

## APPENDIX 2



**HOW COMPLAINTS SUBMITTED TO  
THE CITY OF LONDON  
CORPORATION RELATING TO THE  
MEMBER CODE OF CONDUCT WILL  
BE DEALT WITH**

## **INTRODUCTION**

1. The Localism Act 2011 requires the City of London 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 elected members and co-opted members and this handbook sets out to explain the arrangements in more detail.
2. The Localism Act 2011 only applies to the City of London Corporation in its capacity as a local authority or police authority. However the City of London Corporation has chosen to apply the member code of conduct and these arrangements to all of its functions.

## **DEFINITIONS**

3. In this handbook:-

“the Corporation” means the City of London Corporation;

“member” means an elected member or co-opted member of the Corporation (unless specified);

“complaint” means a written allegation of a breach of the member code of conduct;

“complainant” means a person who has made a complaint;

“subject member” means a member who is the subject of a complaint;

“the Aldermanic Chairmen” means the Chairman of the General Purposes Committee of Aldermen and the Chairman of the Privileges Committee of Aldermen.

## **PEOPLE INVOLVED IN THE CONSIDERATION OF COMPLAINTS**

### **MONITORING OFFICER**

4. The Corporation’s Monitoring Officer is the Comptroller & City Solicitor. The Monitoring Officer has a statutory duty under section 5 of the Local Government and Housing Act 1989 to report any contravention, or likely contravention, of any enactment or rule of law, and certain types of maladministration or failure, by the Corporation, its members or officers. The Monitoring Officer also has responsibility under the Localism Act 2011 for maintaining the register of interests for members, and has traditionally had a wider role in relation to member conduct.

### **STANDARDS COMMITTEE**

5. The Corporation’s 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**

6. The Corporation must 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.
7. The Corporation has decided to seek the views of an Independent Person at every stage of the consideration of a complaint. A subject member may also seek the views of an Independent Person at every stage of the complaints process. Further details are provided in the relevant sections of this procedure. To avoid any issues of fairness and confidentiality arising from this dual role, the Corporation aims to have three Independent Persons in post at any one time.
8. 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. In addition, in order to preserve their independence and remain at arms length from the Standard Committee, the Corporation's Independent Persons do not attend meetings of the Standards Committee other than hearings, where they have a statutory role, and meetings at which their role is under discussion to which they are invited to contribute on matters relating to that role. Upon request, they are supplied with the agendas, minutes and other documents of the Standards Committee to enable them to remain abreast of discussions and decisions about the code of conduct and conduct matters generally. They are also invited to attend a six monthly briefing with the Chairman and Deputy Chairman of the Standards Committee and the Monitoring Officer.

## **CHIEF COMMONER & ALDERMANIC CHAIRMEN**

9. The Chief Commoner is a Common Councilman who has made a distinguished contribution to the Corporation over a number of years. A new Chief Commoner is elected by the Court of Common Council in October each year. The Aldermanic Chairmen are elected by the Aldermen from amongst their number who have passed the Chair (i.e. served as Lord Mayor). The role of the Chief Commoner has traditionally included a concern for the welfare and conduct of Common Councilmen and the Aldermanic Chairmen perform a similar function in relation to Aldermen.

## **STANDARDS APPEAL COMMITTEE**

10. The Corporation's Standards Appeal Committee is made up of the following ex officio members (or their representatives): the Chief Commoner; one of the Aldermanic Chairmen; the Chairman of the Policy and Resources Committee;

the Chairman of the Finance Committee; and the Chairman of the Audit and Risk Management Committee. The latter three members are senior Common Councilmen or Aldermen who have been appointed by their peers to positions concerned with good governance at the Corporation.

## **CONFLICTS OF INTEREST**

11. Individuals should not participate in the consideration of a complaint where there is a real risk of bias, or the perception of bias, or if they have, or might be reasonably perceived to have, a conflict of interests – for example, if they are personally involved, or if a family member or close associate is involved. A close associate is someone that a reasonable member of the public might think they would be prepared to favour or disadvantage because of their connection with them. It may be a friend, a colleague, a business associate or someone that they know through general social contacts. A conflict would not arise from mere acquaintance, or the sort of relationship that usually exists between members and/or officers of the Corporation.
12. If the Monitoring Officer has a conflict of interests then he shall delegate his functions in relation to that particular complaint to another officer of the Corporation. If another individual involved in the consideration of complaints has a conflict of interests in relation to a particular matter, this will generally be dealt with through selection and the committee arrangements at the relevant stage of the process.

