

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE STANDARDS (ADVISORY) COMMITTEE

HELD AT 7.35 P.M. ON TUESDAY, 18 JUNE 2013

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON E14 2BG**

Members Present:

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| Mr Eric Pemberton | (Co-opted Member) |
| Ms. Salina Bagum | (Co-opted Member) |
| Mr Denzil Johnson | (Co-opted Member) |
| Councillor David Edgar | |
| Councillor Judith Gardiner | |
| Councillor Zara Davis | |
| Councillor Abdul Asad | (Cabinet Member for Health and Wellbeing) |

Officers Present:

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|---------------|---|
| Jill Bell | – (Head of Legal Services (Environment), Legal Services, Chief Executive's) |
| Minesh Jani | – (Head of Audit and Risk Management , Resources) |
| Angus Taylor | – (Principal Committee Officer, Democratic Services, Chief Executive's) |
| John Williams | – (Service Head, Democratic Services, Chief Executive's) |

1. ELECTION OF CHAIR FOR THE MUNICIPAL YEAR 2013/14

The clerk sought nominations for the Chair of the Standards (Advisory) Committee (SAC) for the Municipal Year 2013/14.

Mr Eric Pemberton, nominated Mr Matthew William Rowe as Chair of the SAC for the Municipal Year 2013/14. Councillor David Edgar seconded the nomination.

There being no other nominations it was: -

Resolved

That Mr Matthew William Rowe be elected to serve as Chair of the Standards (Advisory) Committee for the Municipal Year 2013/14, or until a successor is appointed.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)

2. ELECTION OF VICE-CHAIR FOR THE MUNICIPAL YEAR 2013/14

In the absence of the Chair, the clerk sought nominations for the Vice-Chair of the Standards (Advisory) Committee (SAC) for the Municipal Year 2013/14.

Mr Denzil Johnson, nominated Mr Eric Pemberton as Vice-Chair of the SAC for the Municipal Year 2013/14. Councillor Edgar seconded the nomination.

There being no other nominations it was: -

Resolved

That Mr Eric Pemberton be elected to serve as Vice-Chair of the Standards (Advisory) Committee for the Municipal Year 2013/14, or until a successor is appointed.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)

MR ERIC PEMBERTON (VICE-CHAIR) IN THE CHAIR

3. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor Motin Uz-Zaman.
- Councillor Sirajul Islam.
- Mr Matthew Rowe (Co-opted member of SAC)

Noted

4. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of Disclosable Pecuniary Interest or other declarations of interest were made.

5. MINUTES

Matter Arising

Ms Jill Bell, Head of Legal Services (Environment), informed the SAC that at the SAC meeting held on 16th April 2013 the committee had requested that a report be presented to a future SAC meeting with all relevant information pertaining to the matter arising on the minutes raised by Councillor Golds. As the matter was not completed it was not appropriate for the SAC to receive a report at the current time, for the reasons explained and minuted at the April meeting. A report would be presented on the matter in due course, once the matter had been resolved.

The Chair **Moved** and it was:-

Resolved

That the unrestricted minutes of the ordinary meeting of the Standards (Advisory) Committee, held on 16th April 2013, be agreed as a correct record of the proceedings, and the Chair be authorised to sign them accordingly.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)

6. REPORTS FOR CONSIDERATION

6.1 Standards (Advisory) Committee - Terms of Reference, Membership, Quorum, Dates of Meetings and Establishment of Sub-Committees 2013/14

Ms Jill Bell, Head of Legal Services (Environment), introduced and highlighted key points in the report, which:

- Provided the Terms of Reference, Membership, Quorum and Dates of meetings of the SAC for the Municipal Year 2013/14 for the Committee's information;
- Recommended the SAC to establish three sub-committees for the Municipal Year 2013/14.

The Chair **Moved** the recommendations as set out in the report, and it was:-

Resolved

1. That the Standards (Advisory) Committee Terms of Reference, Membership, Quorum, Dates of future meetings and timing thereof, as set out in Appendices 1, 2 and 3 to the report, be noted;
2. That the current vacancy in the co-opted membership of the Standards (Advisory) Committee, resulting from the resignation of Ms Sue Rossiter in 2013, be noted;
3. That the following sub-committees be established for the Municipal year 2013/14, to be convened as required on an ad hoc basis with membership

agreed by the Monitoring Officer from amongst the members of the Standards (Advisory) Committee, including in each case a minimum of three members, at least two of whom shall be co-opted members in accordance with the arrangements agreed by the Authority:-

- Investigation and Disciplinary Sub-Committee
- Hearing Sub-Committee
- Dispensations Sub-Committee

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, CE's)
Isabella Freeman (Assistant Chief Executive and Monitoring Officer)

6.2 Standards (Advisory) Committee - Work Programme 2013/14

Ms Jill Bell, Head of Legal Services (Environment), introduced and highlighted key points in the report, which set out a proposed work programme for the SAC in the Municipal Year 2013/14.

