



## Standards Committee

**Date:** FRIDAY, 23 NOVEMBER 2012  
**Time:** 12.00 pm  
**Venue:** COMMITTEE ROOM 1, 2ND FLOOR, WEST WING, GUILDHALL

### 5. LOCAL DETERMINATION OF COMPLAINTS

A joint report of the Town Clerk and the Comptroller & City Solicitor relative to the local arrangements for the determination of complaints.

The Committee is asked to approve the local arrangements and the establishment of various sub committees to deal with the different stages of handling a complaint.

**For Discussion**

Item received too late for circulation in conjunction with the Agenda.

**John Barradell**  
**Town Clerk and Chief Executive**

This page is intentionally left blank

***[DRAFT]***



**HOW COMPLAINTS SUBMITTED TO  
THE CITY OF LONDON'S  
STANDARDS COMMITTEE WILL BE  
DEALT WITH**

## **INTRODUCTION**

The Localism Act 2011 requires the City of London Corporation (“the City”) to have in place arrangements under which written allegations of a breach of the member code of conduct can be investigated and decisions on those allegations taken. These arrangements apply to both members and co-opted members (referred to in this document collectively as “members”).

The City’s Standards Committee is responsible for these functions and this handbook sets out to explain the arrangements in more detail.

## **COMPLAINTS**

### **MAKING A COMPLAINT**

The City’s complaints process is publicised on the complaints and corporate governance pages of our website and explains where code of conduct complaints should be sent to. This is to ensure that members of the public are aware of the responsibility for handling code of conduct complaints and what the process entails.

A complaints form can be accessed via the website so that anyone wishing to make a complaint can download the form and either return it by e-mail or send in a hard copy. Alternatively, a complaints form can be requested from the Town Clerk’s Office. Complaints must be submitted in writing and this includes fax and electronic submissions.

The form covers the following matters:-

- Complainant’s name, address and contact details;
- Complainant’s status i.e. fellow member, member of the public or officer;
- Who the complaint is about;
- Details of the alleged misconduct including, where possible, dates, witness details and other supporting information;
- Equality monitoring data if applicable;
- A warning that the complainant’s identity will normally be disclosed to the subject member. (N.b. in exceptional circumstances, and at the discretion of the Standards Committee, this information may be withheld).

Once a complaint is received at the City, and the complaint specifies or appears to specify that it is in relation to the code of conduct, then it will be passed to

the Assessment Sub-Committee for consideration. If at this stage (or a later stage) it appears that a criminal offence may have been committed then the relevant allegation will be referred to the police.

A complaint may not necessarily be made in writing, for example it may be a concern raised with the monitoring officer verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing to the Standards Committee. If the complainant does not, the monitoring officer should consider the options for informal resolution to satisfy the complainant. (For example, a meeting with the Chief Commoner or Chairman of the Privileges Committee of Aldermen).

### **ACKNOWLEDGING RECEIPT OF A COMPLAINT**

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them.

The notification can say that a complaint has been made, and state the name of the complainant (unless the complainant has requested confidentiality and the Standards Committee has not yet considered whether to grant it) and the relevant paragraphs of the code that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the Assessment Sub-Committee has met to consider the complaint and the date of this meeting, if known.

There is a possibility that by informing the subject member of the complaint, they may interfere with evidence or intimidate witnesses. Whilst this is a remote possibility, the monitoring officer has the discretion, after consultation with the Chairman of the Standards Committee, to defer notification in such exceptional circumstances to enable a proper investigation to take place.

### **STANDARDS SUB-COMMITTEES**

#### **ASSESSMENT, HEARING AND APPEAL SUB-COMMITTEES**

In order to carry out its functions efficiently and effectively, and to avoid any conflicts of interest, the Standards Committee has established three separate Sub-Committees for the different stages of the complaints process, being Assessment, Hearing and Appeal Sub-Committees.

## **MEMBERSHIP**

Each of these Sub-Committees will normally consist of four members of the Standards Committee, including three elected members of the City and one non-voting co-opted member, with membership to be determined on a case by case basis. The same members will normally sit on the Assessment Sub-Committee and the Hearing Sub-Committee in respect of a particular allegation, but different members will sit on the Appeal Sub-Committee, if this is required. Each of these Sub-Committees will take into account the views of an Independent Person appointed under the Localism Act 2011.