## **TRAINING**

13. The Corporation provides training for all individuals involved in the consideration of complaints and appeals to ensure that they are dealt with appropriately and consistently.

## **INFORMAL RESOLUTION OF DISPUTES**

14. An allegation that a member has breached the code of conduct 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 person making the allegation whether they want to formally put the matter in writing. If they do not, the Monitoring Officer may consider options for the informal resolution of the matter.
15. This could involve a meeting with the Chief Commoner or one of the Aldermanic Chairmen. Their intervention has in the past been a very effective mechanism for resolving problems between members. Equally, there is nothing to stop aggrieved individuals continuing to approach the Chief Commoner or the Aldermanic Chairmen directly for assistance with the reconciliation of disputes. These arrangements generally fall outside the scope of this handbook.
16. The Chief Commoner and the Aldermanic Chairmen have a discretion to share with the Standards Committee information which they consider necessary in promoting and maintaining high standards of conduct by members. The

Standards Committee may also ask them whether there is any such information to be shared. However, the Standards Committee does not have a formal role of monitoring the pastoral activities of the Chief Commoner and the Aldermanic Chairmen.

17. Where the matter relates to a potential breach of the code of conduct though, informal resolution by the Chief Commoner or one of the Aldermanic Chairmen will require the consensus of all parties, as the matter could be referred to the Monitoring Officer as a complaint at any time – including by the Chief Commoner or the Aldermanic Chairman concerned. If a matter in which the Chief Commoner or one of the Aldermanic Chairmen is involved is subsequently referred to the Monitoring Officer as a complaint, he or she should cease to take any action in relation to the matter. Similarly, a member who is aggrieved with any sanction imposed by the Chief Commoner or one of the Aldermanic Chairmen in relation to a potential breach of the code of conduct may refer the matter to the Monitoring Officer for formal consideration.

## **COMPLAINTS**

### **MAKING A COMPLAINT**

18. 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.
19. A copy of the complaint form is included at Appendix 1 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.
20. 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 and a copy of the complaint will normally be disclosed to the subject member, unless there are exceptional circumstances.

21. 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 Monitoring Officer for initial assessment. A complainant may, at any stage, withdraw their complaint with the consent of the Monitoring Officer. 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.

## **CONFIDENTIALITY**

22. In the interests of fairness and natural justice, the Corporation believes that members who are complained about generally have a right to know who the complainant is and to be provided with a copy of the complaint. We are unlikely to withhold a complainant's identity or any details of their complaint unless there are exceptional circumstances, for example if the complainant has reasonable grounds for believing that they will be at risk of physical or other harm or detriment if their identity is disclosed – but this list is not exhaustive.
23. Requests for confidentiality or for suppression of complaint details should be included in the complaint form and will not automatically be granted. The Monitoring Officer will consider the request in consultation with the Chairman of the Standards Committee, the Chief Commoner, one of the Aldermanic Chairmen and one Independent Person. Where it is not appropriate to give the subject member a full copy of the complaint, the Monitoring Officer will consider whether it is possible to give them a summary, or a redacted version of the complaint.
24. The Monitoring Officer will confirm his decision to the complainant. If the request for confidentiality is not granted, the complainant will usually be allowed the option of withdrawing their complaint. However, it is important that in certain exceptional circumstances, where the matter complained about is very serious, the Corporation can proceed with an investigation or other action and disclose a complainant's name even if they have expressly asked us not to.
25. Where the Monitoring Officer has a reasonable suspicion that informing the subject member of a complaint may lead to an attempt to interfere with evidence or intimidate witnesses he also has the discretion, after consultation with the Chairman of the Standards Committee, the Chief Commoner, one of the Aldermanic Chairmen and one Independent Person to defer notification to enable a proper investigation to take place.
26. Where issues around confidentiality do arise, the procedures as set out in this handbook shall be modified accordingly.

## **ACKNOWLEDGING RECEIPT OF A COMPLAINT**

27. The Monitoring Officer will acknowledge receipt of a complaint within 10 working days. The Monitoring Officer will provide the subject member with a copy of the complaint within the same timescale. The letter to the subject member will make it clear that they may seek the views of an Independent Person at the initial assessment stage, should they wish (see below).

