

LONDON BOROUGH OF TOWER HAMLETS

REPORT OF THE STANDARDS (ADVISORY) COMMITTEE

18 JUNE 2013

To receive the report of the Standards (Advisory) Committee (SAC) at its meeting held on Tuesday **18 June 2013**.

Members of the SAC in attendance at the meeting: -

| | |
|----------------------------|-------------------|
| 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 | |

MR ERIC PEMBERTON (VICE-CHAIR) IN THE CHAIR

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

The Advisory Committee considered a report (attached as Appendix A to this Council report) which provided information on the number and nature of complaints received about alleged failures to comply with the Code of Conduct and action taken as a result. The report also recommended revisions to the arrangements for dealing with complaints about Member conduct, based on experience of operating the new arrangements over the year to June 2013.

The Committee discussed whether it was appropriate to streamline the process for assessing and considering complaints and if so, possible ways of achieving this. Following debate, 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.

Regarding the proposed revisions to the arrangements for dealing with complaints about Member conduct set out at section 4 of the report, the Committee noted the logistical problems that often arose making it difficult to adhere to the deadlines currently in place. However, they also noted that the investigation of a complaint about Member conduct

could be very stressful for the subject of the investigation and therefore should be concluded as quickly as possible.

Following debate on the proposed extension of the timescale for completion of an investigation once a matter had been referred to the Investigating Officer, Councillor Edgar proposed that full Council be recommended to extend this timescale from the current 1 month to 2 months, with the existing 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 maximum period of 3 months.

Councillor Davis further proposed that, given the operational difficulties sometimes encountered in convening an Investigating and Disciplinary Sub-Committee, the recruitment to the current vacancies for co-opted SAC members should be prioritised.

The Chair moved the recommendations set out in the report, taking account of the amendment to recommendation 2.2 and the additional recommendations proposed by SAC members as above.

Decisions

1. That the complaints monitoring information contained in the report be noted;
2. That the proposed revisions to the arrangements for dealing with complaints about Member conduct, as set out at section 4 to the report, be approved for submission to the full Council subject to (a) below:-
 - (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 existing 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 maximum period 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.

COUNCIL IS THEREFORE RECOMMENDED TO: -

Approve, subject to (a) below, the proposed revisions to arrangements for dealing with complaints about Member conduct set out at Section 4 of the report (attached as Appendix A to this council report):-

- (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 existing 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 maximum period of 3 months.

[**Please note** that the composite new arrangements for dealing with complaints about Member conduct proposed for Council approval, incorporating the recommended amendments above, are attached at Appendix B to this Council report for ease of reference. The amended provisions are shown underlined]

**Eric Pemberton
Vice- Chair
Standards (Advisory) Committee**

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 | If not supplied, name and telephone number of holder |
|---|-----------------------|--|
| Draft SAC minutes 18/06/13 | | Angus Taylor 020 7364 4333 |

APPENDIX A

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|---|------------------------------|---|------------|--------------------|
| Committee: STANDARDS (ADVISORY) COMMITTEE | Date: 18 June 2013 | Classification: Unrestricted | Report No. | Agenda Item No. |
| Report Of: Assistant Chief Executive (Legal Services) | | Title: Code of Conduct for Members – Complaints Monitoring and Proposed Revisions to the Arrangements for Dealing with Complaints | | |
| Originating Officer: Isabella Freeman | | Wards Affected: N/AI | | |

1. SUMMARY AND BACKGROUND

- 1.1 The Standards (Advisory) Committee replaced the statutory Standards Committee on 1 July 2012 following implementation of the Localism Act 2011. Also from 1 July 2012 new arrangements (agreed by the Council on 18 June 2012) were implemented for dealing with complaints about alleged failures to comply with the Code of Conduct for Members.
- 1.2 The new arrangements (attached as appendix A) provide for the Monitoring Officer to report quarterly (or less frequently if there are no complaints to report) to this Advisory Committee on the number and nature of complaints received and action taken as a result.
- 1.3 This report contains information relating to complaints that have been dealt with about alleged failures to comply with the Code of Conduct for Members since the Advisory Committee last considered monitoring information at its meeting on 17 October 2012. The report also identifies proposed revisions to arrangements for dealing with complaints in light of experience of operating the new arrangements over the past year.

