Employee Relations Quarterly Report on Casework and Policies

Q2 2021/22 (July – September 2021)

01/10/2021

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CLT Report on Casework

1. Introduction

The purpose of this report is to update CLT on casework and policy work and other related activities undertaken by the Employee Relations and Engagement team in HR&OD.

This report provides casework data for the period July – September 2021, looking at case type, case location and equalities data, and looks to establish trends and make recommendations. The Policy section reports on progress of the programme of policy reviews for all of the Council's staff policies.

The report now also includes trend data for the previous 12-month period (October 2020 – September 2021) to highlight changes over a longer period.

2. Executive Summary

The following key points summarise progress made to-date in tackling casework and policy:

- **Number of cases**: Since the last report, which covered data from April to June 2021, open cases have slightly increased from 33 open cases to 37 open cases.
- **Time to Resolve**: Taking into account all cases that were closed during the period July – September 2021 (including those that opened prior to this period), the average time taken to resolve cases is 281 days. This figure has increased slightly as it includes 5 long standing legacy cases that were closed during this period. For cases that were both opened and closed during this period, the average time to resolve is 40 days.
  - Finding managers to investigate grievances or disciplinaries is particularly challenging. During this period 70 staff have been trained to conduct investigations, which has significantly increased the pool of investigators and it is expected that this will mean that formal investigators will be appointed more quickly, which will have a positive impact on the duration of a case.
  - Excluding health and wellbeing cases, during this quarter the type of casework which takes the longest to resolve is Grievance and CHADs followed by Disciplinaries.
- **Case Type and Outcomes**: The greatest number of cases are grievance, followed by CHAD and disciplinary. With regard to the former, we have 2 trained mediators in HR who have successfully resolved some recent workplace issues. We are currently training a pool of 12 in-house mediators, offering greater potential to quickly and informally address cases related to work relationships, to avoid the formal, lengthy and more adversarial grievance route.
- **Cases by Directorate**: Place and Health, Adults & Community have the highest levels of casework, the majority of which are grievances (including CHADs). Additional support is being dedicated to Place to manage a high number of complex and long-standing cases.
- **Equalities**: Grievance cases are disproportionately higher amongst Bangladeshi staff. This data is likely to be skewed by the higher number of grievances in one particular service area, involving a group of Bangladeshi staff. The content of the reports we generate, and the intervals are under review to enable us to provide more meaningful data against the protected characteristics. We are now collating the

equalities data of line managers, investigating officers and deciding managers, to highlight if there is any potential bias or discrimination in the way staff are dealt with.

- **Investigators and Mediators**: We have now trained 70 managers from across the Council to be investigators and 12 mediators are being trained who will be ready to mediate in February 2022.
- **ER Inbox**: The team manage a dedicated Employee Relations Casework Inbox, which has a 24-hour response target, which is met. In addition to the formal casework requests and enquiries coming through this channel, the team have handled over 170 general enquiries in this period, which are not linked to formal cases.
- **Policies**: Engagement and partnership working with the trade unions, staff networks and managers has been greatly enhanced in the field of policy work. We have set up quarterly Policy Forums at which ER and the trade unions review the priorities and timescales for our policy review programme, and we hold regular policy consultation meetings for draft revised or new policies. We have revised and implemented some key policies, such as Attendance Management, Organisational Change, Grievance and Discipline and produced management guidance and templates. We are currently consulting on 14 others, some which have had a light touch review and rebranded and others involving greater change.
- **Policies and e-learning**: ER have sourced a widely used e-training provider, at low cost, to enable us to deliver bite-size e-learning courses that cover the essentials skills and knowledge that managers need. These can be adapted by the ER team to reflect our internal policies and they will have Tower Hamlets branding. These short courses for busy managers ensure we are at least compliant in management training on core procedures (longer interactive workshops can still be offered that go into the 'how'). We will send out comms and encourage managers to undertake this training when this is rolled out in the New Year.
- **Employment Tribunals**: The ER team now work closely with the legal team on the management of ET claims. There are currently 22 open ET claims, 5 of which are from agency workers. Future reports will include data on the trends of type of claim and overall number of claims.

3. Background

HR realigned to establish a dedicated team to handle casework and policy development and created an Employee Relations and Engagement Framework to support this work. This has enabled us to more effectively manage and monitor the previously high caseload within the Council. The Framework looked to achieve this in the following ways:

- Consistency in how we manage casework – practice following policy
- Improving resilience and competency of managers and HR professionals
- Timely resolution of issues
- Staff confidence to raise issues
- Improving the reputation and delivery of the HR & OD service
- Reducing employment costs

The actions and how these have been met is detailed below, including an analysis of the casework data, and considerations underway for the next steps in developing the service.

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4. Casework Data and Recommendations

The following sections look at casework supported by the Employee Relations and Engagement team. The data shows us:

During the period 1 July 2021 to 30 September 2021, the overall number of open/live cases has increased slightly from 33 to 37.
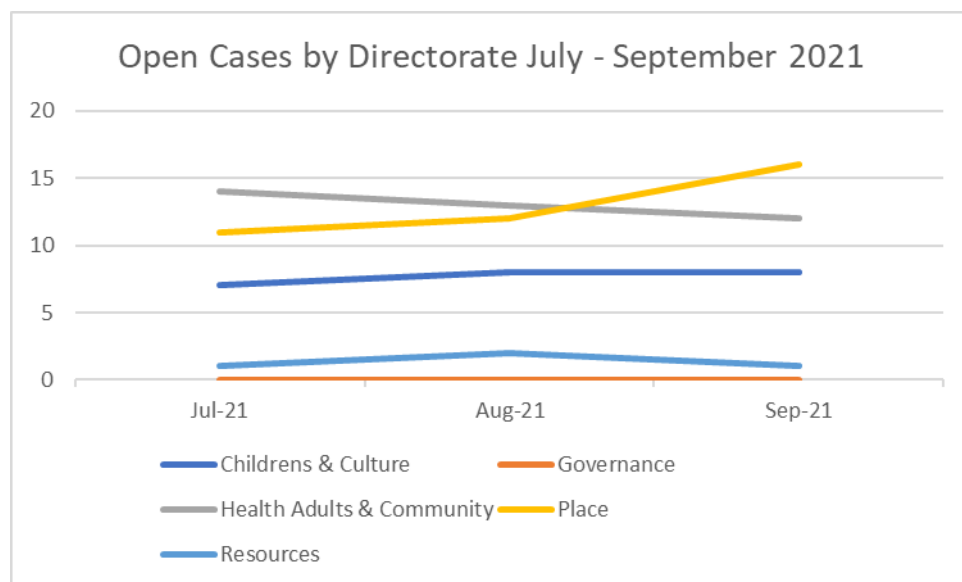
As identified above, the overall number of cases in Place has increased during this quarter.

Three of the open cases involve suspensions, which are regularly reviewed to ensure this remains an appropriate course of action.

4.1 Cases by Location
**Assessment and Recommendations:**

As at 30 September 2021, the table below shows the distribution of cases by Directorate.

Directorate	Number of cases
Children & Culture	8
Health, Adults & Community	12
Place	16
Resources	1
Grand Total	**37**

Open cases in Place account for over 40% of the total current open cases and illustrate where we need to target management support and development.
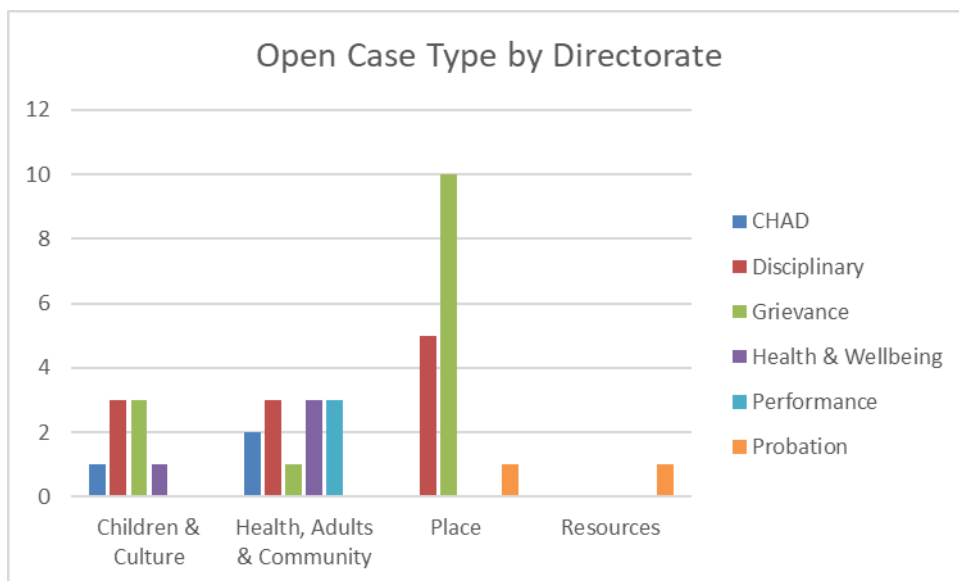
4.2 Cases by Type