## **INITIAL ASSESSMENT OF COMPLAINTS**

### **RESPONSIBILITY**

28. Authority to receive and assess allegations that a member of the Corporation has failed, or may have failed, to comply with the code of conduct is delegated to the Monitoring Officer, in consultation with the Chairman of the Standards Committee, the Chief Commoner, one of the Aldermanic Chairmen and one Independent Person.

### **SUBJECT MEMBER CONSULTING WITH INDEPENDENT PERSON**

29. The views of an Independent Person may be sought by the subject member at the assessment stage. A subject member exercising this right will be entitled to consult confidentially with an Independent Person who has not been and will not be involved in the assessment of the complaint.

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

30. The Monitoring Officer may contact a complainant for clarification of their complaint if he is unable to understand the document submitted. The Monitoring Officer may also invite the subject member to provide initial written comments on the complaint at this stage.
31. The Monitoring Officer may decide to obtain further information to assist him with his decision – this may include:-
- (i) Obtaining a copy of a declaration of acceptance of office form;
  - (ii) Minutes of meetings;
  - (iii) A copy of a member's entry in the Register of Interests;
  - (iv) Information from Companies House or the Land Registry;
  - (v) Other relevant and readily obtainable documents.
32. 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 parties or a potential witness.

### **ASSESSMENT OF COMPLAINTS**

33. The Monitoring Officer should firstly satisfy himself 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;
  - (iv) The complaint is about something that happened within the last three months, or is connected to alleged misconduct within the last three months.
34. 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.

## **ASSESSMENT CRITERIA**

35. The Corporation has developed criteria for the Monitoring Officer to use when assessing new complaints and deciding 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 Monitoring Officer from accusations of bias.
36. In drawing up assessment criteria, the Corporation has borne 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.
37. 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 insufficiently serious to warrant further action?
  - (iv) Does the complaint appear to be simply malicious, politically motivated or tit-for-tat? In relation to politically motivated or tit-for-tat complaints, the Monitoring Officer must decide whether the allegation is genuine and serious despite the motivation, or whether in fact it is reasonable to assume that it is not the expression in good faith of a genuine concern.

## **INITIAL ASSESSMENT DECISIONS**

38. The Monitoring Officer will make an initial assessment of each complaint received and will then do one of the following:-
- (i) arrange a formal investigation of the complaint; or
  - (ii) arrange training, conciliation or other appropriate alternative steps; or



- (iii) decide that no action should be taken in respect of the complaint.
39. 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.
40. It may be useful for the Monitoring Officer 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 the parties outlining what is being proposed, why it is being proposed, why they should co-operate and what the Monitoring Officer is hoping to achieve.
41. The Monitoring Officer will normally complete his initial assessment of an allegation within 30 working days. The decision reached by the Monitoring Officer and the reasons for it should adhere to the assessment criteria previously agreed.

## **PUBLICATION OF INITIAL ASSESSMENT DECISIONS**

42. The Monitoring Officer will write to the complainant and the subject member to advise them of his decision. The decision letter will include:-
- (i) The main points of the matter considered;
  - (ii) The decision reached;
  - (iii) Clear and concise reasons for the decision on whether to proceed (including whether any of the assessment criteria were engaged); and
  - (iv) Clear and concise reasons for the decision on how to proceed (if appropriate).
43. Any initial assessment decisions made by the Monitoring Officer under delegated authority will also come within Part 3 (Record of Decisions and Access to Documents) of the Openness of Local Government Bodies Regulations 2014. A written record must therefore be produced as soon as reasonably practicable after the decision has been made and, together with any background papers, must be made available for public inspection at the Corporation’s offices and on the Corporation’s website. The written record must be retained for six years and any background papers for four years. However, the Corporation is not required to disclose to the public any document or part of a document if it contains, or is likely to contain, exempt information. For more information on exempt information see Appendix 2 to this handbook.

## **INVESTIGATIONS**

### **RESPONSIBILITY**

44. Where the Monitoring Officer has decided that an allegation should be formally investigated, a different individual ("the Investigating Officer") will be responsible for that investigation. The Monitoring Officer will appoint the Investigating Officer, in consultation with the Chairman of the Standards Committee, the Chief Commoner, one of the Aldermanic Chairmen and one Independent Person. The Investigating Officer may be another officer from the Comptroller & City Solicitor's Department, or another Chief Officer of the Corporation. Where appropriate the Investigating Officer may be assisted by an external investigator. The Monitoring Officer will write to the complainant and the subject member to advise them of the person who will be responsible for conducting the investigation.