2. RECOMMENDATIONS

The Standards (Advisory) Committee is recommended to:

- 2.1 Note the complaints monitoring information contained in this report.
- 2.2 Consider and comment on the proposed revisions to arrangements for dealing with complaints, prior to the Monitoring Officer submitting proposals to full Council for approval.

**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 (Advisory) Committee file

Isabella Freeman 020 7364 4800

3. COMPLAINTS REVIEW

3.1 Since 17 October 2012 five new complaints have been received alleging failures to comply with the Code of Conduct for Members.

3.2 In November 2012, a complaint (Ref: IDS/02/2012) was received from a member of the public alleging five potential failures of the Code by a Councillor:

- Lack of objectivity.
- Causing the authority to breach an equality enactment.
- Bringing the Authority or the office of Councillor into disrepute.
- Using or attempting to use the position as a Member to improperly secure an advantage/disadvantage.
- Failure to have regard to the Local Authority Code of Publicity.

These allegations were considered by a Deputy Monitoring Officer (Jill Bell) in consultation with the Independent Person (IP). Her decision agreed in consultation with the IP was not to refer the complaint for investigation. This decision was reported to the Investigation & Disciplinary Sub-Committee (of the Advisory Committee) and the sub-committee concurred with that decision.

3.3 In March 2013, a complaint (Ref: IDS/01/2013) was received from a Councillor alleging six potential failures of the Code by another Councillor:

- Failure to treat others with respect
- Bullying
- Acting in a way which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- Disclosure of confidential information
- Bringing the Authority or the office of Councillor into disrepute
- Using or attempting to use the position as a Member to improperly secure an advantage/disadvantage

These allegations were considered by a Deputy Monitoring Officer (David Galpin) in consultation with the IP. His decision agreed in consultation with the IP was to refer the complaint for investigation and that investigation is currently on going.

3.4 A complaint (Ref: IDS/04/2013) received at the end of April 2013 made by a member of the public alleges potential bullying by a Councillor. This complaint is currently being assessed and will be subject to consultation with the IP.

3.5 Two separate complaints were received in May 2013. Both complaints were made by Councillors about the conduct of other Members. One complaint (Ref: IDS/03/2013) alleges the potential improper use of

Council resources. The other complaint (Ref: IDS/02/2013) alleges potential disrespect and bullying. Both complaints are currently being assessed and will be subject to consultation with the IP.

4. PROPOSED REVISIONS TO THE ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBER CONDUCT

- 4.1 The new arrangements for dealing with complaints of breach of the Code of Conduct (Appendix A) have now been operating for almost a year. During this time it has become apparent that the following provisions contained in the new arrangements require revision:

Paragraph 8: This provides that an investigation should be completed within one month of the decision to refer the matter for investigation.

However, it has not been possible to complete investigations in this relatively short timescale. It is often the case that Members, officers and other witnesses involved in an investigation have competing diary requirements so that all necessary interviews cannot be completed within one month. Also the investigator is often required to verify disputed facts and will require time to produce an investigation report. In the circumstances, it is proposed to recommend to full Council that generally investigations should be completed within three months of the decision to refer a complaint for investigation.

Paragraph 9: This provides that the Monitoring Officer may, during the course of the investigation, seek local resolution of the matter to the satisfaction of the complainant before the investigation is concluded.

Attempts at local resolution are often most appropriately carried out before a complaint is referred for formal investigation. It is therefore proposed to recommend to full Council that this provision be extended to enable the Monitoring Officer (or any deputy of hers) to seek local resolution of a complaint before the complaint is referred for investigation but subject to a four week time limit.