The overall number of cases has increased slightly with a rise in the number of grievances.
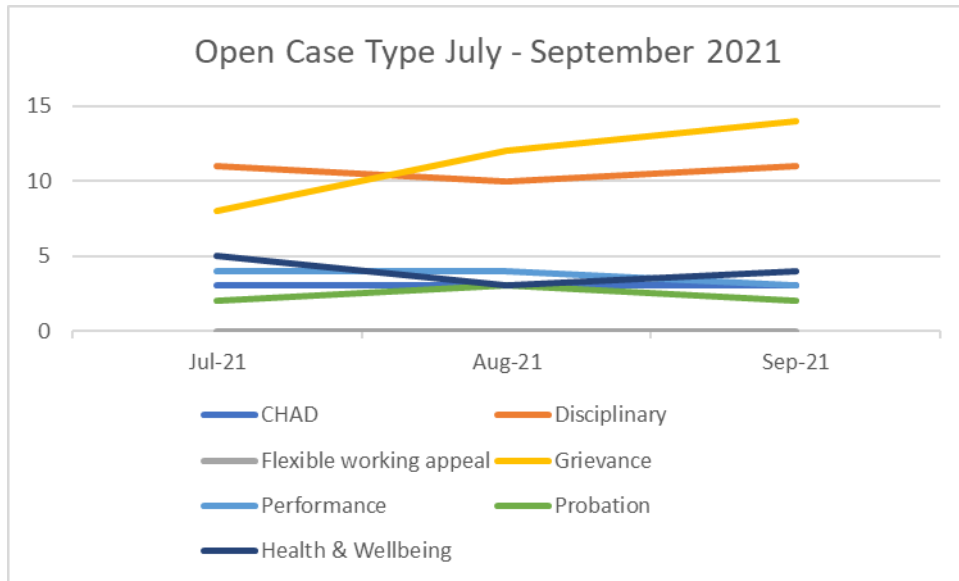
The revised grievance policy that was implemented in August 2021 combined the previous Grievance and Combatting Harassment & Discrimination (CHAD) policies into a single policy. Current open cases raised using the previous CHAD procedure are shown separately.

The bar graph below shows the type of open cases across all directorates, with the majority of cases being grievances. 70% of all current grievances are in Place with these accounting for 30% of all open cases.

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4.3 Cases by Time to Resolve
Assessment and Recommendations:

During this period, 12 cases were closed. The average time taken to resolve these cases was 281 days. Note that in respect of Health and Wellbeing cases, the ER Team support and record cases at Stage 3 Consideration for Dismissal under the current Attendance Management Policy. However, under the previous Sickness Management Procedure, HR attendance was required at earlier formal stages. Therefore, health and wellbeing cases have not been included in the average time taken to resolve cases as this will distort the data and disproportionately skew the figures.

With the exception of the health and wellbeing case that was closed, 9 of the remaining 11 cases were long term cases i.e., they had been open for over 3 months.

The table below outlines the outcomes of the cases closed in this quarter.

Case Type and Outcome	Number of cases
CHAD	**1**
CHAD - Not upheld	1
Disciplinary	**5**
Disciplinary - Upheld - Dismissal	1
Disciplinary - Upheld - First Written Warning	3
Disciplinary - Upheld – Final Written Warning	1
Grievance	**3**
Grievance - Not upheld	1
Grievance - Upheld in part	1
Informal Resolution	1
Health & Wellbeing	**1**
Health & Wellbeing - Dismissal	1
Performance	**1**
Resigned	1
Probation	**1**
Probation - Dismissal	1
Grand Total	**12**

Long Term Cases
As at 30 September 2021, we currently have 23 long term cases, which are those that have been open for 90 days or more. 10 of these were opened before 2021, as shown in the table below.

Year Case Opened	Number of cases
2018	2
2019	1
2020	7
2021	27
Grand Total	**37**

There were 3 long standing legacy cases remaining from 2018/2019 at the time the data was run for this report. All 3 cases have now been resolved and this will be reflected in the Q3 report.

The breakdown of types of cases and the year in which they were opened is shown in the table below.

Year Case Opened	Number of cases
2018	**2**
CHAD	1
Grievance	1
2019	**1**
Performance	1
2020	**7**
CHAD	2
Disciplinary	1
Grievance	1
Health & Wellbeing	2
Performance	1
2021	**27**
Disciplinary	10
Grievance	12
Health & Wellbeing	2
Performance	1
Probation	2
Grand Total	**37**

4.4 Cases and Equalities data
Assessment and Recommendations:

The following charts show the equality breakdown of the current open cases against the equality breakdown of all council staff.

■	Significantly higher than workforce
■	Proportionate to workforce
■	Significantly lower than workforce

*Significant is more or less than 5% difference from workforce as a whole

Race	Open Cases Count	Open Cases %	Council Wide %
Asian	2	5.41%	6.49%
Bangladeshi	16	43.24%	25.83%
Black	11	29.73%	21.05%
Missing	1	2.70%	3.97%
Mixed	2	5.41%	2.92%
Other	0	0.00%	1.21%
White	5	13.51%	38.53%
Grand Total	**37**	**100.00%**	**100.00%**

Religion	Open Cases Count	Open Cases %	Council Wide %
Buddhist	0	0.00%	0.54%
Christian	7	18.92%	31.69%
Decline to State / No information	8	21.62%	15.50%
Hindu	0	0.00%	1.19%
Jewish	1	2.70%	0.63%
Muslim	16	43.24%	29.50%
No religion	4	10.81%	17.15%
Other	1	2.70%	3.22%
Sikh	0	0.00%	0.58%
Grand Total	**37**	**100.00%**	**100.00%**

Sexual Orientation	Open Cases Count	Open Cases %	Council Wide %
Bisexual	1	2.70%	0.98%
Decline to State / No information	8	21.62%	19.93%
Gay	0	0.00%	1.66%
Heterosexual	28	75.68%	76.45%
Lesbian	0	0.00%	0.93%
Prefer to self-describe	0	0.00%	0.05%
Grand Total	**37**	**100.00%**	**100.00%**

Sex	Open Cases Count	Open Cases %	Council Wide %
Female	16	43.24%	57.85%
Male	21	56.76%	42.15%
Grand Total	**37**	**100.00%**	**100.00%**

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	Open Cases		Council Wide
Disability	**Count**	**%**	**%**
Decline to State / No information	4	10.26%	10.81%
No	25	71.79%	67.57%
Unaware	1	2.56%	2.70%
Yes	7	15.38%	18.92%
Grand Total	**37**	**100.00%**	**100.00%**

	Open Cases		Council Wide
Age	**Count**	**%**	**%**
16 - 24	4	10.81%	3.13%
25 - 34	7	18.92%	17.88%
35 - 44	11	29.73%	25.53%
45 - 54	11	29.73%	25.23%
55 - 64	4	10.81%	24.67%
65 - 74	0	0.00%	3.43%
75 - 84	0	0.00%	0.12%
85+	0	0.00%	0.02%
Grand Total	**37**	**100.00%**	**100.00%**

Equality by Case Type – Grievance and CHAD

Grievance and CHAD cases account for the majority of open cases and the number of this case type is increasing. The chart below shows that nearly 80% of formal complaints are by BAME staff and over 50% of formal grievance and CHAD complaints are from Bangladeshi staff.

Open Grievance/CHAD Cases - Ethnicity

- Asian — 5.88%
- Bangladeshi — 52.94%
- Black — 29.41%
- Mixed — 5.88%
- White — 5.88%