### **PROCEDURE**

45. Investigations will be conducted in accordance with the relevant protocol, which is included at Appendix 3 to this handbook.
46. There are many factors that can affect the time it takes to complete an investigation. However investigations must be carried out, and a report on the investigation completed, within three months of the original complaint being assessed. In the report, the Investigating Officer will conclude whether there is a case to answer i.e. whether there is or is not evidence of a breach of the code of conduct. The report will include all of the relevant evidence that the Investigating Officer has relied upon in coming to this conclusion. The hearing will normally be held within three months of receipt of the report.

## **HEARINGS**

### **RESPONSIBILITY**

47. The Standards Committee will hear and determine any allegation that a member has failed, or may have failed, to comply with the code of conduct. However, in order to carry out its functions efficiently and effectively, and to avoid any conflicts of interest, the Standards Committee will normally conduct hearings through a Hearing Sub-Committee. The Standards Committee and its Hearing Sub-Committee are subject to the Corporation's standing orders in the normal way.
48. The Hearing Sub-Committee will normally consist of four members of the Standards Committee, including three elected members of the Corporation and one non-voting co-opted member. The selection of the Hearing Sub-Committee is delegated to the Town Clerk in consultation with the Chairman of the Standards Committee. The quorum will be three voting members. The Hearing Sub-Committee will take into account the views of an Independent Person.

## **SUBJECT MEMBER CONSULTING WITH INDEPENDENT PERSON**

49. The views of an Independent Person may also be sought by the subject member at the hearing stage. A subject member exercising this right will again be entitled to consult confidentially with an Independent Person who has not been and will not be involved in the hearing of the complaint.

## **PUBLIC ACCESS TO MEETINGS AND PAPERS**

50. Meetings of the Hearing Sub-Committee are subject to the same provisions regarding public access to meetings as any other Committee. Under section 100A of the Local Government Act 1972, meetings shall be open to the public except to the extent that they are excluded. The Hearing Sub-Committee may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information. For more information on exempt information see Appendix 2 to this handbook.
51. Meetings of the Hearing Sub-Committee are also subject to the same provisions regarding public inspection of agendas, reports and background papers prior to a meeting as any other Committee, under section 100B and section 100D of the Local Government Act 1972. However, reports and background papers may be excluded from public inspection where they are likely to be considered in non-public session. In addition, the Corporation will not publish the agendas, reports and background papers for meetings of the Hearing Sub-Committee on its website.

## **PRE-HEARING PROCESS**

52. A pre-hearing process shall be used to identify the issues, including areas of disputed fact, and to decide what (if any) witnesses are required to attend the hearing, unless all parties consider this unnecessary. A copy of the pre-hearing checklist is included at Appendix 4 to this handbook.

## **HEARING PROCEDURE**

53. Both the complainant and the subject member may be legally represented and they, or their representatives, will be allowed to question witnesses, subject to the Chairman's discretion to manage the hearing in a fair and efficient manner. A copy of the hearing procedure is included at Appendix 5 to this handbook.
54. The burden of proof rests on the complainant to establish that there has been a breach of the code of conduct, rather than on the subject member to disprove this. The question whether there has been a breach of the code of conduct must be answered on the balance of probabilities.

## **FINDINGS**

55. Following the hearing, the Hearing Sub-Committee will 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.

56. If the Hearing 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.

## **SANCTIONS**

57. 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) recommending removal of that member from a particular committee or committees (including sub-committees);
- (iv) the Hearing Sub-Committee may also consider the suitability of other action.

## **CENSURE**

58. Censure means a formal expression of severe disapproval, and is distinct from a simple finding that there has been a breach of the code of conduct.

## **WITHDRAWAL OF CORPORATION HOSPITALITY**

59. Corporation hospitality includes committee lunches and dinners, drinks receptions, state banquets, etc. This sanction will normally only be considered where relevant to the nature of the complaint.

## **REMOVAL FROM COMMITTEE**

60. 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. This sanction will only be considered where proportionate and relevant to the nature of the complaint.

## **OTHER ACTION**

61. 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.