Paragraph 10: This provides that where an investigation concludes that there is no evidence of failure to comply with the Code, the Monitoring Officer shall within ten working days consult with the IP and the Investigation & Disciplinary Sub-Committee (IDSC) to confirm that the matter should be closed without further hearing.

In practice, this time frame is often too short to obtain mutually convenient dates for consultation with the IP and to enable convenient dates to be obtained for a meeting of the IDSC. It is therefore proposed to recommend to full Council that the time frame is extended to four weeks.

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 The provision of quarterly reports relating to the number and nature of complaints assists the Advisory Committee in exercising its oversight role in terms of promoting and maintaining high standards of conduct.

8. ONE TOWER HAMLETS IMPLICATIONS

8.1 There are no specific anti poverty or equal opportunity implications arising out of this report.

9. SAGE IMPLICATIONS

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

LONDON BOROUGH OF TOWER HAMLETS

**ARRANGEMENTS FOR DEALING WITH COMPLAINTS OF BREACH OF
THE CODE OF CONDUCT FOR MEMBERS**

**Effective 1st July 2012. Arrangements agreed by the Council on 18th
June 2012. Revised by the Council on 18th September 2013.**

1. The Monitoring Officer shall be the Proper Officer to receive complaints of any failure by the Mayor, a Councillor or a co-opted member to comply with the Code of Conduct for Members. On receipt of a complaint the Monitoring Officer shall within three working days inform the subject member of the substance of the complaint on a confidential basis.
2. The Monitoring Officer shall ensure that the Council appoints at least one Independent Person and at least one reserve Independent Person.
3. Complainants must provide their name and postal address when submitting a complaint. Anonymous complaints will not be considered unless in exceptional circumstances where the Monitoring Officer decides (after consultation with the Independent Person) 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.
4. The Monitoring Officer shall, after consultation with the Independent Person and within ten working days of receiving the complaint (so far as practicable), determine whether a complaint merits formal investigation and arrange for such investigation. In making this determination the Monitoring Officer may at his/her discretion also consult other persons including Counsel.
5. In determining whether to refer a complaint for investigation, the Monitoring Officer may take into account how long has elapsed since the event(s) complained about took place and if this is more than one year, then a complaint will be rejected as out of time unless the complainant demonstrates that there are good reasons for the delay such as fresh evidence not available at the earlier date or only recently discovered.
6. The Monitoring Officer may refer a complaint of failure to comply with the Code to the Standards Advisory Committee or its sub-committee to recommend whether or not the complaint requires investigation where s/he feel that it is inappropriate for him/her to take the decision without seeking their advice. Where the Monitoring Officer considers that a complaint should not be subject to investigation, s/he shall convene an

Investigation and Disciplinary Sub-Committee of the Standards Advisory Committee which shall make the final decision on the matter.

7. The Monitoring Officer will report quarterly (or less frequently if there are no complaints to report) to the Standards Advisory Committee on the number and nature of complaints received and action taken as a result. This will include details of complaints that did not require investigation so that the Committee can exercise its oversight role.
8. If a complaint of failure to comply with the Code is referred for investigation the Monitoring Officer shall appoint an investigator or complete the investigation him/herself. Such investigation should be completed within two months of the decision to refer the matter for investigation. The Monitoring Officer may, having consulted the Standards Advisory Committee or its sub-committee, extend this period by up to a further month where s/he feels it is necessary to ensure an adequate investigation.
9. The Monitoring Officer or his/her deputy may, either before a complaint is referred for investigation or during the course of the investigation, seek local resolution of the matter to the satisfaction of the complainant before the investigation is concluded. Where the Monitoring Officer or deputy attempts to reach a local resolution before a complaint is referred for investigation, such attempts shall be subject to a four week time limit.
10. Where any investigation into a complaint of breach of the Code finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer shall within four weeks of receipt of the investigation report, consult with the Independent Person and the Standards Advisory Committee Investigations and Disciplinary Sub-Committee to confirm their agreement that the matter shall be closed without further hearing. If the Sub-Committee agree then the matter is closed. The Monitoring Officer shall provide a copy of the report and findings of the investigation which shall be kept confidential to the complainant and to the member concerned and shall report the matter as part of the quarterly report to the Standards Advisory Committee for information.
11. Where the investigation finds evidence of a failure to comply with the Code of conduct, the Monitoring Officer in consultation with the Independent Person, may seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Advisory Committee in due course. Where such local resolution is not appropriate or not possible the Monitoring Officer shall report the investigation findings to a Hearings Sub-Committee of the Standards Advisory Committee for local hearing and recommendations. The Hearings Sub-Committee will be convened within one month of the Monitoring Officer receiving the investigation report. The Hearings Sub-Committee may sit in private after advice from the Monitoring Officer.