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Sex
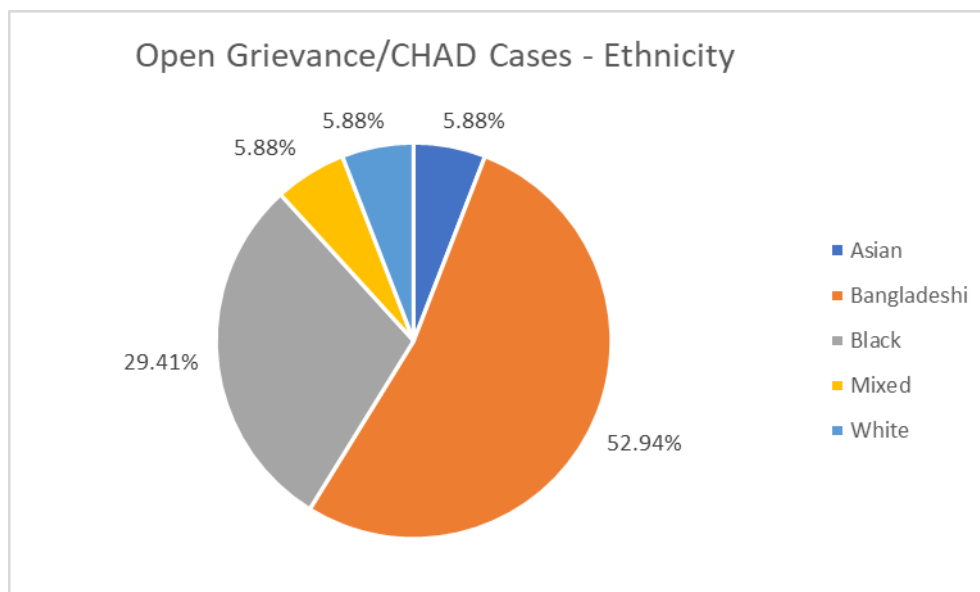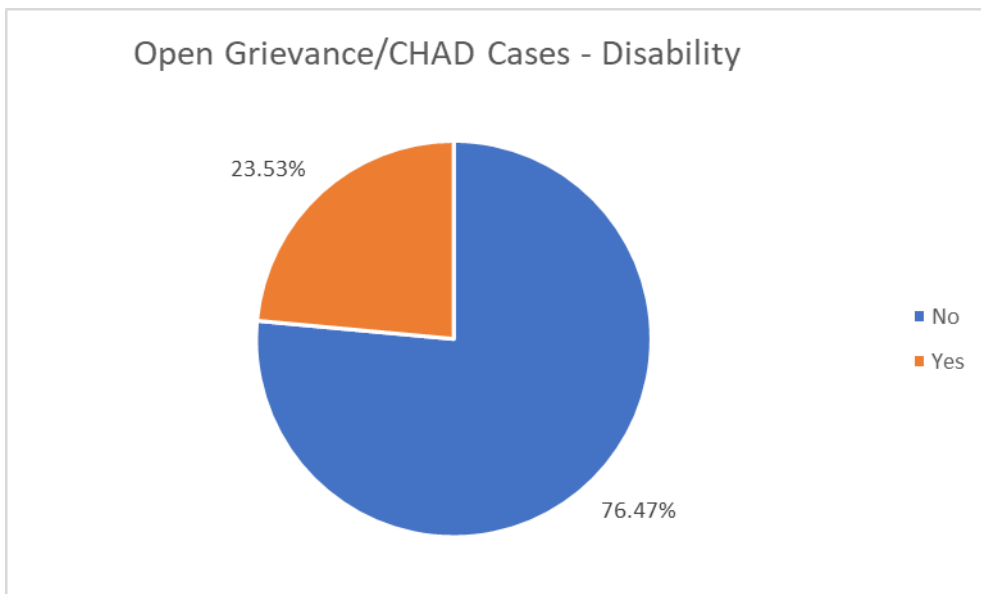
The following chart show the breakdown of open grievance and CHAD cases by sex.
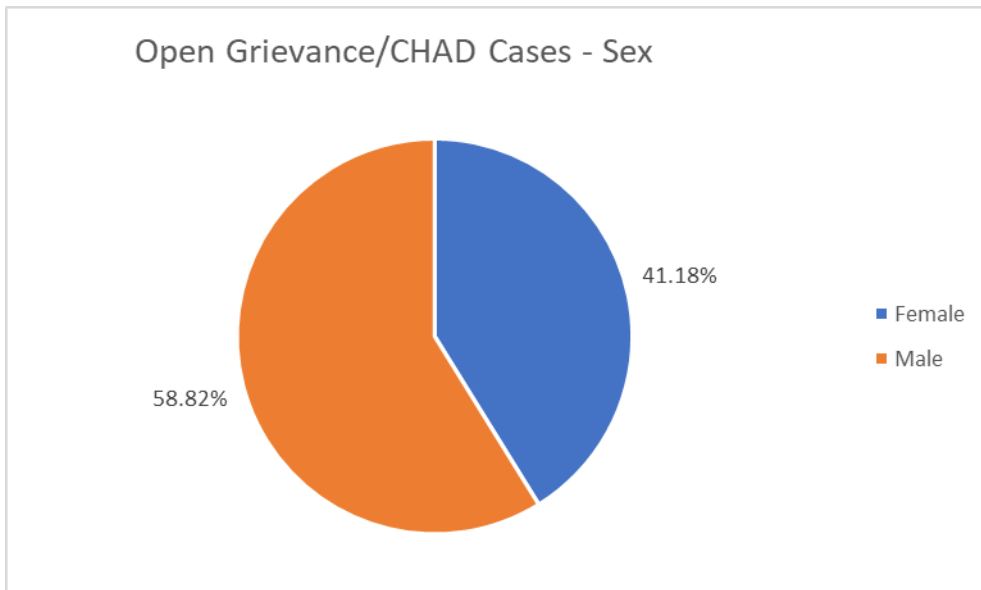
Religion

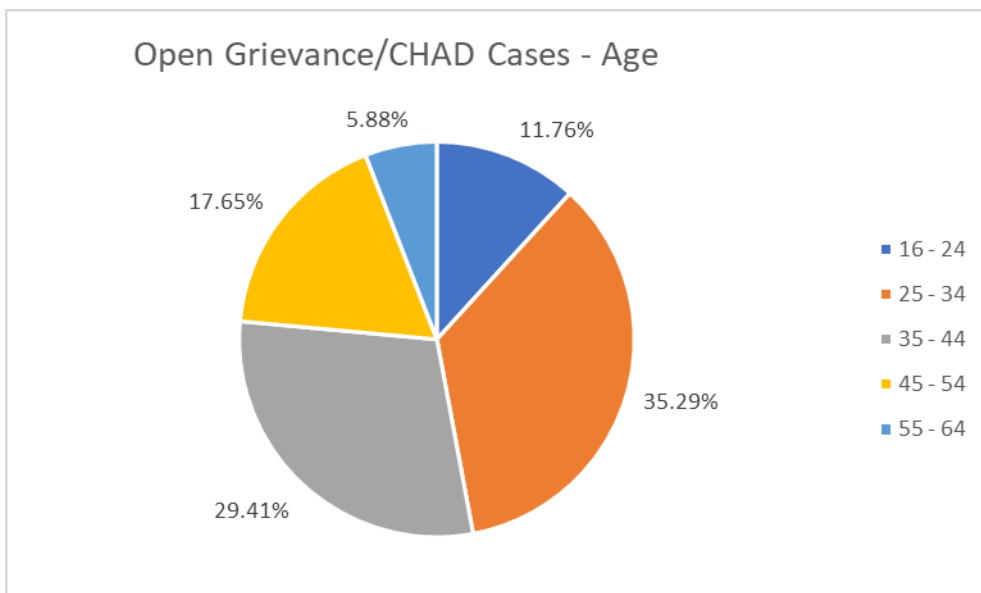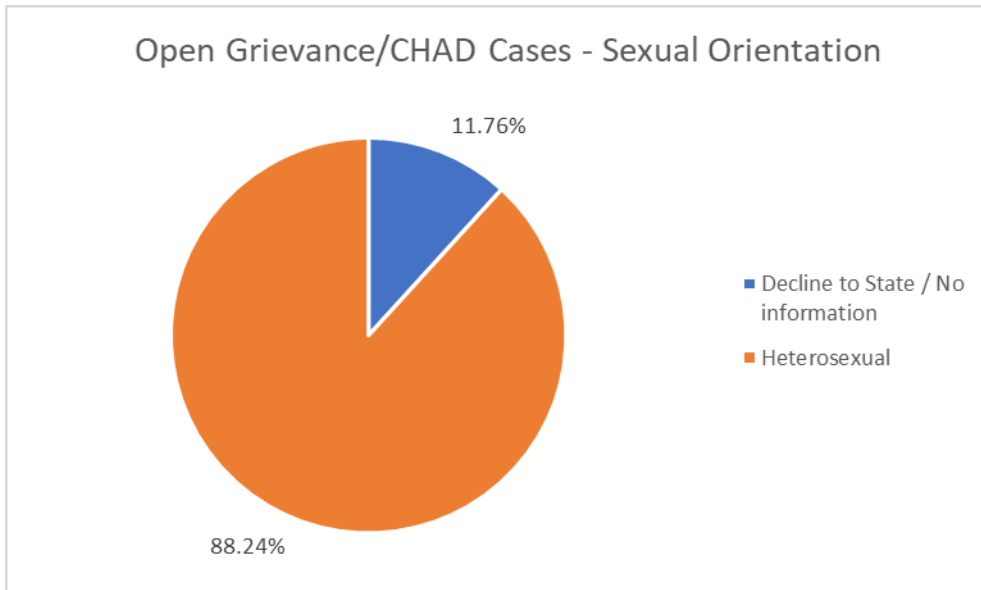The following chart show the breakdown of open grievance and CHAD cases by religion.