## **PUBLICATION OF DECISIONS FOLLOWING A HEARING**

62. After the Hearing Sub-Committee has reached a decision, it will write to the complainant and the subject member to advise them of the outcome within 10 working days. The decision letter will include:-
- (i) The main points of the matter considered;
  - (ii) The decision reached;
  - (iii) Clear and concise reasons for the decision in relation to breach; and
  - (iv) Clear and concise reasons for the decision in relation to sanction (if appropriate).
63. Meetings of the Hearing Sub-Committee are subject to the same provisions regarding public access to information following a meeting as any other Committee. Therefore, under section 100C of the Local Government Act 1972, the following documents will be made available for the public to inspect at the Corporation's offices for six years from the date of the meeting:-
- (i) a copy of the agenda for the meeting;
  - (ii) a copy of any report considered in public session;
  - (iii) the minutes of the proceedings held in public session;
  - (iv) a written summary of the proceedings held in non-public session (excluding exempt information);

and under section 100D of the Local Government Act 1972 a copy of the background papers for any report considered in public session will be made available for the public to inspect at the Corporation's offices for four years from the date of the meeting.

64. The outcome will also be reported to the next meeting of the Standards Committee but the Corporation will not automatically publish the minutes and/or written summary and any other documents available for public inspection on its website, or further disseminate the decision. The Hearing Sub-Committee will decide whether a formal announcement is called for as to its findings and any sanctions imposed. This might, for example, take the form of a notice on the

members' notice board, a statement to the Court of Common Council and/or a statement on the Corporation's website.

65. In the absence of a finding that a subject member has breached the code of conduct there will be a presumption against a formal announcement being made. Where the Hearing Sub-Committee finds that a subject member has breached the code of conduct, there will be a presumption in favour of a formal announcement being made. However, the Hearing Sub-Committee will have regard to all of the circumstances of the case including:
- (i) the nature of the allegation(s);
  - (ii) any information already in the public domain;
  - (iii) where relevant, the proximity of any election;
  - (iv) the effect of publication on the subject member;
  - (v) the views of the parties; and
  - (vi) the public interest.
66. Any formal announcement will be delayed until the appeal time limit expires and no appeal is received. If an appeal is received, any decision as to whether a formal announcement is called for will pass to the Standards Appeal Committee, once the appeal has been determined.

## **APPEALS**

### **RESPONSIBILITY**

67. The Standards Appeal Committee will determine any appeal from a complainant or subject member from a decision of the Hearing Sub-Committee. Where unavailable, or conflicted, the Chief Commoner may be represented on the Standards Appeal Committee by a former Chief Commoner; the Aldermanic Chairmen may be represented by an Alderman passed the Chair; and the other ex officio members may be represented by their respective Deputy Chairmen. The quorum will be three members. The Standards Appeal Committee is subject to the Corporation's standing orders in the normal way. The Standards Appeal Committee will take into account the views of an Independent Person; preferably one who was not involved at the assessment or hearing stage.

### **MAKING AN APPEAL**

68. If a subject member is aggrieved by a decision of the Hearing Sub-Committee they are entitled to appeal to the Standards Appeal Committee. This may relate either to a finding that there has been a breach of the code of conduct and/or in relation to any sanction imposed. A complainant is also entitled to appeal to the Standards Appeal Committee if aggrieved by a finding that there has not been a breach of the code of conduct. Written notice of intention to appeal must be received by the Monitoring Officer within 14 days from the date that the appellant received the decision letter of the Hearing Sub-Committee. Full written details of

the reasons for the appeal must then be received by the Monitoring Officer within a further 14 days.

## **RESPONDING TO AN APPEAL**

69. The Monitoring Officer will forward the full written details of any appeal to the respondent and invite them to submit their own written comments in response to the Standards Appeal Committee. Any written response must be received by the Monitoring Officer within 14 days from the date that the respondent received the full written details of the appeal.

## **SUBJECT MEMBER CONSULTING WITH INDEPENDENT PERSON**

70. The views of an Independent Person may also be sought by the subject member at the appeal stage. A subject member exercising this right will again be entitled to consult confidentially with an Independent Person who has not been and will not be involved in the determination of the appeal.

## **PUBLIC ACCESS TO MEETINGS AND PAPERS**

71. Meetings of the Standards Appeal Committee are subject to the same provisions regarding public access to meetings as any other Committee. Under section 100A of the Local Government Act 1972, meetings shall be open to the public except to the extent that they are excluded. The Standards Appeal Committee may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information. For more information on exempt information see Appendix 2 to this handbook.
72. Meetings of the Standards Appeal Committee are also subject to the same provisions regarding public inspection of agendas, reports and background papers prior to a meeting as any other Committee, under section 100B and section 100D of the Local Government Act 1972. However, reports and background papers may be excluded from public inspection where they are likely to be considered in non-public session. In addition, the Corporation will not publish the agendas, reports and background papers for meetings of the Standards Appeal Committee on its website.

