
STANDARDS COMMITTEE

Date: Tuesday, 22 March 2005 at 7.30 p.m.

**Committee Room 1
Civic Suite
Lewisham Town Hall
London SE6 4RU**

Enquiries to: Troy Robinson (tel. 020 8314 9365)

Councillors

Adefiranye
Eytle
Houghton
Morrison

Independent Members

S Hawkins
N Hameed
C Sullivan
G Butler

Members are summoned to attend this meeting

**Barry Quirk
Chief Executive
Lewisham Town Hall
Cattford
London SE6 4RU
Date: 15 March 2005**



INVESTOR IN PEOPLE

The public are welcome to attend our committee meetings, however, occasionally, committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

ORDER OF BUSINESS - PART 1 AGENDA

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STANDARDS COMMITTEE

Report Title

MINUTES

Key Decision			Item No. 1
Ward			
Contributors	CHIEF EXECUTIVE		
Class	Part 1	Date: 22 MARCH 2005	

Recommendation

It is recommended that the Minutes of the meeting of the Committee, which was open to the press and public, held on 11 November 2004, be confirmed and signed (copy attached.)

STANDARDS COMMITTEE

Report Title

DECLARATIONS OF INTERESTS

Key Decision			Item No. 3
Ward			
Contributors	CHIEF EXECUTIVE		
Class	Part 1	Date: 22 MARCH 2005	

Members are asked to make any declarations of personal interests or other interests they may have in relation to items on this agenda (if any). Members are reminded to make any declaration at any stage throughout the meeting if it then becomes apparent that this may be required when a particular item or issue is considered.

LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the STANDARDS COMMITTEE, which was open to the press and public, held at LEWISHAM TOWN HALL, CATFORD, SE6 4RU on THURSDAY, 11 NOVEMBER 2004 at 7.30 p.m.

Present

Councillors Adefiranye, Houghton and Morrison

Independent members: Sally Hawkins (Chair); and C Sullivan.

Apologies for absence were received from Councillor Eytle.

<u>Minute No.</u>	<u>Action</u>
1	<p>MINUTES (page</p> <p>RESOLVED that, subject to the inclusion of apologies for absence from Councillor Adefiranye, the Minutes of the meeting of the Committee held on 22 July 2004 be confirmed and signed.</p>
2	<p><u>DECLARATIONS OF INTERESTS</u></p> <p>None was declared.</p>
3	<p><u>CORPORATE COMPLAINTS PROCEDURE</u> (page</p> <p>Ralph Wilkinson, Head of Accessible Services, gave a presentation on developments in the Council's complaint handling processes and future plans on handling corporate complaints.</p> <p>Questions were raised by members of the committee on a variety of issues arising from the presentation, namely:</p> <ul style="list-style-type: none">• the assistance given to persons wishing to complain for whom English is not their first language; and• whether there was a process to monitor holding responses to prevent an abuse of the process. <p>RESOLVED that the progress to date and the workplan set out in Appendix 11 be noted.</p>

4 CONSULTATION ON EMPLOYEE CODE OF CONDUCT (page

Christine Bushell, Personnel and Development Section, introduced this report, advising the Committee of the current consultation exercise being carried out by the Government on a new statutory Code of Conduct for Employees, which will automatically be incorporated into individual employment contracts and the Council's Standing Orders.

The Committees view on the indicative response which was appended to the report was sought.

Kath Nicholson, Head of Law and Monitoring Officer explained that the proposed Code was very brief and it is intended to flesh this out with appropriate guidance.

It was noted that the suggested response to Question 6 contained an omission and should properly refer to actions that do not conflict with the above provisions.

Clarification was sought on the suggested response to Question 10. Kath Nicholson explained that the requirement for a list of interests and/or hospitality /benefits/ gifts was parallel to the Members' Register of Interests.

There was concern in relation to the suggested response to Question 13. It was explained that it would very much be dependent on the degree of misconduct. There is an obligation to report and deal with incidents of misconduct, however with minor transgressions this may not necessarily occur.

It was agreed that the suggested response be reviewed.

It was also noted that there needs to be a distinction between policy decisions and individual staffing decisions and it was agreed that the phraseology should be changed as it currently seems quite restrictive.

RESOLVED that

- (i) the Council support the introduction of a statutory code of conduct for employees;
- (ii) the proposed response to the specific

issues raised in the consultation document as outlined in Appendix B be supported; and

(iii) the Committee's views on the proposed response set out above be agreed.

