

# Public Document Pack

## Standards Committee Members

Members of the committee, listed below, are summoned to attend the meeting to be held on Wednesday, 26 March 2014.



Barry Quirk, Chief Executive  
March 18 2014

Councillor Jim Mallory	Gill Butler
Councillor Pauline Morrison	Matthew Hill
Councillor Obajimi Adefiranye	Hannah Le Vay
Councillor Duwayne Brooks	David Roper-Newman
Councillor Julia Fletcher	Cathy Sullivan
Councillor Alan Hall	Leslie Thomas
Councillor Ami Ibitson	
Councillor Stella Jeffrey	
Councillor Helen Klier	



# Standards Committee Agenda

Wednesday, 26 March 2014

**6.30 pm**, Civic Suite Lewisham Town Hall Catford SE6 4RU

Civic Suite

Lewisham Town Hall

London SE6 4RU

For more information contact: Troy Robinson 0208 3149365 (Tel: 020 8314 9365)

## Part 1

<b>Item</b>		<b>Pages</b>
1.	Declaration of interests	1 - 4
2.	Minutes	5 - 8
3.	Annual Review of Complaints Made Under the Council's Whistleblowing Policy	9 - 26
4.	Review of procedure for handling complaints of breach of member code of conduct	27 - 41
5.	Member Induction 2014 Code of Conduct	42 - 51
6.	Independent Person Appointments	52 - 53

# Agenda Item 1

STANDARDS COMMITTEE		
Report Title	Declarations of Interests	
Key Decision	No	Item No. 1
Ward	n/a	
Contributors	Chief Executive	
Class	Part 1	Date: March 26 2014

## Declaration of interests

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

### 1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

### 2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person\* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person\* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.

- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person\* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
  - (a) that body to the member’s knowledge has a place of business or land in the borough; and
  - (b) either
    - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
    - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person\* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

\*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

### **(3) Other registerable interests**

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes , or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

### **(4) Non registerable interests**

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members’ Interests (for example a matter concerning the closure of a school at which a Member’s child attends).

## (5) Declaration and Impact of interest on members' participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must not take part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

## (6) Sensitive information

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

## (7) Exempt categories

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (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)

# Agenda Item 2

STANDARDS COMMITTEE		
<b>Report Title</b>	MINUTES	
<b>Key Decision</b>	No	Item No. 2
<b>Ward</b>		
<b>Contributors</b>		
<b>Class</b>	Part 1	Date: 26 March 2014

## Recommendation

It is recommended that the Minutes of the meeting of the Committee , which was open to the press and public held on 21 November 2013 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 THURSDAY 21 NOVEMBER 2013 at 6:30 p.m.

### Present

Independent members: David Roper-Newman, Cathy Sullivan and Leslie Thomas.

Councillors Ami Ibitson, Stella Jeffrey, Helen Klier and Jim Mallory

Apologies received from Obajimi Adefiranye, Pauline Morrison, Sam Owalabi-Oluyole and Hannah Le Vay.

<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 7<sup>th</sup> May 2013 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 2012/13. A summary of the Independent Adjudicator's report and a summary of the Local Government Ombudsman's Annual review was also considered.</p> <p>It was noted that there has been a slight decrease in complaints overall however due to significant Government changes on welfare reform they may start to increase next year.</p> <p>It was noted that less than 2% of all complaints escalate to Stage 3 which are dealt with by the Independent Adjudicator.</p>

Minute  
No.

Action

RESOLVED that the report be noted.

4 COMPLIANCE WITH MEMBER CODE OF  
CONDUCT

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 Conduct.

The Committee's attention was also drawn to the benchmarking data from other London Boroughs in relation to member complaints since 2010.

It was suggested that there should be improved linkage on the Council's web site in relation to the Council's ethical framework as there was some difficulties in accessing the same.

RESOLVED that the report be noted.

5 WORK PROGRAMME

Kath Nicholson, Head of Law and Monitoring Officer presented the item and invited the Committee to comment.

The Chair identified the need for ethical standards to be an integral part of members induction programme and the need to ensure that all members attend.

There should also be further emphasis on the way members conduct themselves in public and especially on the use of social media.

RESOLVED that the Work Programme shown in paragraph 3.3 of the report be agreed.