## **ACCESS TO MEETINGS AND PUBLICATION OF DECISIONS**

Meetings of these Sub-Committees are subject to the same provisions regarding public access to information as any other Committee.

After a Sub-Committee has reached a decision, it will produce a written summary to include:-

- The main points of the matter considered;
- The decision reached; and
- The reasons for that decision.

The written summary will be sent to the relevant parties. A written summary (excluding exempt information heard in non-public session) will be made available for the public to inspect at the City's offices for six years but not until the subject member has been sent the summary.

## **INITIAL ASSESSMENT OF ALLEGATIONS**

### **PRE-ASSESSMENT REPORTS AND ENQUIRIES**

The Assessment Sub-Committee may decide that it wants the monitoring officer, or other officer, to prepare a short summary of the complaint for it to consider. This could, for example, set out the following details:-

- Whether the complaint is within jurisdiction;
- The paragraphs of the code the complaint might relate to, or the paragraphs the complainant has identified;
- A summary of key aspects of the complaint if it is lengthy or complex;
- Any further information that the officer has obtained to assist the Assessment Sub-Committee with its decision – this may include:-

- Obtaining a copy of a declaration of acceptance of office form;
- Minutes of meetings;
- A copy of a member's entry in the Register of Interests;
- Information from Companies House or the Land Registry;
- Other easily obtainable documents.

Officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted.

Caution should be exercised in order to ensure that pre-assessment enquiries are not carried out in such a way as to amount to an investigation e.g. they should not extend to interviewing the complainant or a potential witness.

Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the Assessment Sub-Committee's decision or make the decision for it.

#### **ASSESSMENT SUB-COMMITTEE TERMS OF REFERENCE**

- a) The Assessment Sub-Committee is established to receive and assess allegations that a member of the City has failed, or may have failed, to comply with the code of conduct.
- b) Upon receipt of each allegation and any accompanying report by the monitoring officer, the Sub-Committee will make an initial assessment of the allegation and will then do one of the following:-
  - (i) refer the allegation to the monitoring officer, with an instruction that he arrange a formal investigation of the allegation; or
  - (ii) direct the monitoring officer to arrange training, conciliation or other appropriate alternative steps; or
  - (iii) decide that no action should be taken in respect of the allegation.

## **ASSESSMENT OF COMPLAINTS**

Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that the complaint meets the following tests:-

- It is a complaint against one or more named members of the City;
- The named member was in office at the time of the alleged conduct and the code of conduct was in force at the time;
- The complaint, if proven, would be a breach of the code of conduct under which the member was operating at the time of the alleged misconduct.

In the complaint fails one or more of these tests, it cannot be investigated as a breach of the code and the complainant must be informed that no further action will be taken in respect of the complaint.

## **DEVELOPING ASSESSMENT CRITERIA**

The Standards Committee may develop criteria against which it assesses new complaints and decides what action, if any, to take. These criteria should ensure fairness for both the complainant and the subject member.

Assessing all new complaints by established criteria will also protect the Committee members from accusations of bias. In drawing up assessment criteria, the Standards Committee will bear in mind the importance of ensuring complainants are confident that complaints are taken seriously and dealt with appropriately, whilst appreciating that a decision to investigate a complaint or to take other action will cost both public money and the officers' and members' time – an important consideration where the matter is relatively minor.

The following questions constitute the current assessment criteria:-

- Has the complainant submitted enough information to satisfy the Assessment Sub-Committee that the complaint should be referred for investigation?
- Has the complaint already been the subject of an investigation or other action relating to the code of conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?
- Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
- Is the complaint too trivial to warrant further action?
- Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?



## **INITIAL ASSESSMENT DECISIONS**

The Assessment Sub-Committee will normally complete its initial assessment of an allegation within an average of 30 working days to reach a decision on what should happen with the complaint.

The summary at this stage may give the name of the subject member unless doing so is not in the public interest or would prejudice any subsequent investigation.

The monitoring officer will write to the relevant parties to advise who will be responsible for conducting the investigation, if applicable.

