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Standards Committee Members

Members of the committee, listed below, are summoned to attend the meeting to be held on Thursday, 1 March 2012.

Barry Quirk, Chief Executive
February 22 2012

Councillor Duwayne Brooks	Gill Butler
Councillor Julia Fletcher	Sally Hawkins
Councillor Alan Hall	David Roper- Newman
Councillor Stella Jeffrey	Cathy Sullivan
Councillor Pauline Morrison	Leslie Thomas
Councillor Sam Owolabi-Oluyole	1 vacancy

Standards Committee Agenda

Thursday, 1 March 2012

7.00 pm, Civic Suite, Catford SE6 4RU

Civic Suite

Lewisham Town Hall

London SE6 4RU

For more information contact: Troy Robinson 0208 3149365 (Tel:)

Part 1

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Agenda Item 1

STANDARDS COMMITTEE		
Report Title	DECLARATIONS OF INTERESTS	
Key Decision		Item No. 1
Ward		
Contributors	Chief Executive	
Class	Part 1	Date: 1 March 2012

Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

Personal interests

There are two types of personal interest :-

- (a) an interest which you must enter in the Register of Members' Interests*
- (b) an interest where the wellbeing or financial position of you, (or a "relevant person") is likely to be affected by a matter more than it would affect the majority of inhabitants of the ward or electoral division affected by the decision.

*Full details of registerable interests appear on the Council's website.

("Relevant" person includes you, a member of your family, a close associate, and their employer, a firm in which they are a partner, a company where they are a director, any body in which they have securities with a nominal value of £25,000 and (i) any body of which they are a member, or in a position of general control or management to which they were appointed or nominated by the Council, and (ii) any body exercising functions of a public nature, or directed to charitable purposes or one of whose principal purpose includes the influence of public opinion or policy, including any trade union or political party) where they hold a position of general management or control,

If you have a personal interest you must declare the nature and extent of it before the matter is discussed or as soon as it becomes apparent, except in limited circumstances. Even if the interest is in the Register of Interests, you must declare it in meetings where matters relating to it are under discussion, unless an exemption applies.

Exemptions to the need to declare personal interest to the meeting

You do not need to declare a personal interest where it arises solely from membership of, or position of control or management on:

- (a) any other body to which you were appointed or nominated by the Council
- (b) any other body exercising functions of a public nature.

In these exceptional cases, unless your interest is also prejudicial, you only need to declare your interest if and when you speak on the matter .

Sensitive information

If the entry of a personal interest in the Register of Interests would lead to the disclosure of information whose availability for inspection creates or is likely to create a serious risk of violence to you or a person living with you, the interest need not be entered in the Register of Interests, provided the Monitoring Officer accepts that the information is sensitive. Where this is the case, if such an interest arises at a meeting, it must be declared but you need not disclose the sensitive information.

Prejudicial interests

Your personal interest will also be prejudicial if all of the following conditions are met:

- (a) it does not fall into an exempt category (see below)
- (b) the matter affects either your financial interests or relates to regulatory matters - the determining of any consent, approval, licence, permission or registration
- (c) a member of the public who knows the relevant facts would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

Categories exempt from being prejudicial interest

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

Effect of having a prejudicial interest

If your personal interest is also prejudicial, you must not speak on the matter. Subject to the exception below, you must leave the room when it is being discussed and not seek to influence the decision improperly in any way.

Exception

The exception to this general rule applies to allow a member to act as a community advocate notwithstanding the existence of a prejudicial interest. It

only applies where members of the public also have a right to attend to make representation, give evidence or answer questions about the matter. Where this is the case, the member with a prejudicial interest may also attend the meeting for that purpose. However the member must still declare the prejudicial interest, and must leave the room once they have finished making representations, or when the meeting decides they have finished, if that is earlier. The member cannot vote on the matter, nor remain in the public gallery to observe the vote.

Prejudicial interests and overview and scrutiny

In addition, members also have a prejudicial interest in any matter before an Overview and Scrutiny body where the business relates to a decision by the Executive or by a committee or sub committee of the Council if at the time the decision was made the member was on the Executive/Council committee or sub-committee and was present when the decision was taken. In short, members are not allowed to scrutinise decisions to which they were party.

