



Assessment Sub (Standards) Committee

Date: FRIDAY, 8 SEPTEMBER 2017
Time: 10.30 am
Venue: COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL

Members: Judith Barnes (Co-opted Member)
Deputy Kevin Everett
Alderman David Graves
Ann Holmes
Chris Taylor (Independent Person)

Enquiries: Lorraine Brook
Tel: 020 7332 1409
lorraine.brook@cityoflondon.gov.uk

If requested and confirmed in advance, lunch will be served in
the Guildhall Club at 1pm

John Barradell
Town Clerk and Chief Executive

AGENDA

1. **ELECTION OF CHAIRMAN**

For Decision

2. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE ASSESSMENT SUB-COMMITTEE**

The Complaints procedure (*"How Complaints Submitted to the City of London Corporation's Standards Committee Will Be Dealt With"*) is attached for information.

(Pages 1 - 16)

3. **ANY OTHER BUSINESS**

4. **COMPLAINT: REPORT OF THE TOWN CLERK AND THE COMPTROLLER AND CITY SOLICITOR**

A joint report of the Town Clerk and the Comptroller and City Solicitor presenting, for assessment by the Sub-Committee, a complaint made against a member of the Court of Common Council.

For Decision
(Pages 17 - 96)



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

Approved: October 2015

INTRODUCTION

1. The Localism Act 2011 requires the City of London Corporation (“the Corporation”) 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”) and this handbook sets out to explain the arrangements in more detail.

STANDARDS COMMITTEE

2. The Corporation’s Standards Committee is responsible for these functions. The membership of the Standards Committee is made up of elected Aldermen and Common Councilmen of the Corporation, together with non-voting co-opted members appointed under the Local Government Act 1972.

INDEPENDENT PERSONS

3. The Corporation must also appoint at least one Independent Person under the Localism Act 2011 whose views:
 - (i) must be sought, and taken into account, by the Corporation before it makes its decision on an allegation that it has decided to investigate;
 - (ii) may be sought by the Corporation in relation to an allegation in other circumstances;
 - (iii) may be sought by a member against whom an allegation has been made.
4. Independent Persons must not have been a member, co-opted member or officer of the Corporation in the last five years, nor be a relative or close friend of a member, co-opted member or officer.

COMPLAINTS

MAKING A COMPLAINT

5. The Corporation’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.

6. A copy of the complaint form is appended to this handbook and can be accessed via the Corporation's website. Alternatively, a complaints form can be requested from Lorraine Brook, Principal Committee & Member Services Manager, Town Clerk's Office (telephone 020 7332 1409). Formal complaints must be submitted in writing although this includes fax and electronic submissions.
7. The form covers the following matters:-
 - (i) Complainant's name, address and contact details;
 - (ii) Complainant's status i.e. fellow member, member of the public or officer;
 - (iii) Who the complaint is about;
 - (iv) Details of the alleged misconduct including, where possible, the paragraphs of the code of conduct that have been breached, dates, witness details and other supporting information;
 - (v) 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).
8. Once a complaint is received at the Corporation, 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.

INFORMAL RESOLUTION OF COMPLAINTS

9. A complaint may not necessarily be made in writing, for example it may be a concern raised with the Monitoring Officer orally. 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.
10. This could involve a meeting with the Chief Commoner or Chairman of the Privileges Committee of Aldermen ("the Privileges Chairman"). The role of the Chief Commoner has traditionally included a concern for the welfare and conduct of Common Councilmen and the Privileges Chairman has performed a similar function in relation to Aldermen. Their intervention has in the past been a very effective mechanism for resolving problems between members.

11. There is nothing to stop aggrieved individuals continuing to approach the Chief Commoner or the Privileges Chairman for assistance with the reconciliation of disputes, even where the matter relates to a breach of the code of conduct. This would require the consensus of all parties, as the matter could be referred to the Standards Committee at any time. If a matter in which the Chief Commoner or the Privileges Chairman is involved is subsequently referred to the Standards Committee, he or she should cease to take any action in relation to the matter. A member who is aggrieved with any sanction imposed by the Chief Commoner or the Privileges Chairman may refer the matter to the Standards Committee for formal consideration.

ACKNOWLEDGING RECEIPT OF A COMPLAINT

12. 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.
13. 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. A copy of the complaint will normally be provided (unless to do so would breach confidentiality where this has been requested) and the subject member invited to comment on it should they so wish.
14. 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

15. 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

16. Each of these Sub-Committees will normally consist of four members of the Standards Committee, including three elected members of the Corporation 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.

