

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE STANDARDS (ADVISORY) COMMITTEE

HELD AT 7.30 P.M. ON MONDAY, 8 SEPTEMBER 2014

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

Members Present:

| | |
|--|-------------------|
| Matthew William Rowe | (Co-opted Member) |
| John Pulford MBE | (Co-opted Member) |
| Eric Pemberton | (Co-opted Member) |
| Salina Bagum | (Co-opted Member) |
| Councillor Gulam Kibria Choudhury | |
| Councillor Amy Whitelock Gibbs | |
| Councillor Danny Hassell | |
| Councillor Mohammed Mufti Miah | |
| Councillor Andrew Wood | |
| Councillor Marc Francis (Substitute for Councillor Joshua Peck) | |

Observer:

| | |
|----------------|----------------------------|
| Elizabeth Hall | Independent Person |
| Ezra Zahabi | Reserve Independent Person |

Other Councillors Present:

Others Present:

| | |
|-------------------|---|
| Natalie Ainscough | (Consultant Trainer - Hoey Ainscough Associates) |
| Paul Hoey | (Consultant Trainer - Hoey Ainscough Associates) |

Officers Present:

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|---------------------|---|
| Meic Sullivan-Gould | – (Interim Monitoring Officer) |
| Angus Taylor | – (Principal Committee Officer, Democratic Services, Law Probity & Governance) |

1. ELECTION OF CHAIR FOR THE MUNICIPAL YEAR 2014/15

The clerk sought nominations for the Chair of the Standards (Advisory) Committee (SAC) for the Municipal Year 2014/15.

Mr Eric Pemberton, nominated Mr Matthew William Rowe as Chair of the SAC for the Municipal Year 2014/15. Mr John Pulford MBE 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 2014/15, or until a successor is appointed.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

MR MATTHEW ROWE (CHAIR) IN THE CHAIR

2. ELECTION OF VICE-CHAIR FOR THE MUNICIPAL YEAR 2014/15

The Chair sought nominations for the Vice-Chair of the Standards (Advisory) Committee (SAC) for the Municipal Year 2014/15.

Mr John Pulford MBE nominated Mr Eric Pemberton as Vice-Chair of the SAC for the Municipal Year 2014/15. Ms Salina Bagum 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 2014/15, or until a successor is appointed.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)

APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of:

- Councillor Joshua Peck for whom Councillor Marc Francis was deputising.
- Councillor Abjol Miah.

- Mr Patrick (Barry) O'Connor (Co-opted member of SAC)

Noted

IP and RIP participation

The Chair, referencing self -introductions earlier, commented that since the establishment of the SAC the Interim Independent Person and subsequently the Independent Person and Reserve Independent Person had been invited to SAC meetings in the capacity of observers but had been permitted by the SAC to contribute to discussions. Accordingly the Chair **Moved** the following motion for the consideration of SAC members, and it was: -

Resolved

That the Independent Person and Reserve Independent Person be permitted to contribute to future discussions of the Standards Advisory Committee.

3. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

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

The Chair commented that Co-opted Independent SAC members were required to register their interests afresh and **requested that the appropriate form be circulated to them.**

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)
Meic Sullivan Gould (Interim Monitoring Officer, LPG)

4. MINUTES OF THE PREVIOUS MEETING(S)

Matter arising from minutes of 18th March SAC

The Chair, referencing resolution 2 of the minute pertaining to agenda item 3 [page 2 of minutes page 6 of agenda] commented that he had not yet received the report to be emailed to Chair and all SAC members. *Mike Sullivan Gould, Interim Monitoring Officer (IMO), briefly outlined the matter previously raised, apologised that the Chair and SAC members had not received the report, and undertook to progress chase David Galpin, Service Head Legal Services, on the outstanding action as his further information was required before an update could be provided.*

Eric Pemberton, Vice-Chair, referencing:

- resolution 1(a) of the minute pertaining to agenda item 3 [page 2 of minutes page 6 of agenda], which noted the importance with which SAC viewed Member timesheets and their timely submission.

