

Meeting of the

STANDARDS COMMITTEE

Tuesday, 20 January 2009 at 7.30 p.m.

SUPPLEMENTAL AGENDA

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If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

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Agenda Item 4.1

Committee: STANDARDS COMMITTEE	Date: 20th January 2009	Classification: UNRESTRICTED	Report No.	Agenda Item No. 4.1
Report Of: Assistant Chief Executive (Legal Services)		Title: Ethical Standards/Governance - Training - Progress and Update Report		
Originating Officer: Isabella Freeman		Wards Affected: All		

DRAFT

1. SUMMARY

- 1.1 This report informs Members of progress and the current position in respect of Member training relating to ethical governance/standards issues.

2. RECOMMENDATION

- 2.1 Members are asked to consider and note the content of this report

LOCAL GOVERNMENT ACT 2000 (SECTION 97)
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background paper"

Tick if copy
supplied for register

If not supplied, name
and telephone number
of holder

Standards Committee file

Isabella Freeman 020 7364 4800

3. ETHICAL GOVERNANCE/STANDARDS TRAINING

3.1 The Standards Committee is responsible for promoting high standards of conduct and specifically:

- Advising on the training of Councillors, co-opted Members and church, other faith and parent governor representatives on matters relating to the Members' Code of Conduct.

3.2 The Committee last received a report on ethical governance/standards related training in April 2008 and this further report outlines the current position on progress with training in these areas:

3.3 **Understanding Planning and Planning Probity – 29 May and 4 June 2008.** Annual mandatory training for members of the Development and Strategic Development Committees.

3.4 **Licensing – Code of Conduct and Best Practice – 3 June 2008 and 5 January 2009.** Annual mandatory training for members of the Licensing Committee.

3.5 **Revised Code of Conduct for Members – 3 June and 23 July 2008.** The continuation of a series of training sessions (which started in December 2007) being run to ensure that Members have been trained on the revised Code of Conduct adopted by full Council on 11 September 2007. This programme is now almost complete but there are a small number of Councillors and Independent/Co-Opted Members that have yet to attend this training. Arrangements are therefore being made to carry out the training for individuals or small groups so that the programme is fully completed by the end of March 2009 and so that a Members' Ethical Standards Self Assessment audit can be completed before the end of this municipal year.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

4.1 There are no immediate financial implications arising out of this report.

5. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

5.1 This report has been prepared by the Assistant Chief Executive (Legal Services) who is also the Council's Monitoring Officer and incorporates legal comments.

6. RISK MANAGEMENT IMPLICATIONS

- 6.1 Ethical governance arrangements are essential to the operation and reputation of the Authority. The proposals contained in this report accord with recommendations of the Audit Commission for an integrated approach to ethical governance.

7. ONE TOWER HAMLETS CONSIDERATIONS

- 7.1 The training measures outlined in this report are important for ensuring that Members understand and comply with their responsibilities in relation to ethical governance which is key to maintaining effective community leadership and confidence in local democracy.

8. SAGE IMPLICATIONS

- 8.1 This report has no immediate implications for the Council's policy of strategic action for a greener environment.

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Agenda Item 4.2

Committee: STANDARDS COMMITTEE	Date: 20th January 2009	Classification: UNRESTRICTED	Report No.	Agenda Item No. 4.2
Report Of: Assistant Chief Executive (Legal Services)		Title: Review of Procedure for Handling Complaints about Member Conduct and Local Assessment Criteria		
Originating Officer: Isabella Freeman		Wards Affected: All		

DRAFT

1. SUMMARY

- 1.1 The local standards framework was implemented on 8 May 2008 and since that time complaints that a Member may have failed to comply with the Council's Code of Conduct have been considered by an Assessment Sub-Committee of the Standards Committee, as opposed to the Standards Board for England which prior to 8 May 2008 had been responsible for assessing all such complaints in the first instance. In June 2008 the Standards Committee agreed a Procedure for Handling Complaints about Member Conduct and adopted the criteria previously used by the Standards Board as local assessment criteria to be used by the Assessment Sub-Committee for determining complaints.
- 1.2 This report recommends proposed amendments to the Procedure for Handling Complaints about Member Conduct to clarify the process and reflect emerging best practice. Members of the Committee are also asked to consider whether, in light of their experience of the local assessment of complaints to date, they wish to propose any amendments to the local assessment criteria.

LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background paper"

Tick if copy
supplied for register

If not supplied, name
and telephone number
of holder

Standards Committee file

Isabella Freeman 020 7364 4800

2. RECOMMENDATIONS

- 2.1 That the Committee agree the amended Procedure for Handling Complaints about Member Conduct attached as Appendix A.
- 2.2 That the Committee agree to amend the terms of reference of the Assessment and Review Sub-Committees to reflect the revised paragraphs 11 and 16 of the amended Procedure for Handling Complaints about Member Conduct.
- 2.3 That the Committee reconsider the local assessment criteria set out in section 4 below and determine, having regard to Members' experience of the local assessments of complaints to date, whether to continue using the existing criteria subject to the proposed amendment set out in paragraph 4.3 below.

3. PROPOSED AMENDMENTS TO THE PROCEDURE FOR HANDLING COMPLAINTS ABOUT MEMBER CONDUCT

- 3.1 The current Procedure for Handling Complaints about Member Conduct was agreed by this Committee in June last year as part of the Council's arrangements for implementing the local standards framework.
- 3.2 The Procedure is attached as Appendix A to this report with the proposed amendments shown as track changes.
- 3.3 The most significant amendment being proposed is to paragraphs 11 and 16 of the Procedure to clarify that the Assessment and Review Sub-Committees may refer a matter for consultation with the Monitoring Officer where the Sub-Committee is considering directing the Monitoring Officer to take other action in respect of a complaint, but not directing that the Monitoring Officer arrange for an investigation. This accords with the requirements of the Standards Committee (England) Regulations 2008.
- 3.4 Members should also note that the legislation requires the Standards Committee to notify the Member of the receipt of a complaint and to provide a written summary of the allegation. The first meeting at which the Committee itself could notify the Member is likely to be the meeting at which the Assessment Sub-Committee conducts the initial assessment. However, in practice the Council also needs to acknowledge receipt of the allegation to the person making the complaint and advise them when it is going to be assessed and there is nothing to prevent the person making the complaint from publicising that fact.
- 3.5 Accordingly, in order to avoid the potential for the Member concerned learning of the complaint from the person making the complaint or from the press, the proposed amended Procedure still provides the Monitoring Officer with discretion to notify the Member of receipt of the complaint at the same time as acknowledging the receipt of the complaint to the person making the complaint. The Monitoring Officer will also provide an outline summary of the complaint to the Member but may not

disclose the identity of the complainant at this stage in the process. The Monitoring Officer may also when notifying the Member remind them that if they sought to lobby other Members in their own cause following such notification they would be committing a breach of the Code of Conduct.

- 3.6 The provisions in paragraph 7 of the existing Procedure are being deleted as they do not accord with best practice.
- 3.7 The other proposed amendments are relatively minor and are intended to clarify the process and reflect emerging practice to date.

4. LOCAL ASSESSMENT CRITERIA

- 4.1 The Assessment and Review Sub-Committees have been taking account of the assessment criteria previously used by the Standards Board for England in the determination of complaints about Member conduct.
- 4.2 As the local standards framework has been operating for more than six months, Members are also being asked to reconsider these criteria having regard to their experience of the local assessments of complaints to date and decide whether to continue using the criteria which are set out below:

A. Complaints likely to be referred for investigation:

- If it is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England or the Standards Committee.
- If it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, short of investigation.
- In considering this, the time that has passed since the alleged conduct occurred will be taken into account.

B. Complaints unlikely to be referred for investigation:

- If it appears to be malicious, relatively minor, or tit-for-tat.
- If the same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to the Adjudication Panel or the Standards Committee.
- If the complaint concerns acts carried out in the Member's private life, when they are not carrying out the work of the Authority or have not misused their position as a Member.
- If it appears that the complaint is really about dissatisfaction with a Council decision.
- If there is not enough information currently available to justify a decision to refer the matter for investigation.

4.3 For example, Members are asked to consider amending the final criterion on the preceding page to read as follows:

- If there is not enough evidence available to justify a decision to refer the matter for investigation.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

5.1 There are no immediate financial implications arising out of this report.

6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

6.1 This report has been prepared by the Assistant Chief Executive (Legal Services) who is also the Council's monitoring officer and incorporates legal comments.