5 WHISTLEBLOWING REVIEW (page

Kath Nicholson, Head of Law and Monitoring Officer, introduced the report and explained that there was an editing problem at Cases B and C, in that elements of Case B appeared under section headed Case C.

She went on to explain that there were no major cases founded under the Whistleblowing procedure. It also was the case that the procedures are often used in cases where there is a dispute between parties. However, the Committee was assured that all referrals are treated very seriously.

A query was raised as to the publicity of the procedures as the member was not aware that such procedures existed. Kath Nicholson responded to the steps previously taken to publicise these procedures and to the suggested steps to promote the new policy.

It was also questioned whether the procedures applied to members. It was confirmed that it does apply and that the applicability of the procedure was very wide.

RESOLVED that

(i) the referrals under the Council's Whistleblowing policy set out in the report and the action taken in relation to them be noted;

(ii) the Whistleblowing policy be amended in accordance with the proposals set out in Appendix 1; and

(iii) the Head of Law be asked to ensure that the new policy is promoted in

accordance with paragraph 6 of the report.

6 FINDING BY THE ETHICAL STANDARDS OFFICER (page

Kath Nicholson, Head of Law and Monitoring Officer, informed the Committee of the decision of the Ethical Standards Officer relating to a referral to the Standards Board in respect of Parmavir Singha who had recently resigned from the Council.

The Ethical Standards Officer had decided that the matter should be referred to the Adjudication Panel for England for adjudication by a case tribunal.

RESOLVED that

(i) the position in relation to the referral to the Standards Board be noted; and the matter be considered again when the findings of the Adjudication Panel of the Standards Board are referred to the Committee; and

(ii) the Monitoring Officer be asked to present a report to the Committee following receipt of the findings of the Adjudication Panel.

7 CORPORATE GOVERNANCE (page and Appendix page

Kath Nicholson, Head of Law and Monitoring Officer introduced the report and explained that this was a review of the Council's performance in respect of the Code of Corporate Governance which had previously been endorsed by the Committee. The local Code of Corporate Governance appeared at Appendix 1 of the report.

It was explained that Appendix 2 was an assessment of the Council's compliance against each of the recommendations as proposed by the CIPFA /SOLACE

guidance. The Committee was also informed that in the recent Corporate Performance Assessment the Council was awarded a rating of 4 which is the highest level of performance.

The Committee welcomed the report and expressed the view that it was a great start. There were however a couple of observations:

- it would be helpful if performance information put in the public domain could be made as simple as possible using a commentary if appropriate;
- the report deals with monitoring of processes but the Council now needs a strategy to use such information in a planned and anticipated way.

RESOLVED that

(i) the outcome of the review be noted and the Committee's comments set out above be agreed; and

(ii) the report be referred to full Council for consideration.

DATE OF NEXT MEETING

To be arranged.

The meeting ended at 8:35 p.m.

Chair

STANDARDS COMMITTEE

Report Title

EXCLUSION OF THE PRESS AND PUB

Key Decision			Item No. 3
Ward			
Contributors	HEAD OF LAW		
Class	Part 1	Date: 22 MARCH 2005	

It is recommended that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 14 of Part 1 of Schedule 12(A) of the Act:-

101 Finding of the Adjudication Panel for England

Committee	STANDARDS COMMITTEE	Item No	3
Report Title	THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION)(AMENDMENT) REGULATIONS 2004		
Ward			
Contributors	HEAD OF LAW		
Class		Date	22 MARCH 2005

1. Summary

This report presents to the Committee the details of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004. It further sets out the implications of new regulations which enable the Standards Board for England to refer complaints of member misconduct to the Monitoring Officer for local investigation instead of investigation by the Standard Board for England's Ethical Standards Officers. This report also contains guidance from the Standards Board for England on Standards Committee determinations.

2. Purpose of the report

To bring to the attention of the Standards Committee the amendments imposed by the Regulations for the local investigation of allegations of misconduct by members of the Council.

3. Recommendation

3.1 To note the contents of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004.

3.2 *To note that a model procedure for local investigations and an amended procedure for local Standards Committee hearings will be presented to the next meeting of the Committee.???????*

4. The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004

4.1 These Regulations came into force on 4th November 2004 and amend the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 so as to make provision regarding those cases where the Ethical Standards Officer (ESO) decides not to carry out a full investigation but instead refers the matter to the Monitoring Officer of the Authority to investigate. The Monitoring Officer's report is then referred to the Authority's Standards Committee.