A discussion followed which focused on the following points:-

- Consideration that, in the context of the tri-annual external inspection of the Authority's activities in relation to investigations under the Regulation of Investigatory Powers Act 2000 (RIPA), referenced in the minutes of the 16th April SAC meeting [Agenda item 4.2/ discussion bullet 1], it would be appropriate that in conjunction with consideration of the Quarter 1 RIPA Enforcement report at the 24th October SAC meeting that a report on the outcome of the inspection be reported to the SAC. Accordingly Councillor Edgar proposed that the work programme be amended to reflect this.
- Mr John Williams, Service Head Democratic Services, advised that there was a requirement for the SAC to report annually on its activities to full Council. The SAC had been established in July 2012, so such a report was soon due for submission, and therefore the work programme should include provision for consideration of the SAC Annual report on its activities during the Municipal Year 2012/13.

The Chair **Moved** the recommendations set out in the report (taking account of the proposed amendment from Councillor Edgar and the advice of Mr Williams, Service Head Democratic Services), and it was:-

Resolved

1. That the proposed SAC work programme for the Municipal Year 2013/14, as set out in Section 4 of the report be noted; and
2. That, subject to the amendments set out at (a) and (b) below, the SAC work programme for the Municipal Year 2013/14, as set out in Section 4 of the report, be agreed.

- (a) That the outcome of the tri-annual external inspection of the Authority's activities in relation to investigations under the Regulation of Investigatory Powers Act 2000 (RIPA) be presented for consideration at the 24th October SAC meeting, in conjunction with the Quarter 1 RIPA Enforcement report.
- (b) That the work programme include provision for consideration of the SAC Annual report to Full Council on its activities during the Municipal Year 2012/13 [24th October SAC meeting].

Action by:

Isabella Freeman (Assistant Chief Executive and Monitoring Officer)
John Williams (Service Head Democratic Services, Chief Executive's).

6.3 Corporate Governance Review

Mr Minesh Jani, Head of Audit and Risk Management, introduced and highlighted key points in the report, which advised that the Council's corporate governance arrangements were reviewed regularly against a framework of good practice produced jointly by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE); and reported the outcome of the most recent review completed in May 2013.

Clarification/ assurance was sought and given regarding the inter-linkage between the Corporate Governance Review and the review of governance in LBTH currently being undertaken by the LGA and London Councils.

The Chair **Moved** the recommendation, as set out in the report; and it was: -

Resolved:

That the contents of the report, and the outcome of the Corporate Governance Review as detailed in Appendix A to the report, be noted.

6.4 Code of Conduct for Members: Complaints Monitoring & Proposed Revisions to the Arrangements for Dealing with Complaints

Ms Jill Bell, Head of Legal Services (Environment), introduced and highlighted key points in the report, which:

- Reported on the number and nature of complaints received about alleged failures to comply with the Code of Conduct for Members, and action taken as a result, for the information of the SAC, in accordance with the arrangements for dealing with such complaints agreed by the full Council in June 2012.
- Recommended revisions to the arrangements for dealing with complaints about Member conduct, prior to the Monitoring Officer submitting proposals to full Council.