- the minute pertaining to agenda item 5 “Member Attendance and Timesheets Monitoring” [page 4 of minutes page 8 of agenda], which also noted the above in the context that significant numbers of Members were not submitting timesheets; and also the introduction of electronic timesheets post-election.

Commented that he had reviewed the Authority’s website and no Member timesheets were available for the last few months, and re-emphasised the importance with which SAC viewed Member timesheets and their timely submission. *The Chair commented that the regular 6 monthly monitoring report on Member attendance and Timesheet Monitoring was due for consideration at the next SAC meeting. Additionally there was an update from the Committee Services Manager to be tabled at Agenda item 6 “Any Other Business”*

A discussion followed which focused on the following points:-

- Clarification sought as to whether it was a correct understanding that backdated timesheets relating to the period prior to the recent Local Government election would no longer be published due to the roll out of a new system. Comment that this would be extremely frustrating for those Members who had undertaken the time intensive task of completion. *Mike Sullivan Gould, IMO, undertook to respond at the next SAC meeting.*
- Consideration that there had been a lack of training for new Members regarding timesheet completion and this was a historic problem, and a need to fall back on the help and advice of party colleagues. Similarly with training of new Members on the Members Enquiry process and engaging with the Council and its processes generally. Consideration also that there had been few induction events for new Members and these had been of poor quality; also that several such sessions were held on the same evening with the volume of information very difficult to assimilate as a consequence. Consideration that Member training specific to different committees had been of poor quality. Consequently SAC members **proposed** and it was **agreed** that SAC **examine induction training** generally, but also training specific to different committees delivered in the first few months of the Municipal Year, at the **October SAC meeting**. The Chair noted that this could be linked to the regular monitoring report on training.
- Comment that it was a source of considerable frustration for some Members that others did not complete their timesheets nor undertake the necessary research/ record keeping, all of which was time intensive. The matter of the significant inaccuracy of some timesheets also needed to be addressed. The Chair commented that non-completion of timesheets was also a constant source of frustration for SAC. The regular Timesheet Monitoring report and a presentation on the new electronic timesheet system and improvements to democracy web pages would be received at the October SAC meeting, so timesheets would be reviewed then and also ways to capture and report other Member activity in a more transparent way than historically. Some consideration also that SAC should examine performance measures for Members in some depth and that non completion of timesheets for a specified period of time should be

viewed as a breach of good Member conduct and the subject of sanctions.

- Consideration that Group Leaders needed to be asked to urge all their Members to complete timesheets and also to consider ways to improve transparency of Member activity.

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

Resolved

That the unrestricted minutes of the ordinary meeting of the Standards Advisory Committee, held on 18th March 2014, 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, LPG)
Meic Sullivan Gould (Interim Monitoring Officer, LPG)
John Williams (Service Head Democratic Services)
Beverley McKenzie (Member Support Manager)

5. REPORTS FOR CONSIDERATION

5.1 Standards (Advisory) Committee - Terms of Reference, Membership, Quorum, Dates of Meetings and Establishment of Sub-Committees 2014/15

Mr Angus Taylor, Principal Committee Officer, introduced and summarised key points in the report, which:

- Provided the Terms of Reference, Membership, Quorum and Dates of meetings of the SAC for the Municipal Year 2014/15 for the Committee's information;
- Recommended the SAC to establish three sub-committees for the Municipal Year 2014/15.

The Chair sought and was given clarification as to the need for the SAC to consider the housekeeping report every year, he then **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 following sub-committees be established for the Municipal year 2014/15, to be convened as required on an ad hoc basis with membership agreed by the Monitoring Officer/ Interim 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, LPG)
Meic Sullivan Gould (Interim Monitoring Officer, LPG)

5.2 Presentation: Development of SAC priorities

Paul Hoey, Consultant Trainer (Hoey Ainscough Ltd), gave a detailed PowerPoint presentation (slides **Tabled**, a copy of which would be interleaved with the minutes) which encompassed the current standards environment (current legislative framework, local arrangements, codes of conduct), with a focus on how standards arrangements in LBTH were working/ compared with other local authorities (Las) and where there was scope for review to ensure streamlined and more robust in future. The key headlines of the presentation are summarised below:

- Localism Act 2011 – key requirements
- Case handling – arrangements & issues
- Standards Committees – composition & alternatives
- Filtering complaints & related issues - arrangements & issues to consider
- Informal resolution - arrangements & issues to consider
- Investigation - arrangements & issues to consider
- Conduct of hearing - issues to consider
- Sanctions - arrangements & issues to consider
- Independent Person (IP) – Law, arrangements & issues to consider
- Code of Conduct – requirements/ content & alternatives
- Interests - arrangements & issues to consider

Mr Hoey highlighted key issues for each area and responded to questions from the SAC summarised as follows:

- There was little scope for variety on requirements of the Localism Act and 95% of LAs had similar arrangements to those of LBTH.
- Standards committees:
 - Localism Act abolished requirement on LAs to have a standards committee (SC). With exception of 1 or 2 LAs where standards issues had been delegated to Officers or the former terms of reference were subsumed into those of another committee, most LAs had an SC.
 - The issues to consider were its composition and related transparency:
 - Most LAs treated their SC and sub committees like the others and composition was politically proportional. The LBTH SAC was proportional in terms of voting members, which was sensible in the context of the local political backdrop. The difficulty came where

- proportional balance led to public perception of skewing and mistrust of process outcomes.
- The Localism Act had stripped away statutory voting rights for independent members, and as a result of proportionality most LAs did not co-opt independent members onto their SC. However this arrangement at LBTH was very positive, as such members were a symbol that the role of the SC was above politics and this was enhanced by the LBTH requirement for the Chair and Vice Chair to be co-opted independent members.
 - Public SAC meetings and proper recording of these was also positive for transparency as SC meetings in many LAs were held in private.
 - Filtering complaints & related issues
 - The LBTH arrangements placed almost all decision making [on complaints under the Members Code of Conduct] with the Monitoring Officer (MO) although the SAC had a role to endorse (or not) any “no action” decision. There was scope to review the arrangements:
 - The requirement for the MO to seek SAC endorsement of “no action” decisions slowed down the process for dealing with complaints. Had the SAC rejected any MO “no action” decisions on controversial cases? Most cases were trivial/ spurious/ not a breach of the Code, so was it necessary to convene a SAC to endorse “no action”? Most LAs let the MO decide on “no action” as it allowed the MO to broker a solution or pass to party group leaders to resolve and this aligned with the lighter touch approach intended by the Localism Act.
 - Why not extend the principles of this role to MO decisions for further action which after all committed public money and resource?
 - Consider moving the SAC role in complaint handling process from later to earlier.
 - Clarification sought and given as to point at which Members should be informed of complaints against them. *At some LAs Members were only told of a complaint/ asked to comment once a case was found. It was advantageous to inform them earlier to obviate finding out via the media, however the disadvantage was input from the Member delaying the process and likelihood of tit for tat complaints. Earlier was generally better to allow an informal resolution. However it was often helpful to encourage complainants to flesh out their case and request evidence/ substantiation as often this prompted the case to be dropped.*
 - Consideration that there was a need for a clear definition of a complaint in order to tighten up arrangements for handling complaints at LBTH. No evidence/ substantiation, No apparent breach, MO not understanding the complaint, would result in many cases not becoming a formal complaint and contributing to the related statistics.
 - There was a need for monitoring of all cases even those which were dropped as, although this had resource implications, it would contribute to a learning experience for discontent/ identification of rubbing points for complaints, which assisted building of trust and identifying ways to prevent cause for complaint.
 - Informal resolution & Investigation