Agenda Item 2

STANDARDS COMMITTEE		
Report Title	MINUTES	
Key Decision		Item No. 2
Ward		
Contributors		
Class	Part 1	Date: 1 MARCH 2012

Recommendations

It is recommended that the Minutes of the meeting of the Committee , which was open to the press and public held on 7th December 2011 be confirmed and signed (copy attached).

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 WEDNESDAY 7 DECEMBER 2011 at 7:30 p.m.

Present

Independent members: Gill Butler , Sally Hawkins and David Roper-Newman.

Councillors Julia Fletcher, Stella Jeffrey and Sam Owalabi- Oluyole.

Apologies received from Duwayne Brooks, Alan Hall, Pauline Morrison, Cathy Sullivan and Leslie Thomas

<u>Minute No.</u>	<u>Action</u>
1	<p style="text-align: center;"><u>MINUTES</u></p> <p>RESOLVED that the minutes of the meeting held on 21st June 2011 be approved as a correct record and signed by the Chair.</p>
2	<p style="text-align: center;"><u>DECLARATIONS OF INTEREST</u></p> <p>None was declared.</p>
3	<p style="text-align: center;"><u>ANNUAL COMPLAINTS REPORT</u></p> <p>Peter Gadsdon, Head of Strategy and Performance , Customer Services, presented the report which provided an update on all stages of the Council's complaints performance for 2010/11. A summary of the Independent Adjudicator's report and a summary of the Local Government Ombudsman's Annual review was also considered.</p> <p>RESOLVED that the report be noted.</p>
4	<p style="text-align: center;"><u>COMPLIANCE WITH MEMBER CODE OF CONDUCT</u></p> <p>Kath Nicholson, Head of Law and monitoring Officer presented the report and explained that the report provides information about the extent of compliance with the Member Code of</p>

Minute
No.

Action

Conduct.

RESOLVED that the report be noted;

the Council's Whistleblowing
Policy be amended as set out in
paragraph 8 and Appendix 2.

5 LOCALISM ACT 2011 – A BRIEFING BY THE
HEAD OF LAW

Kath Nicholson, Head of Law and Monitoring Officer gave a presentation on the ethical standards provisions of the recently enacted Localism Act 2011. Kath Nicholson confirmed that the non-voting co-optees will not be captured by the relevant provisions unless the adopted Member Code of Conduct says so.

Kath Nicholson also explained that we are currently awaiting Regulations which will set out the detail of the new legislative provision. i.e the definition of "pecuniary interests."

Kath Nicholson also explained that the Council's Constitution Working Party resolved that it would wish to keep some form of Standards Committee.

It was the general consensus of the Committee that the Council should maintain the standards in the current Member Code of Conduct on a voluntary basis unless there is good reason to depart from it.

In relation to investigations Kath Nicholson advised that in the light of the Localism Act 2011 we would revert to the position prior to 2000. There would be some flexibilities in the investigations procedure and there would not necessarily be a 3 stage process. The Council would be in a position to adopt a more flexible approach.

RESOLVED i) that the report be noted;

ii) the Council keep the Code unless good reason to depart from it;

iii) adopt an investigations procedure that promotes confidence and embodies flexibility; and

iv) officers bring more detailed reports on proposals for a new Code of Conduct and on proposals for the arrangements for the investigation of complaints at the appropriate time.

DATE OF NEXT MEETING

To be arranged

The meeting ended at 8:45pm

Agenda Item 3

STANDARDS COMMITTEE		
Report Title	ANNUAL REVIEW OF WHISTLEBLOWING POLICY AND REFERRALS	
Key Decision		Item No. 3
Ward		
Contributors		
Class	Part 1	Date: 1 MARCH 2012

1 Summary

This report sets out the referrals made under the Council's Whistleblowing Policy since 8th March 2011 and the action taken in response.

2 Recommendation

To note the referral and the action taken.