12. The Hearings Sub-Committee will advise the Monitoring Officer whether or not they consider there has been a breach of the Code and if they consider sanction is appropriate having heard the matter shall request that the Monitoring Officer prepare a report to Full Council setting out the details of the investigation, hearing and proposed sanction which may include any of the following:-
 - Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommend to the Mayor that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
 - Recommend the Monitoring Officer to arrange training for the member (subject to the Members agreement);
 - Recommend remove as from all outside appointments to which the Member has been appointed or nominated;
 - Recommend withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - Recommend excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Executive Committee and Sub-Committee meetings (as appropriate);
 - Recommend the member to contact the Council via specified point(s) of contact;
 - Write to the member with their advice on the Members conduct.
13. In determining any recommended sanction the Sub-Committee may take into account any previous breach by the member concerned and/or their compliance with any previous sanction applied.
14. Where a subject member feels that a recommended sanction would cause him/her undue hardship or prevent him/her from undertaking ward duties, that Member may make representations to the Council meeting that will consider the recommendations of the Hearings Sub-Committee on the relevant complaint. Any such representations shall be notified to the Monitoring Officer within five working days of the Hearing Sub-Committee meeting.
15. The recommendations of the Hearings Sub-Committee shall be published in a local newspaper in the Public Notices Section and on the Council's website as well as in the minutes of the meeting. The content of any notice to be published shall be subject to agreement by the Chair of the Hearings Sub-Committee. Following publication, a link to the notice shall remain on the front page of the Council's website for a period of one month or such other position and/or period as the Hearings Sub-Committee may recommend. The Monitoring Officer

shall draft further guidance on the detailed procedures for publication of decisions as necessary.

16. A member who is the subject of a finding by the Standards Advisory Committee that he/she has breached the code may appeal against that finding and/or against any sanction applied. A complainant who is dissatisfied with the outcome of his/her complaint may appeal against that outcome. Any appeal under this section shall be notified in writing to the Monitoring Officer within 15 working days of the Hearings Sub-Committee recommendation being notified to the member or complainant and the Monitoring Officer shall arrange for the appeal to be heard by a Hearings (Appeal) Sub-Committee of the Standards Advisory Committee within 15 working days of receipt of the appeal. The decision of the Hearings Sub-Committee shall not be published, nor any sanctions applied, until the period allowed for an appeal has expired.
17. An appeal under 15 above may be made on grounds of either fact or defective procedure. The appellant must state the grounds on which the appeal is made and must provide specific reasons and any further information to support his/her appeal.
18. The Sub-Committee to hear any appeal under 15 above shall not include any member of the Hearings Sub-Committee that considered the investigation of the matter in question.
19. A member who is the subject of a complaint shall be informed of, and shall have the right to attend and/or be represented at, the hearing of the Standards Advisory Committee or any of its sub-committees that considers any matter relating to that complaint following investigation.
20. The timelines set out in this procedure are for guidance only and shall be observed where practicable but may be extended by the Monitoring Officer as necessary if they cannot be complied with by any relevant party due to sickness, holidays or other reasonable cause.