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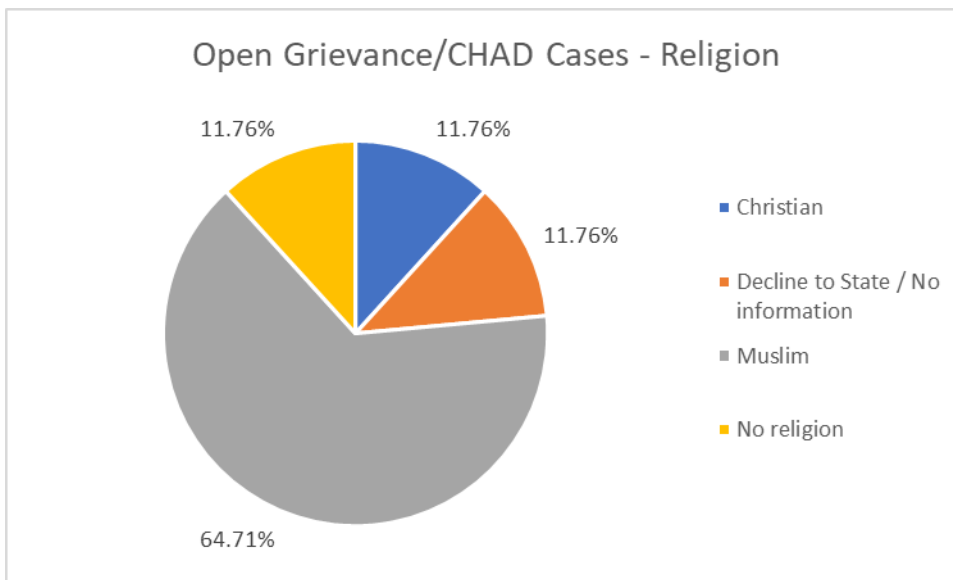
Disability

The following chart shows the breakdown of open grievance and CHAD cases by disability.

Open Grievance/CHAD Cases - Disability

23.53%

76.47%

- No
- Yes

Age

The following chart shows the breakdown of open grievance and CHAD cases by age.

Open Grievance/CHAD Cases - Age

5.88%   11.76%

17.65%

35.29%

29.41%

- 16 - 24
- 25 - 34
- 35 - 44
- 45 - 54
- 55 - 64

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<u>Sexual Orientation</u>

The following chart shows the breakdown of open grievance and CHAD cases by sexual orientation.

Open Grievance/CHAD Cases - Sexual Orientation

11.76%

88.24%

- ■ Decline to State / No information
- ■ Heterosexual

Equality by Case Type – Disciplinary

<u>Race</u>

The following chart show the breakdown of open disciplinary cases by race.

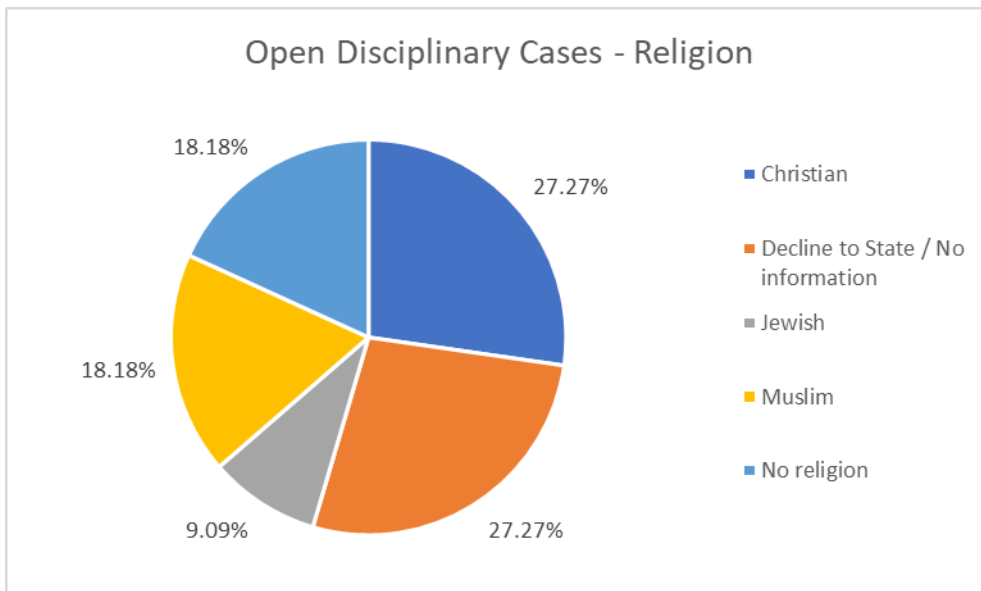## Open Disciplinary Cases - Race

9.09%

27.27%

27.27%

9.09%

27.27%

- ■ Asian
- ■ Bangladeshi
- ■ Black
- ■ Mixed
- ■ White

Sex

The following chart show the breakdown of open disciplinary cases by sex.

Open Disciplinary Cases - Sex

18.18% Female
81.82% Male
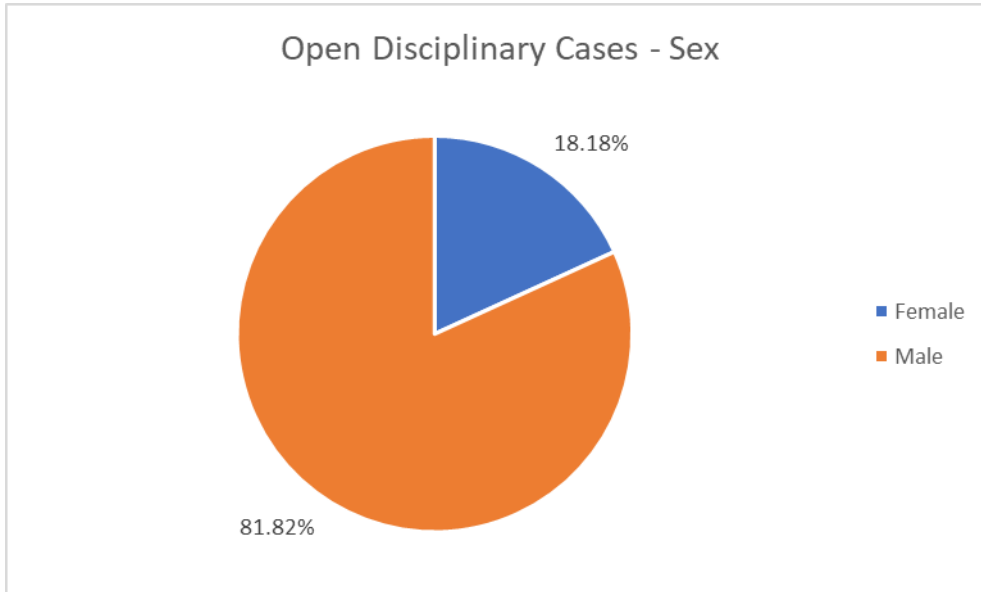
Religion

The following chart show the breakdown of open disciplinary cases by religion.

Open Disciplinary Cases - Religion

27.27% Christian
27.27% Decline to State / No information
9.09% Jewish
18.18% Muslim
18.18% No religion

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Disability

The following chart shows the breakdown of open disciplinary cases by disability.
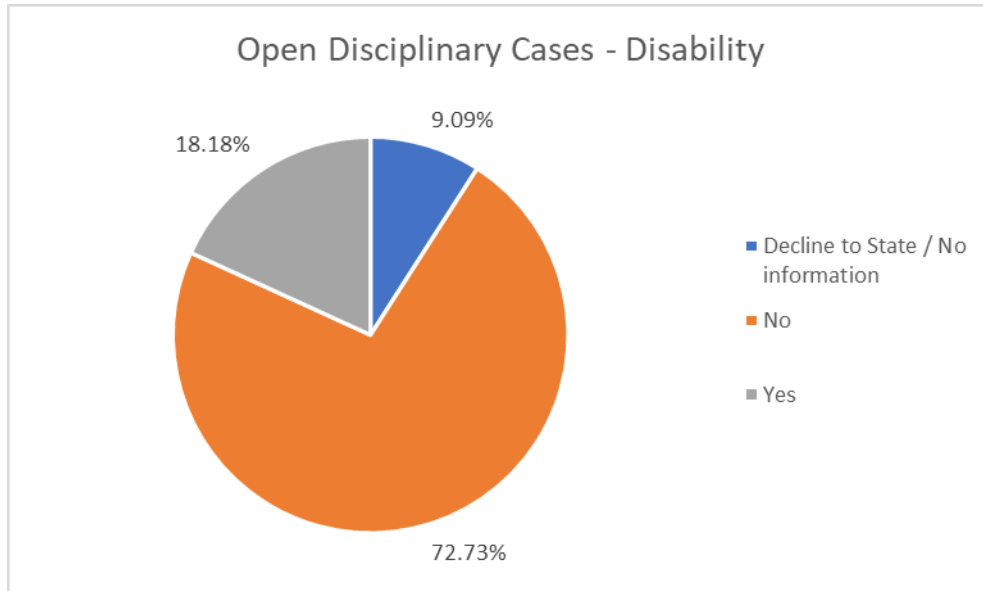
Open Disciplinary Cases - Disability

- Decline to State / No information: 9.09%
- Yes: 18.18%
- No: 72.73%

Age

The following chart shows the breakdown of open disciplinary cases by age.