3 Background

3.1 The Council issued a whistleblowing policy in 1998. It has been reviewed regularly since then, most recently in December 2011. A copy of the current policy appears at Appendix 1. It is not proposed to change the policy now. Its purpose is to provide a means by which complaints of malpractice or wrongdoing can be raised by those who feel that other avenues for raising such issues are inappropriate, whether because they fear repercussions or for some other reason. As members of the Committee will see, the policy confirms that as far as possible, those raising complaints will be treated confidentially should they so wish. Members will also note that complaints may be raised in relation to councillors, employees, contractors or suppliers.

3.2 The Head of Law, as the Council's Monitoring Officer, receives referrals under the procedure. She then either investigates personally or refers to another senior officer to investigate as appropriate, depending on the circumstances of the complaint.

4 Referrals

4.1 There have been no referrals under the policy since the last report considered by this Committee.

5 The Whistleblowing Policy

The Whistleblowing Policy is attached at Appendix 1. No amendment to the policy is proposed at this stage. Members of the Committee are asked to note that the policy was amended recently to reflect the changes necessary as a consequence of the implementation of the Bribery Act 2010 and also to reflect changes consequent on recent staff changes. The Whistleblowing Policy appears on the Council's website, is referred to in the Council's Guide for Contractors and all new employees are informed about it in their induction process. Another article in Lewisham Life and mangers Guide is proposed for this year in addition to the existing publicity measures to keep the profile of the policy high.

6 Legal & Financial Implications

There are no specific legal or financial implications arising from this report.

APPENDIX 1

Whistleblowing Policy

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Whistleblowing Policy


The Council is committed to the provision of the highest quality services for local people and to full accountability for the services it provides. The Council is also committed to the highest standards of conduct and has in place detailed rules, regulations, quality standards and procedures to ensure that these standards are observed. However, sometimes malpractice and wrongdoing may occur. Lewisham is not prepared to tolerate any such malpractice or wrongdoing in the performance of its services.

The Council acknowledges that the greatest deterrent to malpractice or wrongdoing is the probability that it will be discovered, reported and investigated thoroughly and that those responsible will be held to account. This policy is intended to be a clear and unequivocal statement that whenever any malpractice or wrongdoing by the Council, its employees, contractors or suppliers is identified or reported to the Council, it will be promptly and thoroughly investigated and that the alleged malpractice or wrongdoing will be rectified as necessary. The Council will also investigate means of ensuring that such malpractice or wrongdoing can be prevented for the future.


The Council is committed to ensuring compliance with its statutory obligations. This policy is one of a number of corporate policies , including the Lewisham Anti-Bribery Act 2011 policy , which together demonstrates and reinforces Lewisham's commitment to the prevention of malpractice in public life.

The scope of the whistleblowing policy - The principles

The policy is based upon the overriding principle that the public interest and the needs of service users must come first.

 The Whistleblowing Policy complies with the requirements of the Public Interest Disclosure Act 1998.

What's covered?

 It is intended that any significant concern which a member of staff, service user, Councillor or member of the public has about

- ▶ any aspect of service provision
- ▶ the conduct of officers or Members of the Council, or
- ▶ the conduct of any other parties acting on behalf of the Council, which may be:
 - ▶ unlawful (including fraud or corruption)
 - ▶ against the Council's Standing Orders or policies

▶contrary to established professional or other standards, the Council's Member and Employee Code of Conduct or any other established Codes of Practice can be reported under this procedure.

It is not intended however, that this procedure should replace existing processes such as the grievance or disciplinary codes. Instead it may be that once the whistle has been blown, action under other processes (such as the disciplinary code) may ensue.

A supplement not a substitute

Anyone, including Councillors, employees, service users and members of the public are encouraged to raise complaints or matters of genuine concern with the Council. There are already in existence a number of channels available to raise such concerns. Where an appropriate avenue exists to deal with that concern, people are urged to use it. This whistleblowing policy is intended to supplement, rather than replace the existing procedures wherever practicable. These channels are:-

▶Service Managers/Directors

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant Executive Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to an Executive Director, it should be referred to the Chief Executive.