DATE OF NEXT MEETING

To be arranged

The meeting ended at 8:15pm

# Agenda Item 3

<b>Committee</b>	<b>STANDARDS COMMITTEE</b>	<b>Item No</b>	
<b>Report Title</b>	<b>ANNUAL REVIEW OF COMPLAINTS MADE UNDER THE COUNCIL'S WHISTLEBLOWING POLICY</b>		
<b>Ward</b>			
<b>Contributors</b>	<b>HEAD OF LAW</b>		
<b>Class</b>	<b>Open</b>	<b>Date</b>	<b>26 March 2014</b>

## 1 **Summary**

This report sets out the referrals made under the Council's whistleblowing policy since the last annual review in May 2013 and invites the Committee to make any comments on whether the whistleblowing policy ought to be amended in any way.

## 2 **Recommendations**

- 2.1 To note the referrals under the Council's whistleblowing policy set out in this report and the action taken in relation to them.
- 2.2 To consider whether any changes to the current whistleblowing procedure are appropriate.

## 3 **Background**

- 3.1 A copy of the Council's current whistleblowing policy appears at Appendix 1. There has been a whistleblowing policy in place for several years and it has been reviewed by this Committee on an annual basis since 2000. The purpose of the policy 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 so far as possible, those raising complaints under the whistleblowing policy will be treated confidentially. Members will also note that complaints may be raised in relation to the actions of Councillors or employees.
- 3.2 Referrals under the policy are made to the Head of Law as the Council's Monitoring Officer. Investigations are either conducted personally by the Head of Law or referred by her for investigation to another senior officer with a report back to her.

#### 4 **Referrals Since April 2013**

There have been 6 referrals to the Head of Law in this period. They are as follows:

##### Case A

- 4.1 This case was referred in April 2013, by a member of Council staff who identified themselves to the Monitoring Officer, but who preferred their identity not to be made known to the parties about whom they were complaining. As it was possible to investigate the complaint thoroughly without revealing the identity of the complainant, (the subject of the allegations was a matter detailed in correspondence and Council records) the Monitoring Officer protected his/her identity and confidentiality was maintained.
- 4.2 The allegation related to the treatment of a minor with complex needs. For the purposes of this report the young person is referred to as W. In 2010, the Council agreed with K, his mother, that W should be found a residential school placement from September 2012. In late 2011, a placement was offered but K did not agree that it was acceptable. In January 2012, she asked W's social worker to consider an alternative. Between January and June 2012 no replies were received to correspondence from, and on behalf of, K. In May 2012, K telephoned and spoke to W's social worker's line manager who promised to call back. No call was received.
- 4.3 In June 2012, the social worker told K that a Panel had refused her request for alternative placement. Instead, as W would be 18 years old in May 2013, K was offered a meeting to discuss transition to Adult Services.
- 4.4 In October 2012, K submitted a complaint under the statutory complaints procedure applying in respect of looked after children, and children in need. It related to the unsuitability of the offer for W and the manner in which K had been treated by social workers.
- 4.5 The Complex Needs Service Manager investigated the complaint and accepted that the lack of action from Council staff was unacceptable. He informed K of her right to an appeal procedure, commonly known as Stage 2, if she remained unhappy with his decision. In November 2012, K confirmed in writing that she wished to proceed to Stage 2.
- 4.6 In December 2012, a Complaints Officer offered K a meeting with a Service Manager, on the basis that this would be the swiftest way to address her concerns. The letter stated that her complaint "did not require independent investigation" but did require that she be provided with further information. K rejected this, reiterating that she sought a Stage 2 appeal, but this was again refused in writing.

- 4.7 The statutory procedure clearly provides for a Stage 2 investigation to be carried out by an independent person in such circumstances as this case, and this statutory right was wrongly refused to K.
- 4.8 Following investigation by the Monitoring Officer, the Service Manager with responsibility for the Complaints Team accepted that an error had occurred in this case, an apology was given and K was offered a Stage 2 appeal. K however did not wish to pursue the matter, as an acceptable offer had been made by Adult Services. K was invited to participate in training for transition planning for children with complex needs and complaints handling.
- 4.9 In the course of this investigation, a review of practice in similar cases was conducted by the Service Manager and it was found that in 6 other cases in the preceding 12 months, similar inappropriate action had been taken. These cases were re-opened and in all of them, access to the Stage 2 procedure was offered.
- 4.10 The Service Manager took further remedial action, including additional training, apologies in all of these cases and an overhaul of standard correspondence. She undertook to monitor the actions of the relevant staff closely. A copy of the Monitoring Officer's report was sent to the appropriate director and the complainant was informed of the outcome.