7. RISK MANAGEMENT IMPLICATIONS

7.1 Ethical governance arrangements are essential to the operation and reputation of the Authority. The proposals contained in this report accord with legislative requirements and guidance issued by the Standards Board for England relating to the local assessment of complaints about Member conduct.

8. ONE TOWER HAMLETS COSIDERATIONS

8.1 An effective and accessible Procedure for Handling Complaints about Member conduct and clear and transparent local assessment criteria are key to ensuring effective community leadership and confidence in local democracy.

9. SAGE IMPLICATIONS

9.1 This report has no immediate implications for the Council's policy of strategic action for a greener environment.

Procedure for Handling Complaints about Member Conduct

(In this procedure references to the Assessment Sub-Committee and Review Sub-Committee are to be construed as meaning any Sub-Committee of the Council's Standards Committee convened for the purpose of assessing or reviewing complaints that a Member or co-opted Member of the Council may have failed to comply with the Council's Code of Conduct for Members)

Referrals to the Monitoring Officer

1. All complaints must be made in writing to the Council's Monitoring Officer (MO), Isabella Freeman, Assistant Chief Executive (Legal Services), Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG (email: isabella.freeman@towerhamlets.gov.uk).

2. The MO will maintain a confidential register of all complaints for the purpose of providing statistical returns to the Standards Board for England.

3. The MO will determine if a complaint constitutes an allegation that a Member may have failed to comply with the Council's Code of Conduct for Members and if so, refer the matter to the Assessment Sub-Committee of the Standards Committee subject to and in accordance with the following provisions.

4. Where the MO determines that a complaint relates to a matter which is not connected with the Code of Conduct, the MO will refer the matter to the appropriate person for a response and notify the complainant of this action.

5. Anonymous complaints will not be considered except in exceptional circumstances where the MO decides (in consultation with the Council's Chief Executive and the Chair of the Standards Committee) that the complaint raises a serious issue affecting the public interest which is capable of investigation without the need to ascertain the complainant's identity.

6. Where a complaint is made by one elected Member of the Council about the conduct of another elected Member of the Council and the MO considers after consultation with the Chair of the Standards Committee, that the matter might be capable of informal resolution, the MO will refer the matter to the appropriate group leader (or leaders) in the first instance before referring the complaint to the Assessment Sub-Committee.

Deleted: 7. Where a complaint is not made by an elected Member of the Council but the MO considers that the matter might be capable of informal resolution the MO will approach the Member against whom the allegation has been made to determine whether they are prepared to resolve the complaint informally. If the Member agrees to a proposal for informal action, the MO will contact the complainant to ascertain if they would be satisfied with this proposal before referring the complaint to the Assessment Sub-Committee.¶

Referrals to the Assessment Sub-Committee

~~7.~~ The MO will acknowledge receipt of all complaints in accordance with the provisions of this Procedure.

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~~8.~~ Unless the MO considers that it would prejudice any potential investigation into the allegation or would otherwise be contrary to the public interest, the MO will also notify the Member against whom the complaint is made of receipt of the complaint, and provide the Member with an outline summary of the complaint.

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~~9.~~ Where a complaint is referred by the MO to the Assessment Sub-Committee, the MO may obtain such information as is available and would assist the Sub-Committee in assessing the complaint.

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~~10.~~ The MO will prepare a report for the Assessment Sub-Committee, including a copy of the complaint, the outcome of any informal resolution and such other information that the MO has obtained to assist the Sub-Committee in assessing the complaint.

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~~11.~~ The Assessment Sub-Committee will meet to consider any complaint within 20 working days of the MO having received the complaint (or as soon as reasonably practicable thereafter). The Assessment Sub-Committee will undertake an initial assessment to decide whether the complaint discloses an apparent failure to comply with the Code of Conduct and, if so, whether the complaint merits investigation or other action. The Sub-Committee will take one of the following courses of action:

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a. Decide that no action should be taken in respect of the complaint.

b. Ask for additional information from the complainant before completing the initial assessment.

c. Refer the matter to the MO for consultation as to whether it would be appropriate for the Sub-Committee to refer the complaint to the MO with a direction for the MO to take other action, including training, conciliation or such appropriate steps as permitted by relevant legislation.

