

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.