- 4.2 The 2004 Regulations enable Monitoring Officers to conduct local investigations into allegations of member misconduct on reference from an Ethical Standards Officer . The Monitoring Officer may nominate a person to undertake the investigation to enable the Monitoring Officer to continue to advise the Standards Committee. Monitoring Officers are required to have regard to guidance issued by the Standards Board when conducting a local investigation.
- 4.3 The 2004 Regulations also extend the rules on access to meetings, exempt information and documents to meetings of Standard Committees (or their Sub-Committees) where a report from a Monitoring Officer, following an investigation, is being considered. There are also provisions in respect of prohibiting the disclosure of information obtained by ESOs to cover Monitoring Officers, their deputies or nominees in carrying out such investigations.

Receipt of the Complaint

- 4.4 Under the new Regulations, where a case is referred by the Standards Board for investigation it goes to an ESO who decides whether to allocate it to one of the Standards Boards own investigators or to refer it to the authority's Monitoring Officer. The ESO will not refer matters for local investigation where the serious nature of the matter means that it is likely to require a sanction in excess of the Standard's Committee's maximum sanction of three months suspension.
- 4.5 On receipt of a referred complaint the Monitoring Officer will, unless otherwise directed by the ESO, notify the member concerned and the complainant that the matter has been referred to jher for investigation and will arrange for the investigation.
- 4.6 The Standards Board Guidance recommends that the Monitoring Officer notify the members of the Standards Committee in a confidential memorandum that she is conducting an investigation, which should not inform them of the identity of the member or the complainant in order to avoid any risk of prejudicing any subsequent hearing.

Appointment of the Investigating Officer

- 4.7 The Monitoring Officer remains the chief policy adviser to the Standards Committee and the primary contact for members who have enquiries on standards issues, such as whether they have a personal or prejudicial interest in a particular matter. That role is incompatible with personally undertaking the Investigating Officer role, which includes presenting the investigation report at any local Standards hearing, so the Monitoring Officer may need to appoint another person to undertake the investigation. In appropriate cases the Monitoring Officer may be able to appoint another Council officer to undertake the investigation but in

sensitive cases it may be appropriate to appoint an outside investigator, either borrowing from another local authority for the purpose of appointing an experienced commercial investigator for the purpose.

- 4.8 The Investigating Officer will be required to produce a full report, setting out his/her conclusions as to the facts of the matter and whether the Councillor did or did not fail to comply with the Code of Conduct.

Procedure for Local Investigations

- 4.9 The Standards Board have indicated that they will be publishing a separate guide to conducting investigations.

- 4.10 Where the Investigating Officer concludes that there has not been a failure to comply with the Code of Conduct, he/she will report to the Standards Committee. The Standards Committee will consider the report and any representations from the Councillor and will either

- (i) Accept the Investigation Officer's conclusions and take no further action, or
- (ii) Resolve that the matter should be considered at a formal hearing. Members should note that this is not a finding of fault on the part of the Councillor but merely a conclusion that they are not prepared at that stage to accept the Investigating Officer's conclusions and that the matter merits examination at a formal hearing.

- 4.11 Where the Investigating Officer concludes that there has been a failure to comply with the Code of Conduct, the matter must go to formal hearing without such a preliminary step.

- 4.12 If the matter goes to a formal hearing that hearing will be conducted in the same manner as a formal hearing on an ESO's report except that the Investigating Officer takes the place of the Standards Board representative in presenting the report and introducing any relevant evidence and witnesses.

Reference back to the Standards Board

- 4.13 Matters will be referred for local investigation at an early stage and it is therefore possible that during the course of the investigation it becomes apparent that the conduct complained of is much more serious than first envisaged. The recommendations (and the recommended investigation procedure) therefore provide that, at any time during the course of an investigation, the Investigating Officer can report to the Monitoring Officer who can request the ESO to resume responsibility for the investigation. The final decision to resume such responsibility rests with the ESO.

Local Hearings

- 4.14 The Regulations also make certain changes in respect of the conduct of local hearings.

Timing

- 4.15 Where a matter is the subject of local investigation, the hearing must be held (i.e. completed) within three months of the date on which the Investigating Officer presents his or her final report to a Monitoring Officer.

Additional Evidence

- 4.1 The Regulations also now state specifically that if the Standards Committee in the course of a hearing feels that it needs additional evidence in order to come to a determination of the matter, it can adjourn and request the Monitoring Officer to provide such further information or undertake further investigation, but the Committee can only do so once on any one matter.

