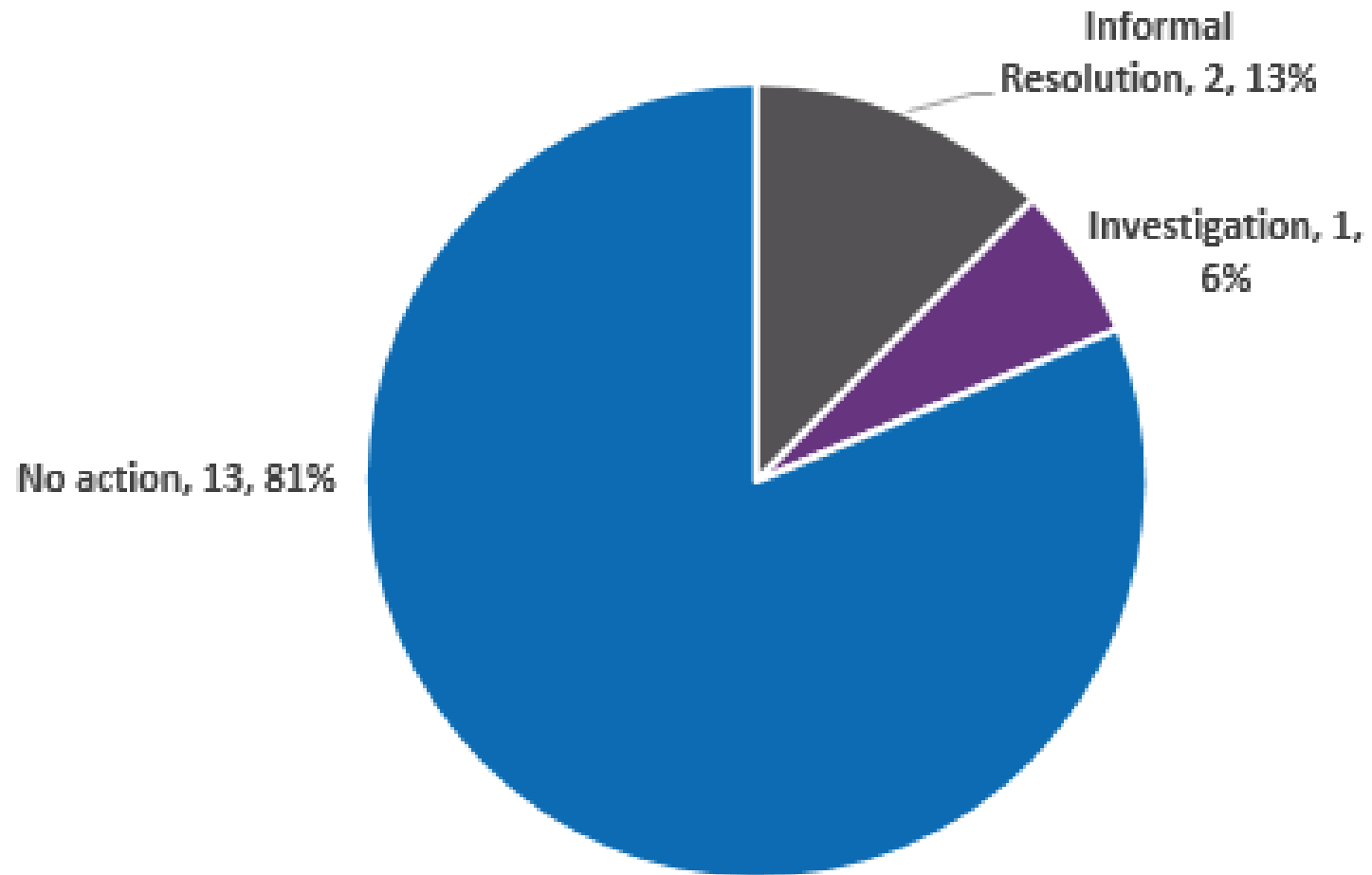
% of complaints referencing these Code paragraphs



Complaint Outcome- All Complaints



Outcomes of Complaints against North Yorkshire Councillors



Outcomes of Complaints against Town and Parish Councillors