~~d.~~ Refer the complaint to the MO, with an instruction that s/he arrange an investigation.

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~~e.~~ If the complaint is sufficiently serious or there is a conflict of interest for the Standards Committee, refer the matter to the Standards Board for England.

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~~f.~~ Where the complaint is in respect of a person who is no longer a Member of the Council, but is a Member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the MO of that other relevant authority.

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12. Meetings of the Assessment Sub-Committee are held in private and there is no public right of access to documentation considered by the Sub-Committee.

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13. The MO will notify the complainant and the Member concerned of the Sub-Committee's decision and the reasons for it. The MO will at the same time provide the Member concerned with the Assessment Sub-Committee's written summary of the complaint unless to do so would prejudice any investigation of the complaint or otherwise be contrary to the public interest.

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Referrals to the Review Sub-Committee

14. Where the Assessment Sub-Committee decides that no action should be taken in respect of a complaint, the complainant may within 30 days of being notified of that decision by the MO, request that the Review Sub-Committee review that decision.

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15. If the complainant requests a review, the MO will prepare a report for the Review Sub-Committee including the information which was provided to the Assessment Sub-Committee in respect of the complaint, the Assessment Sub-Committee's written summary of the complaint and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

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16. The Review Sub-Committee will meet within 3 months of the MO having received the complainant's request, review the decision of the Assessment Sub-Committee and take one of the following courses of action:

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- a. Decide that no action should be taken in respect of the complaint.
- b. Ask for additional information from the complainant before completing the review.
- c. Refer the matter to the MO for consultation as to whether it would be appropriate for the Sub-Committee to refer the complaint to the MO with a direction for the MO to take other action, including training, conciliation or such appropriate steps as permitted by relevant legislation.

d. Refer the complaint to the MO with an instruction that s/he arrange an investigation.

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Deleted: , or directing that s/he arrange training, conciliation or such appropriate alternative steps as permitted by relevant legislation.

d. If the complaint is sufficiently serious or there is a conflict of interest for the Standards Committee, refer the matter to the Standards Board for England.

e. Where the complaint is in respect of a person who is no longer a Member of the Council, but is a Member of another relevant authority

(as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority.

| ~~17.~~ Meetings of the Review Sub-Committee are held in private and there is no public right of access to documentation considered by the Sub-Committee. Deleted: 8

| ~~18.~~ The MO will notify the complainant and the Member concerned of the Sub-Committee's decision and the reasons for it. The MO will at the same time provide the Member concerned with the Review Sub-Committee's written summary of the complaint unless to do so would prejudice any investigation of the complaint or otherwise be contrary to the public interest. Deleted: 9

Referrals to the MO for Investigation

| ~~19.~~ Where the Assessment Sub-Committee or the Review Sub-Committee refer a complaint to the MO for investigation, the MO will not normally personally conduct that investigation but will arrange for another senior Council officer, a senior officer of another authority or an appropriately experienced external investigator to carry out the investigation (the investigating officer [IO]). Deleted: 20

| ~~20.~~ Once the investigation is completed the MO will prepare a further report for the Assessment Sub-Committee including the IO's report and any other relevant information. Deleted: 1

| ~~21.~~ The Assessment Sub-Committee will meet to determine whether:
a. It accepts any finding by the IO of no failure to observe the Code of Conduct; or
b. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
c. the matter should be referred to the Adjudication Panel for England for determination. Deleted: 2

| ~~22.~~ Where the Sub-Committee resolves to do any of the actions set out in b or c above, the Sub-Committee shall state its reasons for that decision. Deleted: 3

| ~~23.~~ Where the Assessment Sub-Committee refers the matter for hearing by the Hearings-Sub Committee, the Hearings Sub-Committee shall meet in sufficient time to enable it to consider at a hearing the outcome of an investigation within 3 months of the Monitoring Officer having received the IO's investigation report. Deleted: 4

| ~~24.~~ The Council's Standards Committee has adopted separate procedures which apply to the pre-hearing process and the procedure for hearings before the Hearings Sub-Committee. Deleted: 5

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20 January 2009

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