Sanctions

- 4.17 The Regulations now make it clear that the Committee has the flexibility to combine sanctions. Accordingly the Committee can now set the sanctions in any particular case as any one, or combination, of the following:-

- (a) Censure
- (b) Restriction of access to Council premises or use of Council resources for up to a maximum of three months
- (c) A requirement to give a written apology.
- (d) A requirement to undergo training.
- (e) A requirement to undertake conciliation.
- (f) Suspension or partial suspension for a period of up to three months, and
- (g) Suspension or partial suspension until the Councillor undertakes training or conciliation or provides a written apology.

Reference back to the Standards Board

- 4.18 The Regulations also allow the Standards Committee to ask the Standards Board to resume responsibility for a matter at any stage, this would normally be where the Investigating Officer's report identifies conduct of such seriousness that the Committee believes that its maximum sanctions would be inadequate, but it could be relevant if so many of the Standards Committee were conflicted out of any hearing on a matter that it would not be possible to hold a hearing, or if the Committee felt that local circumstances made it impossible to hold a proper and impartial hearing on the matter. Such a request must be directed to the

ESO who have the final decision whether to resume responsibility for the case. Such a request cannot be made once the hearing has been concluded.

5. Legal Implications

These are dealt with in the body of the report

6. Financial Implications

The Council is liable for the costs of investigations. However, the level of cost is currently unknown. It may become necessary for the Monitoring Officer to appoint external investigators and legal advisers for individual case hearings. There will also be some costs associated with making the administrative arrangements for hearings and the publication of the Committee's findings in respect of investigations referred to it

7. Equalities and Environmental Implications

There are no specific implications arising from this report.

STANDARDS COMMITTEE

Report Title

ETHICAL GOVERNANCE AUDIT

Key Decision			Item No. 5
Ward			
Contributors	HEAD OF LAW		
Class	Part 1	Date: 22 MARCH 2005	

The Head of Law will report orally at the meeting.

Committee	STANDARDS COMMITTEE	Item No.	7
Report Title	TRAINING PROGRAMME		
Contributors	<u>HEAD OF LAW</u>		
Class	Part 1	Date	22 March 2005

1. Purpose of the Report

The purpose of this report is to inform members of the Committee of provision of training on issues of ethics and probity and to update members as to future training.

2. Policy context

The Council's modernisation agenda has at its heart the highest standards of conduct in public life. The promotion of such standards is key to the accountability of the Council and its members and local people.

3. Recommendation

Members of the Committee are asked to note the report and to suggest any training requirements they deem appropriate to assist their responsibilities as members of the Standards Committee.

4. Training Provision Update

- 4.1 Since the previous report on training which was considered at the meeting in March 2004 the Head of Law has provided two half day training sessions for officers on the current ethical framework. Including the members Code of Conduct and the draft Employee Code of Conduct The training which was well attended. A copy of the presentation is appended to this report.
- 4.2 The Head of Law/Monitoring Officer has arranged for relevant ethical governance developments to be reported to members of the Council and senior officers. Additionally, any relevant Standards Board Guidance is sent to members and senior officers.
- 4.3 Members of this Committee will recall the visit and presentation of David Prince, Chief Executive of the Standards Board for England to this Committee at its meeting in July last year. The visit and presentation was mutually beneficial and David Prince welcomed the opportunity of viewing a Standards Committee in action.

- 4.4 The Standards Board for England are currently running a series of roadshows over the first half of the year to provide an opportunity to share experiences and to network with other standards committee members. A programme of the roadshow is appended to this report. The roadshow is visiting eleven locations across the country and each authority is entitled to send three attendees. There is no charge for attending the event. The roadshow will be visiting London on 21st June 2005 the venue is yet to be confirmed. Any member wishing to attend the road show should inform the clerk to the Committee.
- 4.5 Members of this Committee are referred to the conference for the Fourth Annual assembly of Standards Committee. This year's conference will focus on local responsibility for investigations, hearings and public confidence in local democracy. The conference is scheduled for the 5th and 6th September and will be held in Birmingham. Details are attached to this report. Members are requested to note the conference details and to confirm whether they wish to attend.
- 4.6 Members of this Committee are requested to suggest any other training or development needs that will assist them in the performance of their responsibilities as members of this Committee.

5. Legal, Financial and Human Rights Implications

There are no specific implications arising from this report.