Open Disciplinary Cases - Age

- 16 - 24: 9.09%
- 25 - 34: 9.09%
- 35 - 44: 36.36%
- 45 - 54: 36.36%
- 55 - 64: 9.09%

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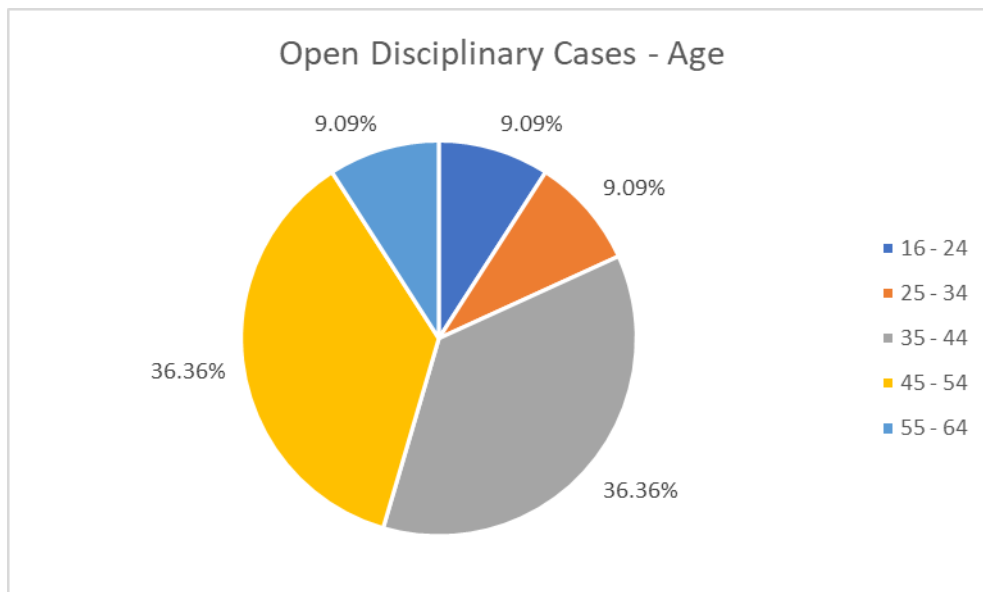
<u>Sexual Orientation</u>

The following chart shows the breakdown of open disciplinary cases by sexual orientation.
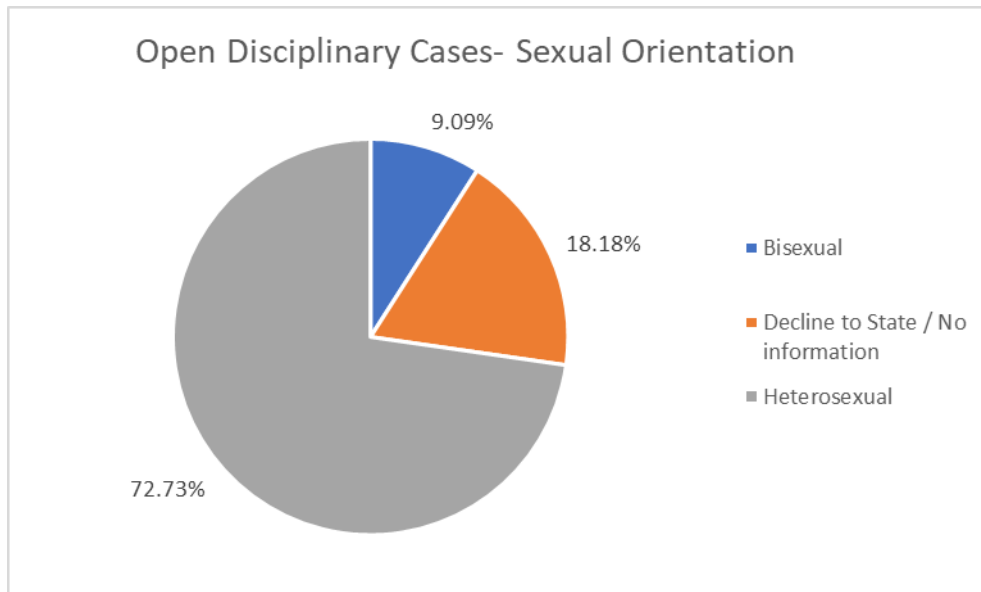
4.5 Cases by Responses and Standards
Assessment and Recommendations:

Target: Establishing response times, as follows:
- Initial response to new case: Within 1 working day
- Substantive response to case: Within 2 working days
- Response to emails: Within 2 working days
- Response to calls: within 2 working days
- Review of letters: Within 2 working days
- Review of outcome letters: Within 2 working days
- Review of reports: Within 2 working days

In addition, standardised letter templates to be developed, indicative timelines to be attributed to cases, and each case allocated an investigating officer, where applicable, and a Deciding Manager to hear a formal case.

Outcome: All of these requirements have been addressed. The standard to respond to all employee relations casework emails within 24 hours is a high bar, higher than that set for other HR related Inbox queries, and is being met, helped by allocating a dedicated team member to cover the Inbox each day. Each case then has a dedicated, experienced HR Business Partner responsible for supporting the manager to ensure it is handled in a timely and informed way.
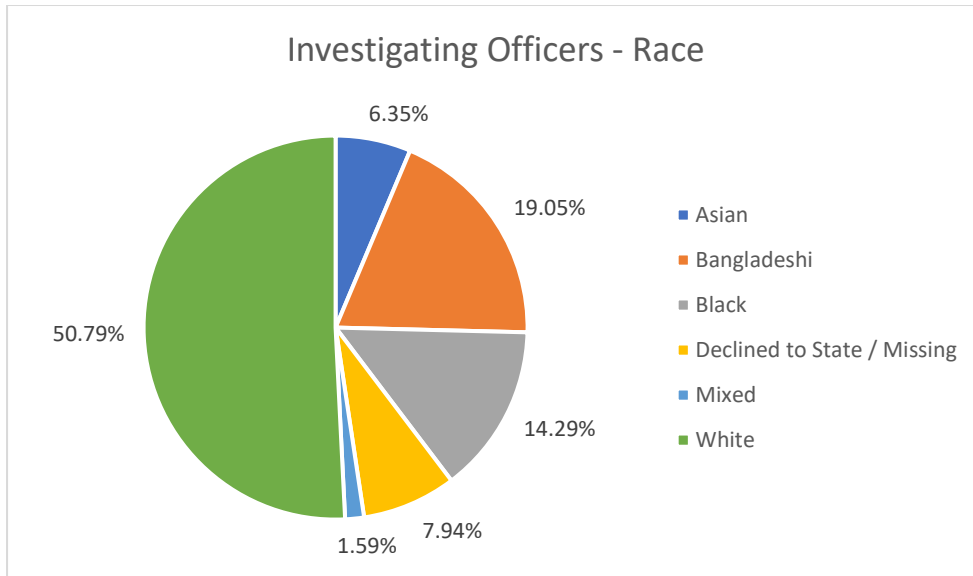
4.6 Investigators and Mediators

ER have now trained 70 managers from across the Council to be investigators. This training programme has been a great success. It not only provided training which has not been delivered since 2016 and refreshed the pool of investigators, additionally ER have found this

new cohort of managers to be willing volunteers. Prior to this our depleted pool of investigators left us struggling to find people to commit to investigations, which created a delay in getting cases off the ground and meeting the timescales set out in our policies.