## **APPEAL PROCEDURE**

73. The Standards Appeal Committee may adopt such procedure as it considers appropriate having regard to the nature of the case. The Standards Appeal Committee will normally make its decision on any appeal on the papers and will not hold a hearing *de novo* (a completely new hearing) of the whole matter. However, the Standards Appeal Committee may decide to hear further oral evidence in a particular case if it deems this necessary. If the Standards Appeal Committee does decide to hear further oral evidence then the procedure will as far as possible follow the hearing procedure included at Appendix 5 to this handbook with any necessary modifications.

## **FINDINGS**

74. Having due regard to the decision of the Hearing Sub-Committee, the Standards Appeal Committee may substitute any alternative decision that it considers is appropriate, being a decision that the Hearing Sub-Committee had the power to make. The Standards Appeal Committee will normally complete its review of the decision within 30 working days following receipt of the full written details of the appeal. There is no further right of appeal against a decision of the Standards Appeal Committee.

## **PUBLICATION OF APPEAL DECISIONS**

75. After the Standards Appeal Committee has reached a decision, it will write to the complainant and the subject member to advise them of the outcome. The decision letter will include:-

- (i) The main points of the matter considered on appeal;
- (ii) The decision reached;
- (iii) Clear and concise reasons for the decision in relation to breach (if appropriate); and
- (iv) Clear and concise reasons for the decision in relation to sanction (if appropriate).

76. Meetings of the Standards Appeal Committee are subject to the same provisions regarding public access to information following a meeting as any other Committee. Therefore, under section 100C of the Local Government Act 1972, the following documents will be made available for the public to inspect at the Corporation's offices for six years from the date of the meeting:-

- (i) a copy of the agenda for the meeting;
- (ii) a copy of any report considered in public session;
- (iii) the minutes of the proceedings held in public session;
- (iv) a written summary of the proceedings held in non-public session (excluding exempt information);

and under section 100D of the Local Government Act 1972 a copy of the background papers for any report considered in public session will be made available for the public to inspect at the Corporation's offices for four years from the date of the meeting.

77. The outcome will also be reported to the next meeting of the Standards Committee but the Corporation will not automatically publish the minutes and/or written summary and any other documents available for public inspection on its website, or further disseminate the decision. The Standards Appeal Committee will decide whether a formal announcement is called for as to its findings and any sanctions imposed. This might, for example, take the form of a notice on the members' notice board, a statement to the Court of Common Council and/or a statement on the Corporation's website.



78. In the absence of a finding that a subject member has breached the code of conduct there will be a presumption against a formal announcement being made. Where the Standards Appeal Committee finds that a subject member has breached the code of conduct, there will be a presumption in favour of a formal announcement being made. However, the Standards Appeal Committee will have regard to all of the circumstances of the case including:

- (i) the nature of the allegation(s);
- (ii) any information already in the public domain;
- (iii) where relevant, the proximity of any election;
- (iv) the effect of publication on the subject member;
- (v) the views of the parties; and
- (vi) the public interest.



# 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 copy of the complaint. We are unlikely to withhold your identity or any details of your complaint unless you have reasonable grounds for believing that you will be at risk of physical or other harm or detriment if your identity is disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not be automatically granted. The Monitoring Officer will consider the request in consultation with senior Members and one Independent Person. 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](mailto: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](mailto: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

## EXEMPT (NON-PUBLIC) INFORMATION

### **THE DESCRIPTIONS OF EXEMPT INFORMATION**

The descriptions of exempt information under Part VA and Schedule 12A to the Local Government Act 1972 are as follows:-

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes-
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Where, in the opinion of the proper officer, the consideration of a complaint at a meeting is likely not to be open to the public, in order to prevent the disclosure of exempt information, any related papers will be treated as non-public pending a formal decision on the matter. This is in accordance with section 100B(2) of the Local Government Act 1972 and so as to avoid pre-judging the matter.

### **THE PUBLIC INTEREST TEST**

However, the types of information set out above are only exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. If the public interest is equal on both sides, then the information must be disclosed – in this sense there is an assumption in favour of disclosure.