A comprehensive discussion followed which focused on the following points:-

- Clarification sought and given as to the number of complaints received about Member conduct in LBTH compared to other London boroughs. *Complaint numbers exceeded those in other London boroughs, and Ms Bell, Deputy Monitoring Officer, expressed concern at the level of resources required to deal with these.*
- Comment that the explanation for the higher level of complaints was misuse of the complaint process with inappropriate/ less constructive complaints than the arrangements were intended for; also that LBTH may have higher levels of sub-standard Member conduct. In this context consideration that future monitoring of the cost of processing each complaint, although requiring some additional resource, might prove beneficial in reducing the level of complaints when the level of resources used for processing them and diverted from more productive uses for Council priorities became apparent.
- Consideration also that such an exercise, and use of resources for it, should only be undertaken if there were tangible steps the Authority could take to streamline arrangements to reduce the number of complaints.
- Consideration that the outcomes of complaints about Member conduct made under the arrangements should also be reviewed and the process streamlined. There had been cases where, in accordance with the arrangements for dealing with such complaints agreed by full Council in June 2012, an Investigation and Disciplinary Sub-Committee of the SAC (IDSC) had been convened when there was clearly insufficient evidence to substantiate the complaint. This was wasteful of Council resources, and it would be more efficient to make provision within the arrangements for 2 independent people to agree non-progression to an investigation at the IDSC, provided there had been a thorough assessment. Consideration also that streamlining the process with a focus on local dispute resolution may prove beneficial. *Ms Bell advised that since the arrangements agreed in June 2012 the Monitoring Officer (MO) and Independent Person (IP) were required to convene an IDSC in all cases to adjudicate on the MO recommendation not to refer a complaint for an investigation. However at the last meeting IDSC members had considered the case did not merit the convening of an IDSC, and Officers could review the complaints process so the MO in consultation with the IP could terminate a complaint at an earlier point, if appropriate, and report back to SAC accordingly; and that would be more cost effective. It was however important that complaints were considered and an appropriate level of investigation was undertaken before the matter was closed.*
- Consideration that, in the context of concerns raised by SAC members and Officers of a need to streamline the complaints process to make it resource efficient, it was not necessary to undertake a lengthy monitoring exercise on the cost of processing each complaint. Accordingly Councillors Davis and Edgar **proposed** that Officers informally consult the political group leaders, the Mayor and the Speaker of the Council, about streamlining the complaints process to make it resource efficient, within the constraints of the Law and Constitution, with a view to achieving consensus on this, and report back to the next meeting of the SAC. The

report back to include a breakdown of IDSC decisions endorsing (or not) the MO recommendation reached after consultation with the IP.

- Clarification sought and given as to whether the proposed revision to arrangements for dealing with complaints about Member conduct was primarily prompted by logistical issues caused by the diary commitments of people needed to process complaints. This had led to matters taking longer than anticipated. Whether interviews could be undertaken over the telephone, written submissions could be made, email used to ascertain necessary information, audio conferencing used rather than holding interview meetings at the Town Hall. Such mediums had been used, but person to person discussion was acknowledged to produce a better picture/ fuller facts. Emailing of agenda papers to IDSC members was not appropriate because of the need to ensure confidentiality for the information they contained.
- Consideration by some SAC members that the investigation of a complaint about Member conduct was very stressful for the subject of the investigation; accordingly concern expressed regarding the significant extension of the timescales for completion of an investigation/ convening of an IDSC proposed in the report. Acknowledgement by some SAC members that there was a need for pragmatism given the operational difficulties experienced with current timescales for completion of an investigation/ convening of an IDSC. Consideration also that extension of these timescales could be mitigated in part by a streamlining of the complaints process, as proposed earlier in the discussion.
- Clarification sought as to how the proposed timescale of 3 months for completion of an investigation, once referred for investigation, compared with the Authority's procedures for investigation of staff grievances.
- Welcomed the proposed extension of provisions, within the arrangements for dealing with complaints about Member conduct, to seek a local resolution. Consideration that it would be appropriate to make use of mediation services used by the Authority in other areas to this end.
- Ms Bell advised that to retain the 1 month timescale for completion of an investigation, once a complaint was referred for investigation, placed the Authority at risk of challenge (for not adhering to its procedures) were the timescale not met. To date this timescale had rarely been met, and Ms Bell detailed examples/ reasons for this. Retention of the 1 month timescale might also require reports to state that interview appointments had not been kept and this could result in members not having sufficient information on which to make a judgment.
- Consideration that repeated cancellation of interview appointments by either party to a complaint were not acceptable, as this facility could be abused. The Judicial System did not permit this, and a more robust process was required at LBTH to encourage engagement by both parties with the complaints process: a limit on the number of appointments offered to complainants before the complaint fell and similarly for the subject of the complaint before it was dealt with in absentia. Clarification was sought and given on the procedure for dealing with cancelled interview appointments.