When investigations take place, it is important to consider the protected characteristics of the people involved in a case. The equality breakdown for the investigating officers that have been trained is below and we are pleased that we have representation from all groups.
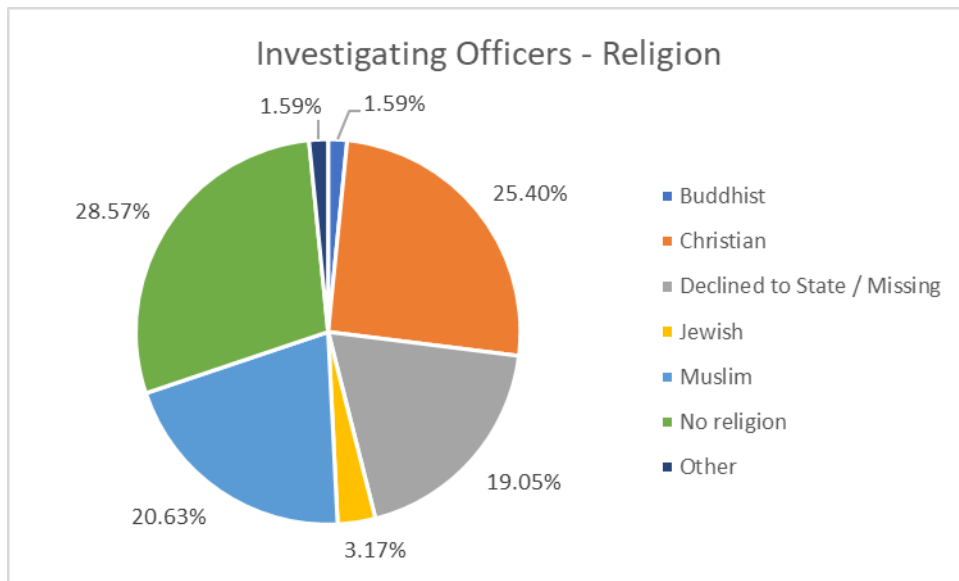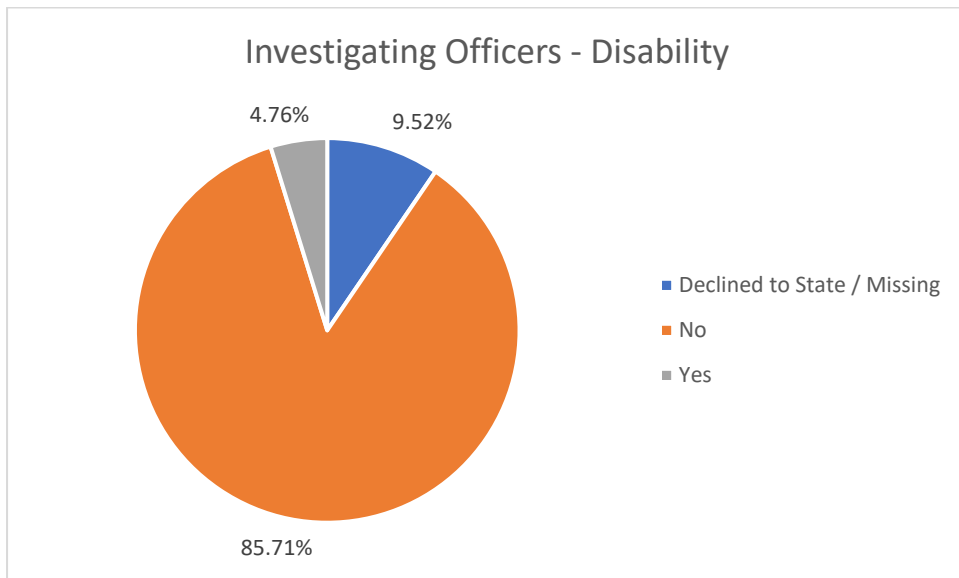
Investigating Officers – Race
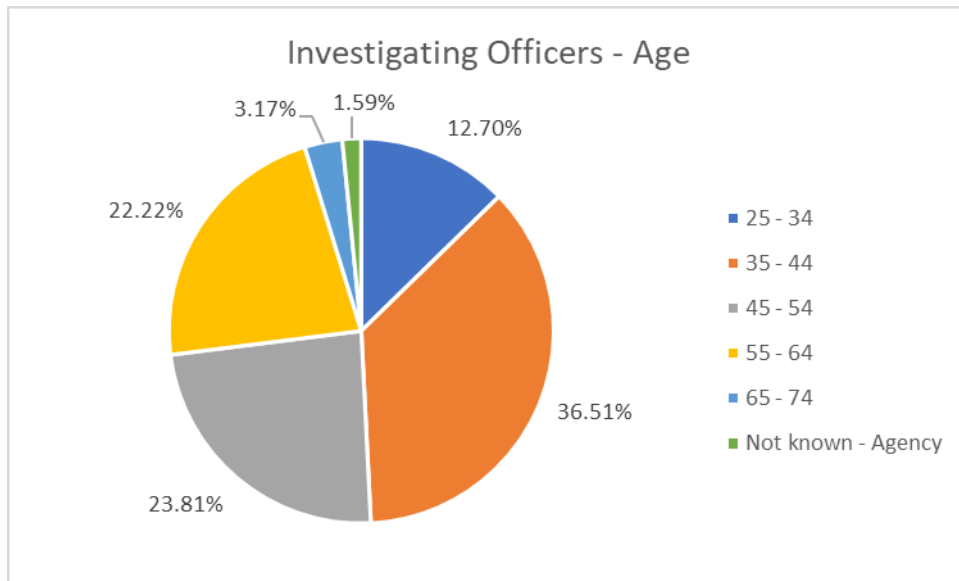

Investigating Officers – Sex

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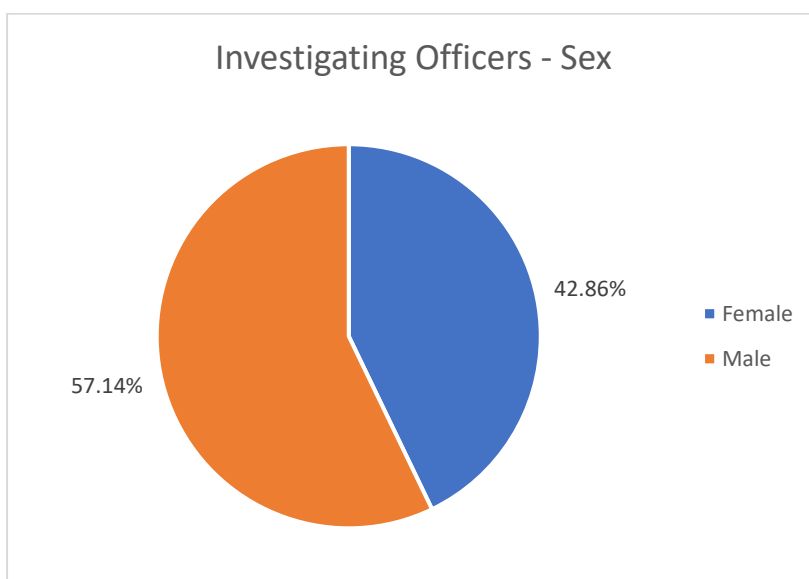
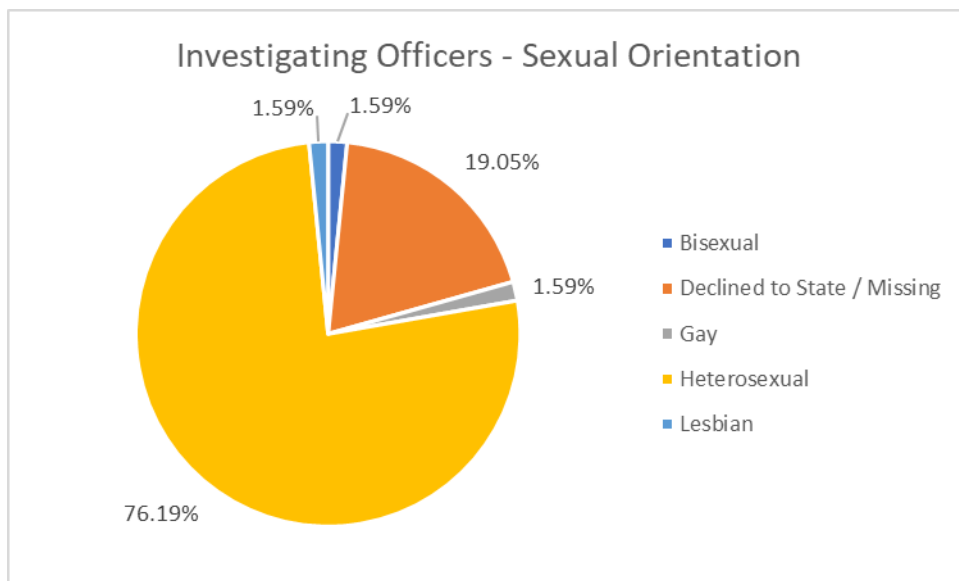Investigating Officers - Religion

Investigating Officers – Disability

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Investigating Officers – Age

Investigating Officers – Sexual Orientation

The newly established pool of mediators is still in the implementation stage. 12 members of staff were selected to be trained from across the Council. Classroom training was completed on 3 November. Thereafter the participants have coursework to complete and submit by early January, when they will be assessed for level 4 accreditation. The new service will go live February 2022, and will provide a quick and highly effective means to address disputes between staff as an alternative to formal grievances.

5. Policies

Engagement and partnership working with the trade union representatives has been greatly enhanced in the field of policy work. This year has seen the creation of Policy Forums at which ER and the trade unions review our policy review programme and each party inputs to the suggesting forthcoming policies for review. In addition to this quarterly meeting ER conducts regular and extensive policy consultation meetings with the trade unions, staff networks and managers for each draft revised or new policy. For example, 5 hour-long meetings over the course of a month were held to consult with the trade unions on the recently implemented Grievance and Discipline Policies and the associated manager guides and guide for investigators.