The Corporation must consider the balance of the public interest in each individual case, and therefore it is not possible to have a blanket ruling as to whether information relating to a complaint will be exempt or not.

There is no statutory definition of what constitutes the 'public interest'. The public interest can cover a wide range of values and principles relating to the public good, or what is in the best interests of society, and there are often arguments to be made on both sides. A non-exhaustive list of relevant factors to be considered are set out below:-

## **GENERAL PUBLIC INTEREST IN TRANSPARENCY**

There is a general public interest in promoting transparency, accountability, public understanding and involvement in the democratic process.

## **SPECIFIC PUBLIC INTEREST IN THE COMPLAINT**

As well as the general public interest in transparency, which is always an argument for disclosure, there may also be a legitimate public interest in knowing the details of a particular complaint. For example, if the complaint relates to the misappropriation of public funds, or it is alleged that the subject member's conduct has impacted on public services.

## **DETERRENT EFFECT**

If members know – because the Corporation's policy is to publish in an appropriate case – that improper conduct, if it comes to light, will be exposed to the glare of public scrutiny then this, in and of itself, can act as a deterrent to misconduct in the first place.

## **OF INTEREST TO THE PUBLIC**

The public interest is not necessarily the same as what interests the public. The fact that a subject member's actions are being discussed, for example in the media, does not automatically mean that there is a public interest in disclosing the information.

## **THE VIEWS OF THE PARTIES**

The public interest test is concerned only with public interests, not private interests. However, the complainant and the subject member may be invited to make representations regarding the public interest in a particular case. For example, if neither has any concerns about information relating to the complaint being disclosed then it is unlikely that the exemption would be maintained.

## **INFORMATION ALREADY IN THE PUBLIC DOMAIN**

If a complaint relates to the conduct of the subject member at a public meeting, then it is unlikely to be treated as exempt because knowledge of the incident is already in the public domain. However if, for example, the conduct may have been caused by an underlying medical condition, then it is likely that this would be exempt information.

## **PRESENTING A 'FULL PICTURE'**

Similarly, there may be cases where allegations have been thoroughly aired, for example in the press and on social media; the coverage may have been partisan and not always accurate. It may be in the public interest to make the full facts known to the public, rather than having snippets referred to and innuendos drawn from those snippets.



## **EVIDENCE OF WRONGDOING**

It is not in the public interest for baseless accusations against members of the Corporation to be publicised. Therefore in order for information regarding a complaint to be disclosed, the suspicion of wrongdoing must normally amount to more than a mere allegation; there should be a plausible basis for the suspicion, even if it is not actually proven at that stage. It is not wrong or unfair in principle to publish allegations, as opposed to ultimate findings, but we will take into account the nature and depth of any investigations undertaken, and the strength of the case against the subject member.

Consequently, it is less likely that information regarding a complaint will be disclosed at the initial assessment stage, particularly where the Monitoring Officer has decided that no action should be taken. It is more likely that information will be disclosed if a subsequent investigation reveals a serious case to answer. It is more likely still that information will be disclosed if, after full consideration of all of the evidence at a hearing, or after any appeal, a subject member is found to have breached the code of conduct and a sanction is imposed.

## INVESTIGATIONS PROTOCOL

### Meeting with complainant

The Investigating Officer will interview the complainant to explore the complaint and identify supporting evidence and/or witnesses.

### Meeting with subject member

The Investigating Officer will interview the subject member to explore the complaint and identify supporting evidence and/or witnesses.

The subject member shall have the right to be accompanied by a person of their choice. This may be a lawyer although the process will be an interview with the subject member rather than a hearing involving advocacy.

### Interviewing witnesses

All requests for interviews will be made in writing and will include a summary of the matters that the Investigating Officer wishes to ask the witness about.

### Recording of interviews

All interviews will either be recorded, or a full written transcript taken, and the interviewee will be provided with a copy.

### Preparation of statements

The Investigating Officer may assist the parties and witnesses in the preparation of statements if they so wish, or they may choose to prepare their own statements.

### Confidentiality

All interview records, witness statements and other materials produced in the course of the investigation will only be used and disclosed in accordance with the procedures set out in this handbook.

### Retention of records

All interview records, witness statements and other materials produced in the course of the investigation will be retained by the Monitoring Officer for six years following the determination of the complaint and then destroyed.