- There was a balance to strike in filtering out politically motivated cases and also seeking an informal resolution to others. Some LAs preferred not to investigate complaints due to the resource implications and prioritised informal resolution. There was scope at LBTH for the SAC to give a steer on the types of cases it wanted investigated and the levels of resource for these.
- Most LAs had a 2 stage process for informal resolution: during and post investigation, however they incorporated this into their process earlier than at LBTH and this should be considered in any review of arrangements. However where informal resolution was prioritised the SC chair should be consulted that the outcome was appropriate. The resolution needed to be satisfactory to the complainant although most LAs didn't allow a complainant veto. Often the sanctions were unsatisfactory to the complainant, so it was advantageous not to build their expectations and shut down the case early on. However the public also needed to be satisfied that issues were being dealt with seriously by the authority, and it was useful for the SC to monitor cases so there was a record.
- There was scope at LBTH for the SAC to extend its role to endorse any MO decision to progress to a misconduct hearing where investigation showed a breach of the Code.
- Clarification was sought and given regarding final time limits for concluding complaints, with consideration that some cases at LBTH had taken far too long to conclude and referral of such cases back to the SC. *Delegation to SC sub committees could assist. Experience with other LAs showed a rigorous timeline was required and LBTH required this within 3 months. There were instances where cases would go beyond this due to complex documents, lack of information eg Members unavailable to interview, involvement of lawyers for both parties. 95% of cases should be dealt with within 3 months, and if this was not possible the MO should provide an explanation to the SC as to why, and seek an extension. The SC should also take account of deliberate prevarication delaying due process. Rather than convene an SC for cases over 3 months, it was preferable to consult the SC chair and IP, perhaps report such instances to the next SC. Setting clear deadlines for Members to respond definitely assisted as did talking to Members early on in the process with a view to informal resolution.*
- Conduct of hearing
 - Although transparency was needed this was not facilitated in a social media environment and the legal framework was not helpful, consequently there was a trend in other LAs to hold hearings in private. This resulted in a public perception of corrupt practice particularly when sanctions were often light touch. There was scope at LBTH for the SAC to be more explicit on this issue.
- Sanctions
 - The Localism Act had abolished most of the previous sanctions and those available were limited (see slide). There was scope at LBTH to review arrangements:
 - Some LAs delegated sanctions to the SC; was there scope for this particularly for censure or training?

- Currently the SAC recommended sanctions to full Council what reaction and protocols were there for instances where the Council may reject or vary these, given the party politics possible in a full Council meeting.
- Restriction of access to the Authority's resources was permitted, but as there was no clear policy should SAC give a steer?
- Consideration and a steer could be given on referrals to group leaders.
- There was scope at LBTH for clarification of the arrangements for handling complaints which currently provided for a Member appeal within 5 days and a full right of appeal within 15 days which allowed for confusion.
- Independent Person
 - Consideration should be given to IP self-protection should they feel that a case was not being handled appropriately by the MO or they felt sidelined.
 - It was appropriate that the IP and RIP were observers at SAC meetings as they were not decision makers. However the expectation should be set that they were copied into papers circulated to the SAC and wider discussions.
 - Consideration could be given to allowing a complainant access to the IP as provided to the Member subject to complaint.
 - The IP role overlapped slightly with that of co-opted independent members, but the latter brought positivity to perceptions of the SACs role.
- Code of Conduct
 - Much of the content at other LAs was similar to that of the LBTH Code in respect of Nolan principles and required behaviours, however the current Code was almost identical to the Code under the previous standards regime and there were alternatives that could be considered eg principled based codes from DCLG.
- Interests
 - There was a lack of clarity as to the position of the LBTH code on interests other than Disclosable Pecuniary Interests. It was important to set appropriate rules on other interests, including procedural rules, to counter public perceptions of corrupt practice. This should be included in any review of arrangements at LBTH.

The Chair summarised that the move from the previous standards arrangements to those currently had been required at short notice, and it was now apparent that these were overly elaborate at LBTH, given the nature of the sanctions available for misconduct, and there was considerable scope for streamlining.

ADJOURNMENT

At this juncture the Chair summarised that he considered it appropriate that there be a short adjournment to allow SAC members time to read and assimilate the information presented in the **Tabled** paper of scenarios (a copy

of which would be interleaved with the minutes). Accordingly the Chair **Moved** the following motion for their consideration, and it was: -

Resolved

That the SAC adjourn for a period of 5 minutes, at 8.50pm, and that the meeting reconvene thereafter.