- Noted that the final paragraph of the current arrangements for dealing with complaints [Appendix A] stated that the timelines set out in the procedure [for dealing with complaints about Member conduct] were for guidance only and could be extended by the MO, so a challenge on procedural grounds for a more lengthy investigation was unlikely to be successful.
- Clarification was sought and given as to whether the proposed timescale of 3 months for completion of an investigation, once referred for investigation, could be extended by a further month by the MO under the provisions of paragraph 8 of the current arrangements [Appendix A].
- Clarification was sought and given as to whether there was a fundamental problem with the current arrangements, in that complaints could not be properly investigated/ were abandoned because of a lack of cooperation of Members who were the subject of complaint, without which the information to substantiate a complaint was insufficient. *If the subject Member did not make a submission only one side of the case was available and a conclusion based on this engendered risk. Third party or alternative evidence could sometimes be obtained but this was much more difficult. Examples cited.*
- Clarification sought and given on maximum timescale to date to complete an investigation.
- Councillor Davis **proposed** that, given the operational difficulties encountered in convening an IDCS, the recruitment to the current vacancies for co-opted SAC members should be prioritised. *Ms Bell clarified that securing co-opted SAC members to sit on the IDSC had not been problematic to date, however a larger pool of candidates would be helpful.*
- Summarising SAC discussion regarding the proposed extension of the timescale for completion of an investigation, once referred for investigation, Councillor Edgar **proposed** that full Council be recommended to extend this timescale from the current 1 month to 2 months, with the current provision for a further 1 month extension by the MO, under the provisions of paragraph 8 of the current arrangements, to remain; providing for a total of 3 months.

The Chair **Moved** the recommendations set out in the report (taking account of the additional recommendation proposed by Councillors Edgar and Davis, the amendment to recommendation 2.2 proposed by Councillor Edgar, and the additional recommendation proposed by Councillor Davis), and it was:-

Resolved

1. That the complaints monitoring information contained in the report, be noted;
2. That, subject to (a) below, the proposed revisions to arrangements for dealing with complaints about Member conduct, prior to the Monitoring Officer (or designated deputy) submitting proposals to full Council for approval; be endorsed:

- (a) Extension of the timescale for completion of an investigation, once a complaint is referred for investigation, from the current 1 month to 2 months, with the current provision for a further 1 month extension by the Monitoring Officer, under the provisions of paragraph 8 of the current arrangements, to remain; providing for a total of 3 months.
3. That the Monitoring Officer (or designated deputy) informally consult the political group leaders, the Mayor and the Speaker of the Council, about streamlining the current arrangements for dealing with complaints about Member conduct to make it resource efficient, within the constraints of the Law and Constitution, with a view to achieving consensus on this; with the outcome to be reported back to the next meeting of the SAC.
4. That recruitment to the current vacancies for co-opted SAC members should be prioritised, in order to facilitate arrangements for dealing with complaints about Member conduct.

Action by:

Isabella Freeman (Assistant Chief Executive and Monitoring Officer)
John Williams (Service Head Democratic Services, Chief Executive's).

6.5 Appointment of Independent Person - update (To Follow)

Mr John Williams, Service Head Democratic Services, gave an oral report, in which he:

- Outlined the background of the 'Independent Person' (IP) role introduced nationally under the new 'standards regime resulting from the Localism Act 2011.
- Highlighted the nature of the candidate required for the role of IP, as specified in Government guidance. Also the provision for transition arrangements whilst recruiting the IP, and that Mr Barry O'Connor had undertaken an Interim IP role under these provisions, but by Law this could not extend beyond June 2013.
- Summarised progress to date on implementing the timetable for IP recruitment agreed by the SAC in July 2012:
 - An initial advert for the IP role, placed in October 2012, yielded no response.
 - The role had been re-advertised in the local press, resulting in 12 applications for it.
 - 3 shortlisted candidates were interviewed on 11th June 2013, by a panel comprising the independent Chair of the SAC, 3 LBTH Councillors the Interim IP and the Monitoring Officer.
 - An IP and reserve IP had been appointed (and both had accepted the position offered) as follows:-
 - IP - Ms Elizabeth Hall
 - Reserve IP – Ms Ezra ZahabiThe background and credentials for each were also outlined.

- Outlined the next steps: Recommendation of the appointments, for a term of 3 years effective from 1st July 2013, would be made to full Council on 26th June 2013 (the Council Report was **Tabled** a copy of which will be interleaved with the minutes). Assuming approval of the appointments the IP and Reserve IP would be invited to all future SAC meetings in the capacity of observers.

The Chair **Moved** and it was:-

Resolved

That the contents of the oral report be noted;

7. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

The Chair commented that envelopes containing official correspondence that he had received recently had been torn or open at the top and bottom. Mr Williams, Service Head Democratic Services, responded that he would review the supply of envelopes used which were clearly not of adequate quality.

Action by:

John Williams (Service Head Democratic Services, Chief Executive's).

The meeting ended at 8.35 p.m.

Chair,
Standards (Advisory) Committee