ACCESS TO MEETINGS AND PUBLICATION OF DECISIONS

17. Meetings of these Sub-Committees are subject to the same provisions regarding public access to information as any other Committee.
18. After a Sub-Committee has reached a decision, it will produce a written summary to include:-
 - (i) The main points of the matter considered;
 - (ii) The decision reached; and
 - (iii) The reasons for that decision.
19. 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 Corporation'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

20. 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:-
 - (i) Whether the complaint is within jurisdiction;
 - (ii) The paragraphs of the code the complaint might relate to, or the paragraphs the complainant has identified;
 - (iii) A summary of key aspects of the complaint if it is lengthy or complex;

(iv) Any further information that the officer has obtained to assist the Assessment Sub-Committee with its decision – this may include:-

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

21. Officers may contact complainants for clarification of their complaint if they are unable to understand the document submitted. Any comments received from the subject member regarding the complaint will also be provided to the Assessment Sub-Committee.

22. 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.

ASSESSMENT SUB-COMMITTEE TERMS OF REFERENCE

23. The Assessment Sub-Committee is established to receive and assess allegations that a member of the Corporation has failed, or may have failed, to comply with the code of conduct.

24. 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

25. The Assessment Sub-Committee should firstly satisfy itself that the complaint meets the following tests:-

- (i) It is a complaint against one or more named members of the Corporation;
- (ii) The named member was in office at the time of the alleged conduct and the code of conduct was in force at the time;
- (iii) 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.

26. If 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

27. 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.

28. 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.

29. The following questions constitute the current assessment criteria:-

- (i) Has the complainant submitted enough information to satisfy the Assessment Sub-Committee that the complaint should be referred for investigation?
- (ii) 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?
- (iii) Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
- (iv) Is the complaint too trivial to warrant further action?
- (v) Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

INITIAL ASSESSMENT DECISIONS

30. 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.
31. 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.
32. The Monitoring Officer will write to the relevant parties to advise who will be responsible for conducting the investigation, if applicable.
33. 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.
34. 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:-
 - (i) Arranging for the subject member to attend a training course;
 - (ii) Arranging for the subject member and complainant to engage in a process of conciliation;
 - (iii) Instituting changes to a procedure of the Corporation if this has given rise to the complaint.
35. 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.
36. 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

37. 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.
38. 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

39. To hear and determine any allegation that a member has failed, or may have failed, to comply with the code of conduct for members;
40. 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.
41. If the Sub-Committee makes a finding under paragraph 40 (iii), it may impose any one of or any combination of sanctions that are available, as set out below.

HEARING SUB-COMMITTEE DECISIONS

42. 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:-

- (i) censure of that member;
 - (ii) withdrawal of Corporation hospitality for an appropriate period;
 - (iii) removal of that member from a particular committee or committees.
43. 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.
44. 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:-
- (i) that the member submits a written apology in a form specified by the Hearing Sub-Committee;
 - (ii) that the member undertakes such training as the Hearing Sub-Committee specifies;
 - (iii) that the member participates in such conciliation as the Hearing Sub-Committee specifies.

APPEALS

APPEAL PROCESS

45. 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.
46. Any such request must be sent in writing to the clerk to the Appeal Sub-Committee and received by him within 20 working 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

47. 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;
48. 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.



COMPLAINT FORM

YOUR DETAILS

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:-

- The Member that you are complaining about;
- The Monitoring Officer of the City of London Corporation.

We will normally tell them your name and give them full details of your complaint. If you have serious concerns about your name and details of your complaint being released, please complete section 5 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted Member of the City of London Corporation
- An employee of the City of London Corporation
- Other (please specify.....)

MAKING YOUR COMPLAINT

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct:

Title	First name	Last name

4. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member, you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the assessment sub Committee when it decides whether to take any action on your complaint. For example:-

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates, it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.
- If possible, please be specific about which paragraphs of the Code of Conduct you believe have been breached.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**ONLY COMPLETE THIS NEXT SECTION IF YOU ARE REQUESTING
THAT YOUR IDENTITY IS KEPT CONFIDENTIAL**

5. In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe that they have the right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless:

- You have reasonable grounds for believing that you will be at risk of physical or other harm if your identity is disclosed;
- You are an officer who works closely with the subject Member and you are afraid of the consequences to your employment or of losing your job if your identity is disclosed;
- You suffer from a serious health condition and there are medical risks associated with your identity being disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not be automatically granted. The Assessment sub-Committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with the details of why you believe we should withhold your name and/or details of your complaint. Continue on a separate sheet if there is not enough space on this form:

6. ADDITIONAL HELP

Complaints must be submitted in writing (this includes fax and electronic submissions). However, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

7. CONTACT DETAILS

If you have any queries regarding the completion of this form, or to submit your completed form by fax or email, please use the following contact details:

Michael Cogher (Comptroller & City Solicitor)
Tel: 020 7332 3699
Fax: 020 7332 1992
Email: michael.cogher@cityoflondon.gov.uk

Lorraine Brook (Principal Committee & Member Services Manager)
Tel: 020 7332 1409
Fax: 020 7796 2621
Email: lorraine.brook@cityoflondon.gov.uk

Paper forms should be sent to either of the above recipients at the following address:

PO Box 270
Guildhall
London
EC2P 2EJ

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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