▶The Council's Complaints Procedures

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service on extension 48761.

▶Local Councillors

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their behalf. Information about how to contact local Councillors is available from Governance Support at Lewisham Town Hall on extension 49455.

▶The Council's Grievance Procedure

 This deals with complaints relating to an individual employee's conditions of employment. The whistleblowing policy is not intended to replace the grievance procedure and should not be used to deal with matters which relate to an individual's contract of employment. If a concern is raised through the whistleblowing policy

which would be more properly dealt with through the grievance procedure, it will be referred to Andreas Ghosh, Head of Human Resources.

▶Anti-fraud Procedures

The Council's Anti-Fraud & Corruption Team (A-FACT) investigates all allegations of fraud within and against Lewisham Council and is part of the Audit & Risk Group based within the Resources and Regeneration Directorate. As well as Housing Benefit and Council Tax Benefit fraud the team has specialist officers covering housing fraud, employee fraud, fraud relating to contractors, blue badges etc.

▶Internal Fraud

The Council's Financial Regulations state that it is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Audit and Risk Manager. When so informed, the Executive Director shall appraise the circumstances and shall notify and discuss the action to be taken concurrently with the Audit and Risk Manager. All information shall be treated in complete confidence.

Reports of suspected fraud may also be made to the suspected fraud, corruption or other financial irregularity can also be made to the Anti-Fraud & Corruption Team Manager who will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from Carol Owen ext. 47909.

▶Benefit Fraud

All allegations of Benefit fraud should be made to Carol Owen, Anti-Fraud & Corruption Team Manager, preferably by email to, carol.owen@lewisham.gov.uk.

▶Tenancy Fraud

The Council has a dedicated Housing Investigator who investigates fraudulent applications for housing. They also receive allegations of subletting on behalf of Lewisham Homes and other housing providers. All allegations of housing related fraud should be made to Juliet Bennett, Housing Investigation Practitioner, preferably by email to, juliet.bennett@lewisham.gov.uk

Any reports of suspected, corruption or other financial irregularity may also be made to reportfraud@lewisham.gov.uk or to the team's 24 hour freephone Hotline on 0800 0850119.

▶Statutory Officers

In addition the officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:

Chief Executive - Head of Paid Service Barry Quirk ext 46444

Responsible for overall management of the workforce.

Executive Director for Resources Janet Senior ext 48013

Chief Finance Officer - The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

Head of Law - Monitoring Officer Kath Nicholson ext 47648

Dealing with advising on the probity and legality of the Council's decision making. The Head of Law, as Monitoring Officer, is the Council's Whistleblowing officer.

Employees with serious concerns about Councillors should in the first instance raise them with the Head of Law.

The Standards Committee

The Council also has a Standards Committee made up of councillors and independent people. It is currently chaired by an independent person, Sally Hawkins. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.


In the First Place...

People are primarily encouraged to use any and all of the mechanisms for raising concerns as set out above. For Councillors, public and staff it is likely that the majority of concerns will be dealt with by bringing the matter to the attention of management in the relevant Directorate. Such references are positively welcomed by the Council and once the issue is brought to light the manager will treat the complaint seriously, investigate it promptly and inform the complainant of the outcome. The investigation officer will be expected to interview both the individual raising the complaint and the person complained against, as well as any other individuals as appropriate. If no further action is proposed, the complainant will be given an explanation. If further action is proposed under a separate Council procedure (such as the disciplinary code) the complainant will also be informed.

If a concern is raised by a member of staff, it would be normal for their first reference to be to their direct line manager. However, depending on the nature and sensitivity of the issue, or the identity of the alleged wrongdoer, the line manager may not be the appropriate manager. In such cases it may be more appropriate to raise the issue with a Head of Service or other senior manager. A member of staff may be accompanied by a friend when meeting management to raise a concern. In short, managers within Directorates will adopt a flexible and open approach so that those having concerns feel confident that they may raise them.

But if the usual channels aren't appropriate?