#### Case B

- 4.11 This referral came anonymously by email to the Monitoring Officer's inbox in April 2013. It alleged that a person who is employed by the Council was stealing stock from "the housing and maintenance department stores" for use in his own business. Because of the nature of the allegations, the Monitoring Officer referred the matter for investigation by the Special Investigations Team (SIT). Notwithstanding that the complaint was anonymous, there was sufficient information in the email upon which an investigation might be based.
- 4.12 As the Council no longer has housing and maintenance depots, this matter was referred by SIT to the ALMO, Lewisham Homes, who carry out the housing management contract on behalf of the Council. They conducted an internal investigation. It was discovered that the employee concerned has openly declared his business interests and there was no conflict with his work duties. His managers were aware of his activity and it was not deemed a breach of the ALMO's employee code of conduct. An investigation into the specific allegation took place and it was found that the employee concerned did not commit the act complained of in the anonymous referral.

#### Case C

- 4.13 A woman, P, telephoned the Council to say that people had been coming to her home looking for Q, who, they said, had told them he could move them up the housing list if they gave him money to pay to councillors. The matter had been referred to the police by P and was referred to the Special Investigations Team by the Monitoring Officer.

- 4.14 The SIT reviewed the evidence available already and examined tenancy records. They established that Q had lived in the same block as P, but they could not uncover any further evidence at that point. They had no more information available to them than the police had and so formed the view that further action was not possible at that time. The information was filed, so that if any more allegations were to be received, further investigation could ensue. The complainant was informed.

#### Case D

- 4.15 In late May 2013, S, a former employee of the Council raised a complaint under the whistleblowing policy that a reference provided for him by his former line manager was unfair, the ratings given for his work were mistaken or based on wrong information, and her management approach was heavy handed. Because of the nature of the complaint, the Monitoring Officer could see no reason why it ought not to be investigated by the relevant Service Head and so asked her to investigate on her behalf.
- 4.16 She conducted a thorough investigation, interviewing the parties concerned and examining relevant paperwork. She found copious evidence to support the action taken by the manager, and that the view expressed by the manager was a reasonable one in all the circumstances. The complainant was informed of the outcome in writing.

#### Case E

- 4.17 In June 2013, an anonymous allegation was received by email by the Service Manager for Adults with Learning Difficulties, alleging that a service user at a Council day centre, C, had assaulted a person, F, working there. B, another worker at the centre, it was alleged, had intervened by assaulting C. The Service Manager referred the matter to the Monitoring Officer and the police immediately. The Monitoring Officer advised that the Service Manager's actions in reporting the matter to the police under the Pan London Safeguarding Vulnerable Adults procedures was entirely appropriate. She advised that it was correct for the usual management action to be taken, and referred the Service Manager to the Council's employment lawyer for advice as to what action ought to be taken in respect of the employee concerned if necessary.
- 4.18 Two police officers attended the centre the next day and interviewed the relevant people at the Centre, without notice, and found no evidence to support the anonymous allegation.
- 4.19 Though this case was not one which needed to be referred to the Monitoring Officer under the procedure, it is perhaps encouraging that the Service Manager was keen to ensure that the allegation she received was handled with transparency and integrity. Her referral was rather to seek assurance that in the circumstances of a very unusual and alarming allegation, she had done everything she ought to do. Because the Service Manager specifically

referred to the allegation as a whistleblowing complaint, it has been reported as such in this report.