The Assessment Sub-Committee may decide that other action (rather than an investigation) would be appropriate and it may ask the monitoring officer to arrange this.

The suitability of “other action” is dependent on the nature of the complaint. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way of resolving less serious matters. Examples of alternatives to investigation are:-

- Arranging for the subject member to attend a training course;
- Arranging for the subject member and complainant to engage in a process of conciliation;
- Instituting changes to a procedure of the City if this has given rise to the complaint.

The Assessment Sub-Committee should always seek the advice of the monitoring officer before it decides on this course of action. It may be useful for the Assessment Sub-Committee to seek written confirmation from all involved parties that they will co-operate with the process of other action proposed. In this case, a letter should be written to parties outlining what is being proposed, why it is being proposed, why they should co-operate and what the Assessment Sub-Committee is hoping to achieve.

The Assessment Sub-Committee can decide that no action is required in respect of a complaint. This could be if they do not consider the complaint to be serious enough, or if a long time has elapsed since the alleged conduct took place, or if there is clearly no case to answer. The decision reached by the Assessment Sub-Committee and the reasons for it should adhere to any assessment criteria that the Standards Committee has previously agreed.

## **INVESTIGATIONS AND HEARINGS**

### **INVESTIGATION**

It is recognised that the monitoring officer may not personally conduct a formal investigation but it will be for the monitoring officer to determine who to instruct to conduct a formal investigation.

There are many factors that can affect the time it takes to complete an investigation. However most investigations will be carried out, and a report on the investigation completed, within six months of the original complaint being assessed. In his report, the investigator will conclude whether or not there has been a failure to observe the code of conduct. Any hearing will normally be held within three months of receipt of the report.

### **HEARING SUB-COMMITTEE TERMS OF REFERENCE**

- a) To hear and determine any allegation that a member has failed, or may have failed, to comply with the code of conduct for members;
- b) Following the hearing, to make one of the following findings:-
  - (i) that the subject member has not failed to comply with the code of conduct;
  - (ii) that the subject member has failed to comply with the code of conduct but that no action needs to be taken in respect of the matters considered at the hearing;
  - (iii) That the subject member has failed to comply with the code of conduct and that a sanction should be imposed.
- c) If the Sub-Committee makes a finding under paragraph b) (iii), it may impose any one of or any combination of sanctions that are available, as set out below.

### **HEARING SUB-COMMITTEE DECISIONS**

If the Hearing Sub-Committee finds that a subject member has failed to follow the code of conduct and that they should be sanctioned, it may impose any one or a combination of the following:-

- censure of that member;
- withdrawal of City hospitality for an appropriate period;
- removal of that member from a particular committee or committees.

The option of removal from a particular committee or committees includes sub-committees. The Hearing Sub-Committee will make a recommendation to the relevant appointing body in each case.

The Hearing Sub-Committee has no power to impose any alternative sanctions, although the willingness of a member to co-operate in the matters listed below may have a bearing on any sanction that is imposed:-

- that the member submits a written apology in a form specified by the Hearing Sub-Committee;
- that the member undertakes such training as the Hearing Sub-Committee specifies;
- that the member participates in such conciliation as the Hearing Sub-Committee specifies.

## **APPEALS**

### **APPEAL PROCESS**

If a member is aggrieved by a decision of the Hearing Sub-Committee to impose one or more sanctions against him, either because he does not accept that he has breached the code or conduct, or because he considers that the sanction or sanctions imposed are disproportionate, he is entitled to appeal to the Appeal Sub-Committee.

Any such request must be sent in writing to the clerk to the Appeal Sub-Committee and received by him within 21 days from the date that the subject member is informed of the decision of the Hearing Sub-Committee. The Appeal Sub-Committee will normally complete its review of the decision within an average of 30 working days following receipt of the request.

## **APPEAL SUB-COMMITTEE TERMS OF REFERENCE**

- a) To determine any appeal from a member in relation to a finding of the Hearing Sub-Committee that they have breached the code of conduct and/or in relation to the sanction imposed, in accordance with paragraph b);
- b) Having due regard to the decision of the Hearing Sub-Committee, to substitute any alternative decision for that decision that the Appeal Sub-Committee considers is appropriate, being a decision that the Hearing Sub-Committee had the power to make.