

Committee: STANDARDS COMMITTEE	Date: 21 April 2009	Classification: UNRESTRICTED	Report No.	Agenda Item No.
Report Of: Assistant Chief Executive		Title: DRAFT GUIDANCE ON THE PROVISION OF REFERENCES BY COUNCILLORS		
Originating Officer: John Williams, Service Head Democratic Services		Wards Affected: All		

1. SUMMARY

- 1.1 This report proposes guidance to be followed by Members and Officers in the event that a Member is asked to provide a character or other reference on behalf of a constituent or other acquaintance.

2. RECOMMENDATION

- 2.1 That the Standards Committee endorse the guidance set out at paragraph 4.1 overleaf in relation to the provision of references by Members of the Council.

3. BACKGROUND

- 3.1 Councillors are on occasion asked to provide character or other references on behalf of a ward resident or acquaintance. On a number of occasions recently guidance has been sought in relation to responding to such requests.
- 3.2 Officers have drafted the guidance overleaf in consultation with Councillors and have also sought information from colleagues in other local authorities regarding practice in this matter. Anecdotal evidence suggests that the provision of references by Councillors is fairly common practice in a number of other Councils although in most cases specific written guidance on the matter has not been found.
- 3.3 In drafting this guidance, two main issues are addressed:-
- (i) does the provision by a Councillor of a reference for a constituent or acquaintance using council stationery and/or other resources represent a proper use of such resources?; and
- (ii) if so, there is still a need to make clear that the views expressed in the reference are those of the Councillor him/herself and are not necessarily those of the Council.

- 3.4 In relation to the first point, the Council's Member/Officer Protocol states that a Member must use any Council facilities provided in his/her role as a Member strictly for that purpose and no other. Representing constituents is an important part of a Councillor's role and Members will encounter many persons in the course of their duties - for example through their constituency work or membership of community groups - some of whom may require to provide a third party with a character reference or confirmation of their identity by a recognised professional person. In many cases members of the community may not have ready access to other professional groups who could provide the reference required.
- 3.5 In relation to passport applications, Councillors are specifically identified as one of the groups of responsible persons who are authorised to countersign applications and it is fairly common for the Passport Service to write seeking a letter of reference confirming the countersignature and the identity of the applicant. Guidance on this matter was issued to Councillors in May 2005 and this is attached at Appendix A for information. The guidance on passport applications and related correspondence does confirm that when carrying out this function the Member is considered to be acting in an official capacity.
- 3.6 The provision of references can thus be seen as an important community service. It is therefore suggested that the preparation and despatch of a reference in appropriate cases where the Councillor knows the person concerned and is happy to oblige, should be recognised as a legitimate part of a Member's duties and should be supported by the Council subject to certain safeguards.
- 3.7 These safeguards relate to clarifying the status of the reference. This is important in order to protect the interests of both the Member writing the reference and the Council itself. In particular it must be clear that the Councillor is providing a personal reference based on his/her personal knowledge of the individual, not a reference from the Council.

4. PROPOSED GUIDANCE

- 4.1 Taking into account the points above, the Standards Committee is recommended to adopt the following guidance for Councillors and officers:-

Draft Guidance for Councillors and Members' Support staff (Mayor & Members' Services, Executive Support Office, Political Advisors and Scrutiny PAs) on Reference Letters from Councillors:-

Councillors are on occasion asked to provide character or other references on behalf of a ward resident or other acquaintance.

In certain circumstances it may be appropriate for a reference to be supplied as a community service but it is important that procedures are in place to protect the interests of both the Councillor and the Council, particularly in relation to the provisions of the revised Code of Conduct on use of Council resources. The Standards Committee has agreed the following guidance to be followed in the event that a Member is requested to prepare a letter of reference for a constituent or other person:-

- The Councillor is not obliged to supply a reference, which will be provided only at his/her discretion and for someone who is known to the Councillor.
- The letter may be prepared on Council letterhead.
- Officers may prepare the letter on behalf of the Councillor but the officer details should not be on the letter head.
- The wording of the reference letter must come from the Councillor him/herself. The Member is giving a personal reference, based on their personal knowledge of the individual, not a reference from the Council. Therefore it is not appropriate for an officer to draft the text of the letter.
- As a matter of practice, all letters will include in the body of the text a clause which indicates that 'this is a personal reference and reflects the views of the Councillor. It is not a Council reference'.
- The Councillor must personally sign the reference letter. Officer may not sign or 'pp' the letter on the Councillor's behalf.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 5.1 There are no immediate financial implications arising out of this report. The guidance proposed will provide an endorsement of existing practice.

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

- 6.1 The legal implications are addressed in the main body of this report.

7. RISK MANAGEMENT IMPLICATIONS

- 7.1 The proposed guidance is designed to protect the interest of both the Council and its Members from any possible legal challenge or complaint.

8. IMPLICATIONS FOR ONE TOWER HAMLETS

- 8.1 There are no specific implications for One Tower Hamlets arising out of this report.

9. ANTI-POVERTY IMPLICATIONS

9.1 There are no specific anti-poverty implications arising out of this report.

10. SAGE IMPLICATIONS

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

**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
None		John Williams 020 7364 4204

APPENDIX 'A':

Guidance on Countersigning UK Passport Application Forms (May 2005)

Members' Support has recently noted an increase in the number of queries received from the Passport Office as a result of UK passport application forms countersigned by Members.

In order to assist in the smooth processing of applications, all Members are reminded of the guidance that has been previously issued.

Specifically, if a Member is requested to countersign a passport application form, the Member may in their role as a local councillor sign this only if they have personally known the individual for at least 2 years and hold a current British passport or Irish passport. When countersigning the application, the Member will need to enter their current British passport number.

When signing the application form, Members are reminded to check that the name on the form matches that of the individual that has presented the form, and that the photograph (which is also to be signed) is a current likeness of the individual.

As a general reminder, a Member must not sign an application form for any person who is related by birth or by marriage, involved in a relationship with the applicant or residing at the same address.

The UK Passport Service conducts checks to confirm that the counter-signatory is genuine and will contact people to check whether they actually do know the person whose application form they have signed.

When countersigning the UK Passport Application it is considered that the Member is acting in an official capacity and the Member may not charge the applicant nor receive payment for this service. Finally, under no circumstances should Members sign a blank or partially completed application form.

For more information please contact Beverley McKenzie, Members' Support Manager on 020 364 4872