### Case F

- 4.20 In September 2013 a former employee of a school, which now no longer exists, raised a series of allegations about the management of the school at which she had been employed. The Monitoring Officer made some preliminary enquiries and discovered that a number of the issues raised had already been thoroughly investigated by the school governing body and others related to grievances which had been thoroughly investigated by the school. None of the resultant decisions had been made in the whistleblower's favour. As the whistleblower did not make any complaint that the previous investigations had not been properly conducted, the Monitoring Officer wrote to the whistleblower to inform her that she did not intend to re-open them.
- 4.21 However, the Monitoring Officer did not know of one of the allegations made, which referred to financial impropriety at the school. The Monitoring Officer informed the whistleblower that she would refer those matters to the SIT for investigation as these appeared to be new allegations. However she also pointed out that, without prejudging the outcome of the SIT investigation, as the school was no longer in existence, it may be difficult to conduct a thorough enquiry.
- 4.22 SIT met the whistleblower in October 2013, even though in fact all of the allegations, including those of financial impropriety, had previously been looked into while the school had been in existence and found to be without substance. SIT put this to the whistleblower who accepted it. SIT informed the whistleblower that they would review the information available to them but informed her they felt it unlikely to produce anything further. The whistleblower accepted this. Though it may have been co-incidence, the whistleblower raised an issue about her reference with Human Resources at the same time (or thereabouts) as she referred other matters to the Monitoring officer. Before her interview with SIT took place, the reference dispute was resolved.

## **5 Review of the Procedure**

- 5.1 Generally, officers are of the view that the procedure is fit for purpose. Investigations are conducted under it and findings made, on occasion with recommendations for amending practice. The number of referrals this year alone demonstrates that people are aware of it and are using it. However, officers are not complacent about the possibility always for improvement and would welcome any comments which members of the Standards Committee may have for changes to it.
- 5.2 At a previous Standards Committee meeting in November 2013, members asked, in particular, that officers consider the provisions of the policy relating to anonymity and confidentiality and their application in practice.



Currently the policy states:-

*“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 the evidence against the wrongdoer”*

## **6. Confidentiality**

- 6.1 In addressing the question of confidentiality of the whistleblower, on the one hand, there is a need to promote confidence in potential whistleblowers that, if they blow the whistle, they will not suffer repercussions as a result of raising concerns. The very fact that they are contemplating the use of the whistleblowing procedure may mean that they are concerned about using other channels to report an allegation. On the other hand, it is essential that an allegation, once made, can be properly investigated. Because of this, though steps will be taken to protect the identity of a whistleblower where that is feasible, it is not possible to guarantee confidentiality in all cases, particularly where the allegation is serious.
- 6.2 For example, were an employee to come forward to say that they had witnessed physical abuse of a vulnerable person in the Council’s care, it may not be possible to be categorical that the complainant’s identity will be protected, particularly if they are the only witness to the alleged event. The Council would have no choice but to investigate. As the policy currently states, it may not be possible for the Council not to disclose identity in such a case.
- 6.3 There is a careful balancing act to be done. In each case the question to be addressed is whether the need to disclose the identity of the person making the referral outweighs the desire to protect it if possible. In a case such as an allegation of physical abuse of a vulnerable person, the Council would be failing in its statutory duties if it did not conduct the most thorough investigation.
- 6.4 In practice the question of confidentiality is addressed on a case by case basis, by reference to whether a full investigation is necessary, possible and in the public interest, without divulging the whistleblower’s identity. Case A above is a case in point. A full investigation was necessary, possible and in the public interest without that disclosure. Whilst it is appreciated that in other cases this may be a more difficult decision to make, the same tests would be applied.
- 6.5 To provide reassurance to potential whistleblowers, the policy as currently drafted recognises that the decision to blow the whistle can be a difficult one to make, not least if there is a fear of reprisal from those who may be perpetrating malpractice, or others. The policy is explicit that the Council will

not tolerate any victimisation of a person raising a concern in good faith and will take appropriate steps to protect them including, where appropriate, disciplinary action.

- 6.6 Officers are of the view that the policy as drawn reflects this difficult balancing act and is applied as sensitively as possible on a case by case basis