ER have now agreed and implemented revised key policies, those being Organisational Change, Attendance Management, Grievance and Discipline and their associated guides. ER set out an ambitious programme of review and consultation, which has unfortunately incurred delays in final sign off due to other urgent organisational priorities. We have been actively reviewing and updating the following policies and guides and these will be published by the end of the year:

- Redeployment Policy
- Secondment Policy
- Probation Policy
- Policies to support family life to include –
  - Support for Parents with Premature or Sick Babies
  - Adoption Policy
  - Maternity Policy
  - Parental Bereavement Leave Policy and Procedure (new)
- Equalities policies to include –
  - Age Discrimination
  - Sexual Orientation
  - Religion & Belief
  - Sexual Harassment
  - Sex Discrimination
  - Race Discrimination
  - Disability Discrimination
- Domestic Abuse Policy
- Carers Policy.
- Guide to the Menopause (new)
- Ill health retirement procedure (new)

6. Policies and e-learning

Key to compliance and risk management is training managers on policies and raising awareness of the importance of these when dealing with staff issues. There is limited compulsory training in place (only Equalities and sickness management are included in the Corporate Mandatory Training Programme) and other ad hoc training is too infrequent to address this important need. This poses some risk at an Employment Tribunal, as managers will be asked whether they have been trained in the relevant policies. To address this, we have sourced a widely used e-training provider, at low cost, to enable us to deliver bite-size e-learning courses that complement those already on the Learning Hub. These will cover the essentials managers need to know, and can be adapted by the ER team to reflect our policies and include Tower Hamlets branding.
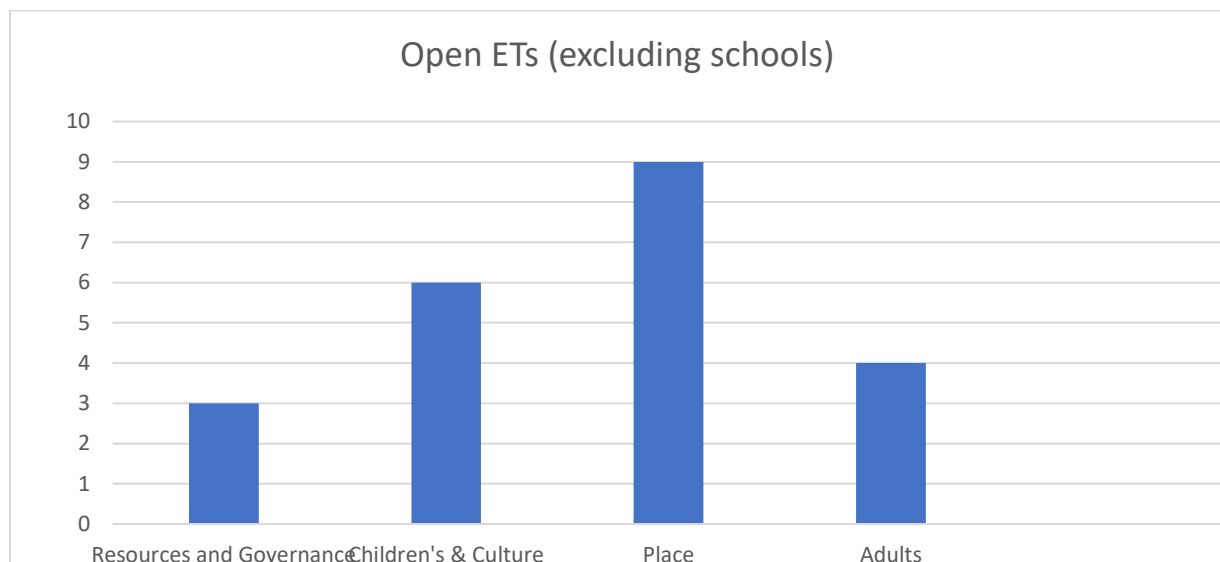
These short courses for busy managers ensure we are at least compliant in management training on core procedures (longer interactive workshops can still be offered that go into greater detail and application of policies). This initiative will enable us to quickly train large numbers of managers and be compliant. Additionally, we can establish which managers have undertaken the learning. The intention is to provide training for managers in recruitment and selection, attendance management, grievance and discipline.

These courses can also drive our commitment to roll out better practices and awareness of equality related matters. For example, with regard to recruitment, currently only the Chair of a recruitment panel needs to be trained. With this e-learning facility anyone on a panel can be advised to undertake the short 20-minute training before they attend a panel, and we can check those panel members have undertaken this training. The short recruitment course covers equalities, unconscious bias and can reflect our standards on panel composition, as well as our fair processes.

The first batch of courses will be implemented in the next 3 to 6 months (in a phased approach as each policy is addressed). We intend to only have a handful of courses on the essential policies and we will consider whether at a future date to make these modules compulsory for managers so they have a 'licence to practice'. As the modules are implemented we will include the numbers of managers who have completed the training in these update reports.

7. Employment Tribunals

At the time of writing, we have 22 open Employment Tribunals claims. In addition, we have a number of cases being discussed with ACAS (which occurs before we receive an ET1 claim form). The breakdown of ETs and their Division is as follows:

Open ETs (excluding schools)

Division	Count
Resources and Governance	3
Children's & Culture	6
Place	9
Adults	4

5 of these cases involve agency workers (4 from Place and 1 from Resources and Governance) and we are working with managers to ensure they are aware of their responsibilities when dealing with agency workers.

8. 12 months Employee Relations and Engagement Casework Data and Recommendations

The ER and Engagement Team have been reporting on a monthly basis for 12 months and the information below looks at the trends during the period 1 October 2020 – 30 September 2021.

The following sections look at casework supported by the Employee Relations and Engagement team. The data shows us:

Overall case numbers:
During the period 1 October 2020 to 30 September 2021 the overall number of open/live cases has dropped by nearly 60% from 90 to 37, as illustrated in the chart below which shows progress month by month over this period:
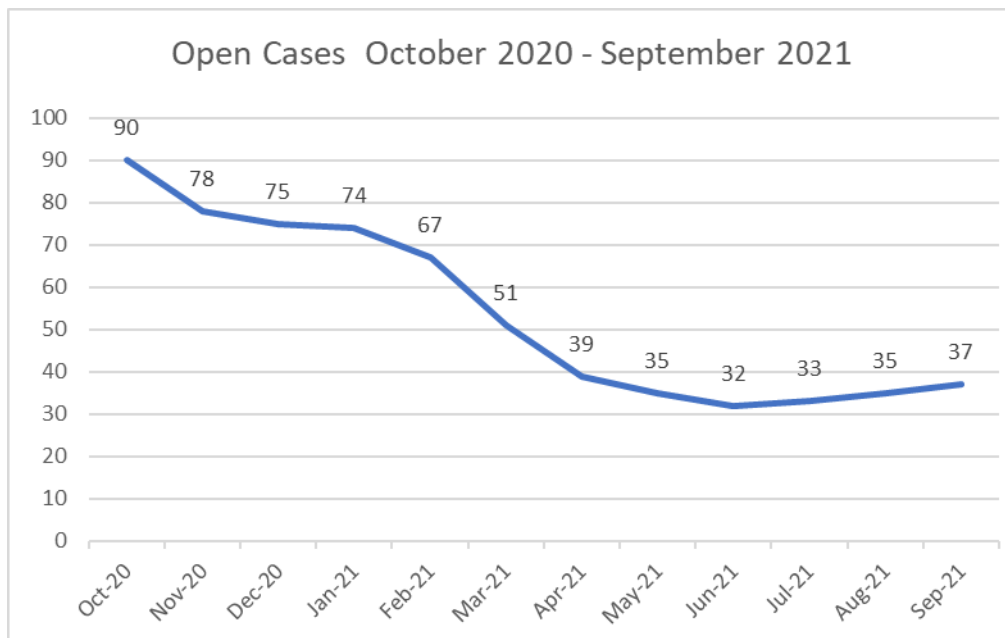
8.1 Cases by Location
**Assessment and Recommendations:**
The number of cases by Directorate during the period 1 October 2020 to 30 September 2021 and the overall drop in cases month by month and by Directorate is summarised in the information below. Note that while the Governance and Resources Directorates have now merged during this period, for the purposes of the information below, the data for these directorates is separated.

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Open Cases by Directorate
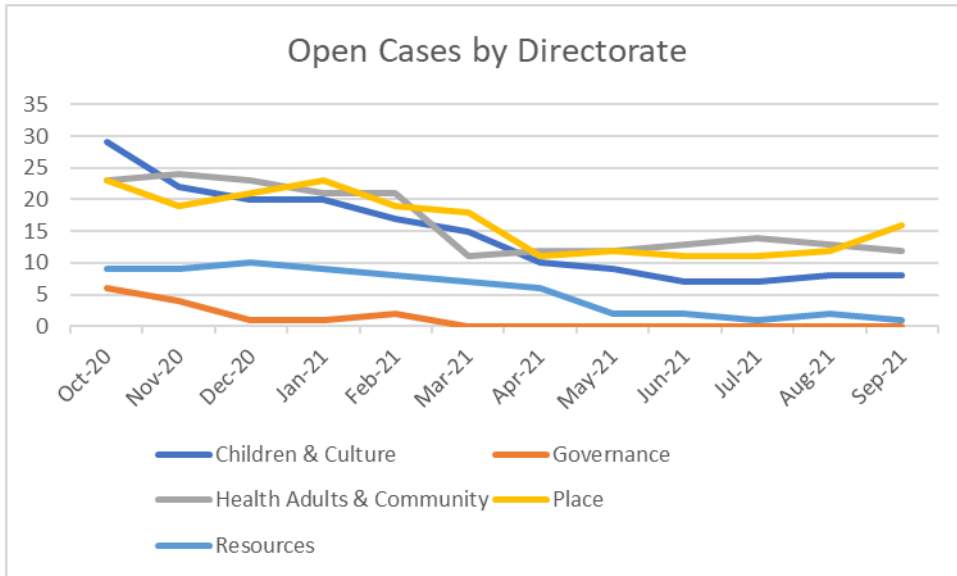
Consistently over this period, the greatest number of cases continue to be in the three largest Directorates: Health, Adults & Community; Place and Children & Culture. It is evident, however that the overall number of cases in Place is increasing, particularly over the latest quarter as detailed in section 4 of this report.