### Provision of draft report

At least 14 days prior to submitting a final report to the Hearing Sub-Committee on whether there is or is not evidence of a breach of the code of conduct the Investigating Officer will provide a copy of his/her draft report to the parties for comment. The draft report will include all of the material gathered during the investigation that the Investigating Officer is intending to present to the Hearing Sub-Committee.

## PRE-HEARING CHECKLIST

Should the pre-hearing (and hearing) be held in public session?

Are the parties to be legally represented or accompanied, and if so by whom?

When and where is the hearing scheduled to start?

When is the hearing expected to end?

If a public hearing, can the room accommodate the number of people expected?

Are any special facilities required?

What are the issues to be determined at the hearing?

Which facts are agreed and which are in dispute?

What, if any, of the written evidence is agreed or not in issue?

Do either of the parties wish to introduce additional evidence that is not included in the Investigating Officer's report?

Which witnesses are to be called, by whom and in relation to what issue?

What is the extent of the cross-examination of each witness that is proposed?

Does the Chairman wish to limit the time for questioning?

What order should the witnesses be called in and when should they attend?

Are there any representations in relation to the hearing procedure?

## **HEARING SUB-COMMITTEE – HEARING PROCEDURE**

1. The Sub-Committee will open in public session. It is a matter for the Sub-Committee to determine whether it moves into confidential session with the press and public excluded, in accordance with the provisions of Part VA and Schedule 12A of the Local Government Act 1972. The views of the complainant and the subject member will be sought, if these have not already been received at the pre-hearing review.
2. The Chairman introduces the members of the Sub-Committee and others present, and explains the purpose of the hearing, the procedure to be followed and the nature of the meeting.
3. The complainant and the subject member may be legally represented if they wish, or accompanied by some other person, but will be expected to give evidence and answer any questions put to them personally.
4. The complainant and the subject member (and anyone representing or accompanying them) are invited to be present throughout the hearing; other witnesses will enter to give evidence and then withdraw.
5. The Investigating Officer presents his report (N.B. the Investigating Officer is not acting as 'prosecutor' or 'defence'). The Investigating Officer will then answer questions (if any) from the complainant, the subject member, the Independent Person and the Sub-Committee (in that order).
6. The complainant and then the subject member will be invited to make an opening statement which should be no more than ten minutes long.
7. The Chairman calls witnesses in the order agreed at the pre-hearing review, or otherwise in the order that their statements appear in the papers. The statements will be taken as read rather than read out. Witnesses will be asked to confirm that their statements are true.
8. Immediately after confirming the contents of their statement each witness will be invited to answer questions (if any) from the complainant, the subject member, the Independent Person and the Sub-Committee (in that order).
9. The Chairman has a discretion to manage the hearing in a fair and efficient manner and may therefore refuse to allow certain questions, or limit the time for questioning, in appropriate circumstances.
10. The views of the Independent Person in relation to the complaint will then be heard. The Independent Person will be invited to answer questions (if any) from the complainant, the subject member and the Sub-Committee (in that order).
11. There will then be an opportunity for the complainant and the subject member (in that order) to make any closing comments if they so wish. Again, these should be no more than ten minutes long.
12. The Investigating Officer, the complainant, the subject member, the Independent Person and any other persons present then withdraw to allow the Sub-Committee to consider the evidence and representations with the committee clerk and legal adviser and to take legal advice where necessary.
13. The Investigating Officer, the complainant, the subject member, the Independent Person and any other persons present are then invited to return and the Sub-

Committee announces its decision as to whether there has been a breach of the Code of Conduct.

14. If the Sub-Committee considers that there has been a breach of the Code it may invite any representations from the complainant and the subject member (in that order) on the appropriate sanction (censure of the member; withdrawal of Corporation hospitality for an appropriate period; or removal of the member from a particular committee or committees). The Sub-Committee will also seek the views of the Independent Person on the question of sanction. The Sub-Committee may ask the parties to withdraw again to allow it to consider the appropriate sanction, then invite them to return to hear the Sub-Committee's decision as to any appropriate sanction.
15. The Sub-Committee will endeavour to conclude the hearing in one day but, in exceptional circumstances, may at any stage adjourn the hearing to a different day. This may be necessary, for example, where one of the parties makes a request to introduce additional evidence at the hearing, and more time is needed to consider this. An adjournment may also be necessary where the Sub-Committee, having heard all of the evidence, requires more time to come to a decision.
16. The decision, together with the reasons for that decision, will be confirmed to the parties in writing following the hearing.
17. 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.