The meeting adjourned at 8.50pm

The meeting reconvened at 8.55pm

A discussion followed which focused on a number of factually based scenarios, which had given rise to complaints against Members at various LAs, set out in the tabled paper, and the related standards issues raised by each, summarised as follows :-

- A variety of views were expressed as to whether each scenario fell within the scope of the Code of Conduct and associated rationale given. SAC members often considered that the scenarios did fall within the Code when they did not.
- Where scenarios did not fall within the formal scope of the Code, and therefore the associated arrangements for dealing with complaints, consideration that there remained standards issues which would need addressed were they repeated at LBTH. There was a need to think beyond the Code, particularly in instances of reputational damage for the authority, and a role for SAC in determining both appropriate mechanisms for dealing with such complaints and related courses of action to mitigate Member behaviour eg role for party group leaders and party whips, Chairs of committees, withdraw access to Council resources Officers & equipment.
- What was the process if the MO felt behaviour fell within the Code and the SAC did not?
- Consideration that the SAC should consider its role in weighing sanctions against the potential for Members to argue that they could not undertake the duties of their public office as a consequence.
- Consideration that there was also a role for SAC in setting out differences between personal and Councillor roles, particularly around social media, how behaviour would be viewed accordingly and to raise awareness of this. Drawing up a protocol for use of public media might be helpful including statements from party group leaders as to what was acceptable.
- Consideration that a communications strategy for handling media enquiries in such scenarios would be of value.
- There was a role for SAC in determining thresholds of acceptability around public Member behaviour eg between legitimate challenging of Officer advice where implications of Officer advice were not in the public interest and unacceptable undermining or harassment/bullying of Officers.
- Consideration that further guidance needed to be provided by the SAC on declaration of interests other than Disclosable Pecuniary Interests by Members where there might be a clear public perception of corrupt

practice, as current rules were insufficiently robust. There was also a need, in this context, to raise Member awareness of the common law offence of “Misconduct of Public Office” and implications for non-declaration. Further clarity was needed on acceptability of speaking and voting at a committee in various scenarios. The Chair noted that Members were inclined to declare at LBTH as they viewed matters more seriously than the letter of the law.

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

Resolved:

1. That the information provided in the presentation and accompanying PowerPoint presentation be noted;
2. That Members comments be noted; and
3. That Mr Hoey produce a short summary of points made in his presentation as to scope for review **LBTH standards arrangements** to ensure these were streamlined and more robust in future. This to be circulated to SAC members before the **next meeting** to inform a **discussion item** on the agenda.

Action by:

Angus Taylor (Principal Committee Officer, Democratic Services, LPG)
Meic Sullivan Gould (Interim Monitoring Officer, LPG)

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

Update on Member Information and Member timesheets

The Chair informed SAC members that Matthew Mannion, Committee Services Manager, had **Tabled** a background briefing note containing an update on the democracy pages on the authority’s website, Member Information, Member timesheets and Member enquiries, a copy of which would be interleaved with the minutes.

The Chair drew the attention of SAC members to the penultimate paragraph of the tabled paper, where it was proposed that the Committee Services Manager and Members Support Manager present a report to the next SAC meeting on recent changes to the Democracy web pages and some proposed further developments as well as the new electronic timesheet system. He commented that it would be important to identify ways to capture and report Member activity in a more transparent way than previously, as current arrangements did not provide for a true reflection of such activity nor communication its importance.

A SAC member requested that all Members be sent a copy of the Member timesheet as new Members were not aware of it and a backlog of uncompleted Member timesheets was likely to be developing.

The Vice-Chair commented that he had recently had occasion to write to the Aman Dalvi, Corporate Director Development and Renewal, and had been surprised by the content of the email response. Accordingly he sought and was given clarification as to whether there were protocols for the drafting of correspondence

Action by:

Matthew Mannion (Committee Services Manager)
Beverley McKenzie (Member Support Manager)

7. EXCLUSION OF THE PRESS AND PUBLIC

The agenda circulated contained no exempt/ confidential business and there was therefore no requirement to exclude the press and public to allow for its consideration.

SUMMARY OF EXEMPT PROCEEDINGS

8. EXEMPT/CONFIDENTIAL MINUTES

Nil items

9. ANY OTHER EXEMPT/CONFIDENTIAL BUSINESS THAT THE CHAIR CONSIDERS URGENT

Nil items

The meeting ended at 9.44 p.m.

Chair,
Standards (Advisory) Committee