

Committee(s)	Dated:
Standards Committee	8 July 2016
Subject: Complaints Process Review	Public
Report of: Town Clerk	For Decision
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Summary

This report asks that Members reflect on the recent Hearing and Appeal processes overseen by the Standards Committee and consider whether, in light of this, any further amendments to the document entitled 'How complaints submitted to the City of London Corporation's Standards Committee will be Dealt with' are now required.

Recommendations

Members are asked to note the report and to consider any further amendments that might now be required in relation to the Standards Committee's written complaints procedure ('How complaints submitted to the City of London Corporation's Standards Committee will be Dealt with') and/or relevant Standing Orders.

Main Report

Background

1. At the meeting of the Standards Committee on 15th May 2015, Members received a report setting out the current complaints procedure and the governance arrangements in respect of the Sub Committees that are constituted to consider any alleged breaches of the Code of Conduct. The report had been specifically requested by the Committee in February 2015 and invited Members to consider and comment on the current complaints process.
2. In reviewing the existing procedure and accompanying form at their 15th May meeting, Members proposed several amendments to the existing complaints procedure and complaints form (alleged breaches of the Members' Code of Conduct) and requested that the Town Clerk and the Comptroller & City Solicitor further review these and submit revised documentation to the next meeting of the Standards Committee for further consideration.
3. At the Standards Committee meeting on 2nd October 2015, Members were asked to approve the revised documentation and to note the existing

arrangements in respect of responding to and managing alleged breaches of the Members' Code of Conduct. Members went on to suggest some further, minor, amendments to the documentation and agreed that a final version should be approved by the Town Clerk in consultation with the Chairman and Deputy Chairman of the Standards Committee under Delegated Authority.

4. The existing procedure was approved under Delegated Authority on 28th October 2015 and is included at Appendix 1.
5. On 23 November 2015, the Town Clerk received notice of a formal, written complaint from a City of London Corporation employee against an elected Member of the City Corporation. The Assessment Sub (Standards) Committee met on 16 December 2015 to receive the complaint and took the decision to refer this matter for further investigation by the Monitoring Officer.
6. The Hearing Sub Committee considered the Monitoring Officer's report presenting the findings of his investigation. The Hearing Sub Committee felt that there were a number of inconsistencies in the statements provided by the main protagonists and also some gaps in the information provided. In view of this, the Sub Committee were unanimously of the view that the matter should proceed to a full hearing.
7. The full Hearing was held on 23 February 2016. Having carefully considered the complaint and the Monitoring Officer's report; read all of the relevant papers and considered the oral and written evidence and representations made by the parties, the Sub-Committee found unanimously that there had been breaches of the Code of Conduct. On 15 March 2016, the Hearing Sub Committee met for the final time to consider the imposition of sanctions.
8. On 30 March 2016, the Town Clerk received a letter from the elected Member in question, outlining his intention to appeal the decisions taken by the Hearing Sub Committee. The written grounds for appeal were received on 12 April 2016.
9. Accordingly, a separate Panel was convened to hear the appeal and the Appeal Sub Committee met, initially, on 25 April 2016 to formally receive the written grounds for appeal and to determine the procedure the Appeal should follow.
10. The Appeal Sub Committee reconvened on 6 May 2016 and resolved unanimously to uphold the decision of the Hearing Sub-Committee that there had been breaches of the Code.
11. Both the Hearing and Appeal process were a first for the Standards Committee, given that no previous or subsequent complaints received have progressed beyond the Assessment stage.
12. At its most recent meeting on 13 May 2016, the Standards Committee suggested that it would now be appropriate to reflect on the process and consider what changes, if any, might now be required to the relevant

documentation in light of this. The Town Clerk undertook to produce a report on this matter for consideration at a special meeting of the Standards Committee in July 2016.