8.2 Cases by Type
In respect of the types of cases, over this period, there had been a steady decline in all cases, however, in the 3 months to the end of September, the number of grievances is now rising.


Case Type Trend
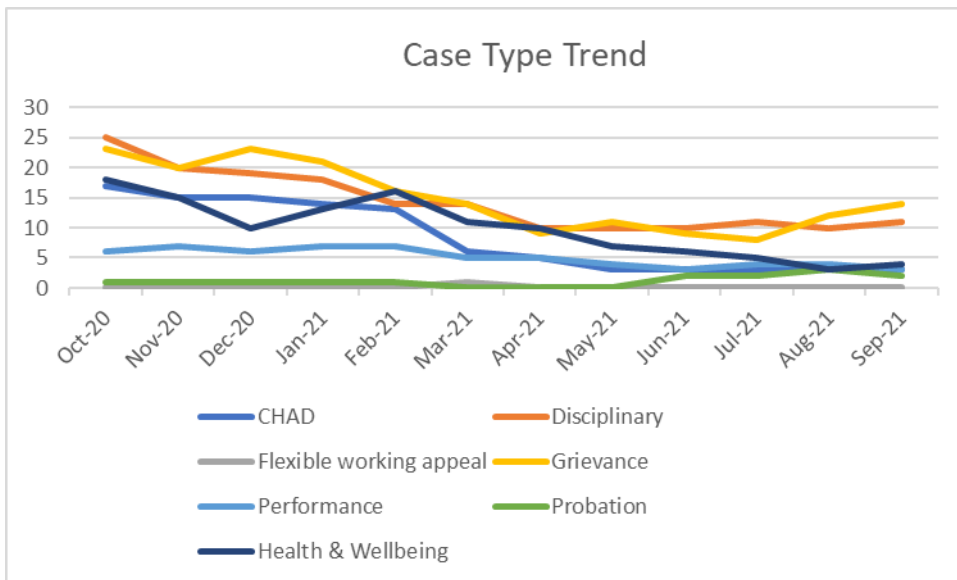
Note that the new grievance policy implemented in August combined the previous Grievance and Combatting Harassment & Discrimination (CHAD) policies into a single policy, however, the three remaining open CHAD cases were lodged as CHADs prior to the new policy coming into effect. Therefore, for the purposes of this report, CHADs are being reported separately rather than combining them with grievance cases.

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Assessment and Recommendations: All cases are now logged on a tracker, which come to the team via the established ER casework email inbox. All queries are logged, be it formal casework requirements or general enquiries so that we can assess the overall level of employee relations issues. The team are now reviewing this tracking system to refine the categories and improve data reporting via automated dashboards to provide current data on demand.
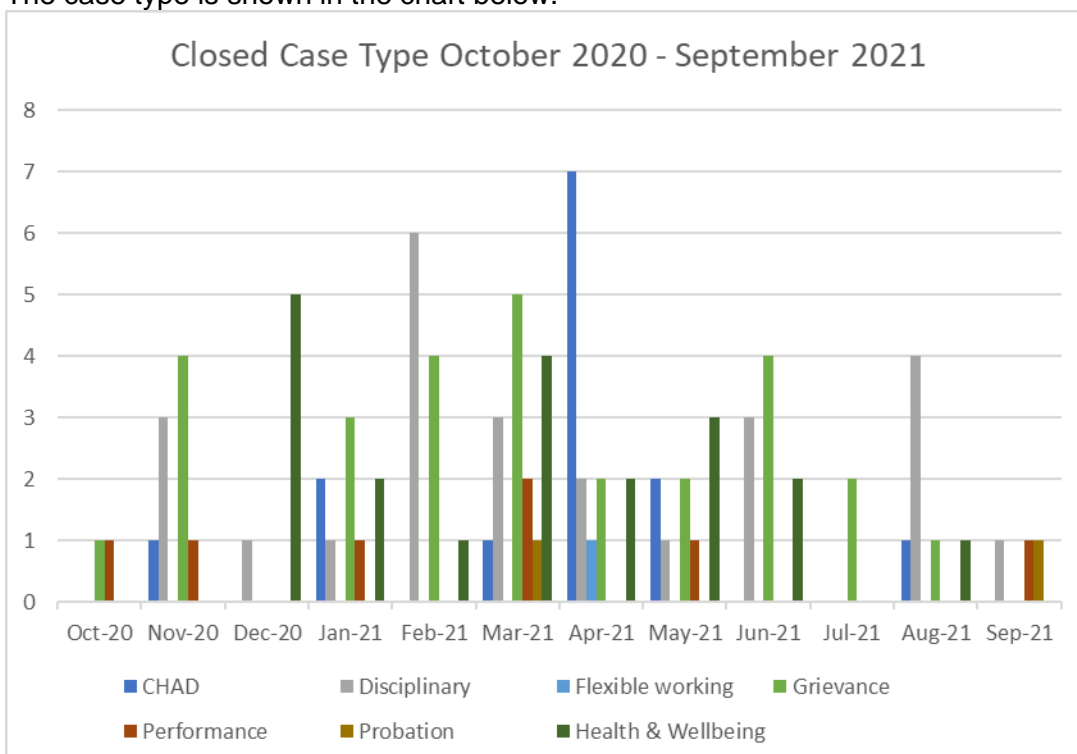
8.3 Cases by Time to Resolve
Assessment and Recommendations:
During the period 1 October 2020 to 30 September 2021, 97 cases were closed. This equates to an average of 8 cases closed per month.
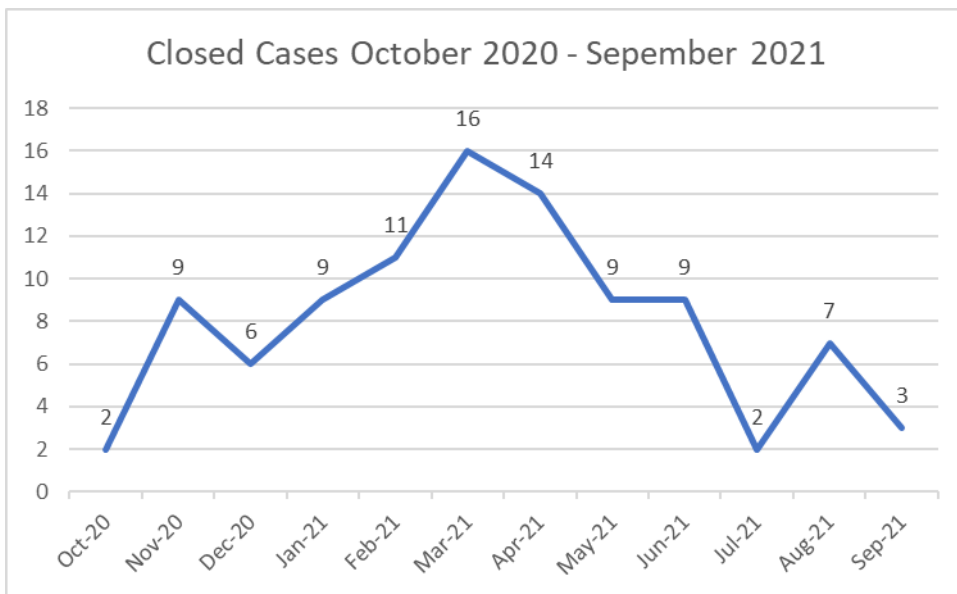
The case type is shown in the chart below.

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In respect of Health and Wellbeing cases, the ER Team are only required to attend at Stage 3 Consideration for Dismissal under the current Attendance Management Policy, however under the previous Sickness Management Procedure, HR attendance was required at earlier formal stages. Cases were opened once HR were required to provide active support at earlier formal stages. The nature of health and wellbeing cases is that progress through formal stages could and does change depending on the type, frequency and level of Therefore, in calculating the average time taken to resolve cases, Health & Wellbeing cases have not been included in the calculation as the start date would disproportionately skew the figures.

The average length of time to close cases was 282 days. It should be noted that during this period a significant number of long-term legacy cases were resolved and closed with 39 of them having been opened for over one year. There remain 9 cases which have been open for over 1 year.

The breakdown of outcomes is below.

Outcome	Count
CHAD - Not upheld	3
CHAD - Upheld	7
CHAD - Upheld in part	2
Disciplinary - Not upheld - No case to answer	1
Disciplinary - Upheld – 6-month Warning	1
Disciplinary - Upheld - Dismissal	1
Disciplinary - Upheld - Final Written Warning	6
Disciplinary - Upheld - First Written Warning	6
Disciplinary Appeal - Upheld	1
Dismissal - SOSR	1
Flexible Working - Appeal upheld in part	1
Grievance - not upheld	12
Grievance - Upheld	3
Grievance - Upheld in part	7
Health & Wellbeing - Dismissal	1
Health & Wellbeing -IHR	3
Health & Wellbeing - Monitoring Period	18
Informal Resolution	6
Performance - Final Written Warning	1
Performance - required improvement/no further action	1
Probation - Dismissal	1
Probation - required improvement/no further action	1
Resigned	3
Resolved	10
Grand Total	**97**