Circumstances may arise where none of the channels above are reasonably available. It may be that the whistleblower fears repercussions for example, or senior members of staff or Councillors may be implicated. Alternatively the whistleblower may have used those channels but still feel that there is real cause for concern. In such circumstances the whistleblower may refer their concern to the Head of Law directly.

 The Head of Law will then ensure that the matter is dealt by her either personally or by a whistleblowing officer nominated by her and operating under her supervision.

How will the whistleblowing officer respond?

Acting under the supervision of the Head of Law the whistleblowing officer will first receive and record the complaint in a register kept specially for the purpose. An initial assessment will then be made to decide what sort of investigation ought to take

In the most serious cases, it may be that a Police enquiry will ensue or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Chief Executive or another officer nominated to act on his behalf. Allegations of fraud, corruption or financial irregularity will be referred to the Special Investigations Manager for investigation.

In other cases however, it may not be appropriate to conduct any further enquiry at all. People are encouraged to raise genuine concerns and do not have to prove them. But understandably they do need to demonstrate that there is a sufficient basis for investigation. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would be inappropriate.

Unless the issue is raised anonymously then the whistleblowing officer will generally interview the whistleblower as part of this initial assessment. If the whistleblower requests that his or her identity remains confidential then all possible steps will be taken to respect that wish.

If an investigation is to ensue then the whistleblower will be informed of the fact and given an estimate of the time by when the investigation will be completed. Normally

the investigation will be conducted within 28 days, though the time taken to conduct an enquiry will depend on the nature of the concern and its complexity. The whistleblower will be informed of the outcome and this will be noted in the register.

In appropriate circumstances the Head of Law and/or the whistleblowing officer will prepare a report for the Council and for the Standards Committee dealing with the outcome of a particular investigation, the action taken to rectify the situation and prevent a recurrence.

Each year the Head of Law will prepare for the Standards Committee a report dealing with the application of the whistleblowing policy in the previous year, and making suggestions where necessary for changes to improve its efficiency.

Issues raised by Members of the Council or by the public shall be dealt with in a similar manner to those raised by employees, though serious concerns about the conduct of Councillors should in all cases be referred to the Head of Law.

Some General Safeguards

▶ No Victimisation

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least because there is a fear of reprisal from those who may be perpetrating malpractice or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate disciplinary action.

▶ Confidentiality and Anonymity


The Council will, wherever possible, protect the identity of the whistleblower who raises a concern and does not want his/her name to be disclosed. However this may not be possible in all circumstances as the very fact of the investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator.


▶ False and Vexatious Complaints



Just as the Council will seek to protect those who raise concerns in good faith, so it will seek to protect those against whom claims are made which turn out to be unfounded. A concern which is made in good faith and sincerely expressed may transpire to have no basis in reality. In addition it is possible that vexatious or malicious claims may be made. The Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that the claim was without foundation, the Council will use its best endeavours to ensure that any negative impact on the person complained of is minimised. However the Council acknowledges that it may not be able to prevent all such impact in every case.

Alternative methods of complaint

As well as the initial complaints and whistleblowing procedures set out in this policy, any member of the public who wishes to make a complaint about the Council may contact one of the following organisations:

 Local Government Ombudsman - who receives and investigates complaints of mal-administration against the Council. He can be contacted at 21 Queen Ann's Gate, London SW1H 9BU, telephone 020 7915 3210.

 The District Auditor - who investigates complaints of financial irregularity or unlawful expenditure leading to financial loss by the Council. To contact the District Auditor write to him at Millbank Tower, 4th Floor, Millbank Road, London SW1P 4QP. Telephone 020 7233 6400.

  Further information about this whistleblowing policy can be obtained from Kath Nicholson ext. 47648 or Helen Glass ext. 49968.

Agenda Item 4

STANDARDS COMMITTEE		
Report Title	LOCALISM ACT 2011 – BRIEFING AND UPDATE BY THE HEAD OF LAW	
Key Decision		Item No. 4
Ward		
Contributors		
Class	Part 1	Date: 1 MARCH 2012

The Head of Law will provide a briefing and verbal update at the meeting.