Current Position

13. Both the Hearing and Appeal Sub Committees developed their own procedures during the course of the proceedings and these are included at Appendices 2 and 3. The general feeling from both Members and Officers is that the procedures adopted worked well, and can therefore be used as a basis for future hearings. It is, however, recognised that the sub-committees should retain some flexibility and be free to make modifications to these procedures in future cases, within the broad framework, should they consider it appropriate in the circumstances. The procedures adopted already provide for this by including a provision stating that, "This procedure may be varied by the Sub-Committee as it considers appropriate in order to dispose of the matter in a fair and efficient manner."
14. The Hearing Sub Committee took the decision to hold their proceedings in public session, publishing both the minutes of their meetings and their decision on the Corporation's public webpages. They also placed these in the Members' Reading Room for information. The Appeal Sub Committee adopted a similar approach. The complaints procedure currently states that, "Meetings of these Sub-Committees are subject to the same provisions regarding public access to information as any other Committee." It is not possible to definitively state in the complaints procedure whether future hearings will be held in public, as this will always depend on the facts of a particular case and whether the public interest in maintaining any exemption outweighs the public interest in disclosing the information. There are also issues around data protection and the duty of confidentiality in relation to whistleblowers. Members may wish to include more guidance about these issues in the complaints procedure. Members may also wish to highlight, for the avoidance of doubt, that this process may result in full details of a complaint being made public.
15. Given that the recent Hearing and Appeal Sub Committees decided to hold their proceedings in public session, it would be appropriate to recommend to the Court of Common Council an amendment to the wording of Standing Order No. 35 (3). This Standing Order, at present, prevents any Member, who is not a Member of any Committee or Sub Committee considering the conduct of a Member of the Court or an ex-officio Member in relation to the City of London Corporation's Code of Conduct for Members, from attending the proceedings. This clearly assumes that all such proceedings will be held in non-public session. Officers would advise amending the wording to make it clear that non-participating Members will only be excluded when the proceedings are non-public.
16. One other lesson that can be learned from the proceedings of the Hearing Sub Committee is in relation to the handling of witnesses. The Hearing Sub Committee heard from six witnesses during the course of a full day's hearing.

All of the witnesses were asked to be in attendance from the start of the morning session, and as a result some witnesses had to wait for several hours before being heard. Future hearings might be able to employ more effective timetabling of witnesses, with some witnesses 'on call' and available at short notice, rather than from the outset of the hearing.

Feedback from Members

17. At the Standards Committee's request, the Town Clerk wrote to all Members who served on the panel of the Assessment, Hearing or Appeals Sub-Committee overseeing the recent case. The Town Clerk sought any feedback that these Members might have in terms of what might be done differently in any future cases or any areas that perhaps require greater clarity.
18. The following comments were received from Members and are now for the Standards Committee to consider in terms of any future complaints proceedings and potential amendments to the written Complaints Procedure:
 - Cross examination – It was felt that the Hearing Sub-Committee were right to avoid cross-examination. There was some concern that, at a future hearing, the respondent might press for this. Therefore, it has been suggested that the position is set out in the written complaints procedure to minimise the chance that anyone tries to insist on it being permitted.

Officers would advise against definitively ruling out cross-examination in the complaints procedure, as circumstances could arise where a Sub Committee might consider it appropriate and beneficial to permit cross-examination. However, the procedures developed during the course of the recent proceedings could be appended to the complaints procedure as an indication of the expected process at future hearings.

Conclusion

19. The general consensus from the Standards Committee is that the recent Hearing and Appeal proceedings were handled well. However, given that both of these were a first for the Committee, it was felt that it was both appropriate and timely to revisit the written Complaints procedure and to consider how this might now be amended in light of recent proceedings.
20. Finally, it is proposed that the Town Clerk retain a spread-sheet on file detailing the following, which will serve as a helpful aide memoire for future Assessment/Hearing and Appeal Sub committees to ensure that there is a consistent approach to the handling of complaints:-
 - Brief overview of complaint and who it was against/made by
 - Date received
 - Dates of Assessment / Hearing/Appeal Sub-Committee meetings
 - Outcome at each stage

- Overview of sanctions imposed

Appendices:

- 'How complaints submitted to the City of London Corporation's Standards Committee will be Dealt with' (Appendix 1).
- Hearing Sub Committee Procedure (Appendix 2)
- Appeal Sub Committee Procedure (Appendix 3)

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