## **7 Anonymity**

- 7.1 Anonymity is not the same as confidentiality. Where a whistleblower reveals their identity to the Monitoring Officer, they may ask for it to be kept confidential if possible. By contrast, anonymous allegations are made by someone who does not reveal their identity at all.
- 7.2 When an anonymous allegation is made, the same questions need to be addressed. Is it necessary, possible and in the public interest to investigate despite the fact that the identity of the whistleblower is not known?
- 7.3 Our procedure requires that the first step is usually to interview the whistleblower, and by definition it is not possible to do this if we do not know who or where they are. When an anonymous allegation is received, if it contains sufficient information on which to base an investigation, attempts are made to follow up this information to find out whether the claim is substantiated even though we do not know who made it. However, it has to be acknowledged that this is likely to be more difficult where referrals are made anonymously, though they are nonetheless pursued if possible. Case B above is a case in point, where it was possible to investigate properly despite the claim being made anonymously.
- 7.4 It is acknowledged that there may be those who seek to make false or malicious claims and that this is easier to do anonymously. However, the Monitoring Officer is of the view that anonymous claims cannot be ignored. Even allegations made by those with an ulterior motive may prove to be true. Further, the whistleblower may be using the procedure anonymously because they fear repercussions. The policy also recognises that sometimes allegations made in good faith can be unfounded and that in such cases no action will be taken against anyone raising an allegation in good faith, even if it is not well founded. By contrast, it also recognises that there can be a negative impact on a person falsely accused of malpractice. For this reason, it is clear in the whistleblowing policy that the Council will take action against anyone making malicious or vexatious claims.

## **8. Financial Implications**

There are no specific financial implications arising from this report.

## 9. Legal Implications

- 9.1 The existence and application of the Council's whistleblowing procedure is consistent with the Council's overall fiduciary duty to exercise proper custodianship of the Council's funds and assets.
- 9.2 The promotion of the Code is also consistent with the Council's duty under Section 27 Localism Act 2011 to promote the highest standards of conduct by its members.
- 9.3 The Public Interest Disclosure Act 1998 affords certain protection to employees who blow the whistle on wrongdoing, for example by providing for dismissal as a result of doing so to be unfair, giving rise to compensation and possible reinstatement.
- 9.4 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 9.6 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for members bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 9.7 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

9.8 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

9.9 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

9.10 A whistleblowing policy which protects the whistleblower in so far as possible probably encourages those who are less confident in dealing with bureaucracy to come forward if they suspect wrongdoing.

## **10. Crime and Disorder**

Section 17 of the Crime and Disorder Act 1998 requires the Council when it exercises its functions to have regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The promotion of a whistleblowing policy provides a conduit to bring any allegation of wrongdoing to the attention of the Council for investigation and if appropriate to the attention of the police.

## **11. Best Value**

Under S3 Local Government Act 1999, the Council is under a best value duty to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. It must have regard to this duty in making decisions in relation to this report.

## **12. Environmental Implications**

Section 40 of the Natural Environment and Rural Communities Act 2006 states that: 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. No such implications have been identified in relation to the reductions proposals.

**13. Integration with health**

Members are reminded that provisions under the Health and Social Care Act 2012 require local authorities in the exercise of their functions to have regard to the need to integrate their services with health.

**14. Conclusion**

Members are asked to note the referrals under the existing policy and to advise whether they are of the view that any changes ought to be made to the existing policy appearing at Appendix 1.

For further information about this report please **contact Kath Nicholson**, Head of Law on 0208 314 7648

# Whistleblowing Policy

## Contents

Whistleblowing Policy .....	2
The scope of the whistleblowing policy - The principles .....	2
What's covered? .....	2
A supplement not a substitute.....	3
▶Service Managers/Directors.....	3
▶The Council's Complaints Procedures .....	3
▶Local Councillors .....	3
▶The Council's Grievance Procedure.....	3
▶Anti-fraud Procedures.....	4
▶Housing Benefit Fraud .....	4
▶Tenancy Fraud .....	4
▶Statutory Officers.....	4
▶The Standards Committee .....	5
Some General Safeguards .....	7
▶No Victimisation.....	7
▶Confidentiality and Anonymity.....	7
▶False and Vexatious Complaints.....	7
▶Alternative methods of complaint.....	8

## 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](mailto: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](mailto:juliet.bennett@lewisham.gov.uk)

Any reports of suspected, corruption or other financial irregularity may also be made to [reportfraud@lewisham.gov.uk](mailto: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

<b>Committee</b>	<b>STANDARDS COMMITTEE</b>	<b>Item No</b>	
<b>Report Title</b>	<b>REVIEW OF PROCEDURE FOR HANDLING COMPLAINTS OF BREACH OF THE MEMBER CODE OF CONDUCT</b>		
<b>Ward</b>			
<b>Contributors</b>	<b>HEAD OF LAW</b>		
<b>Class</b>	<b>Open</b>	<b>Date</b>	<b>26 March 2014</b>

## 1 **Summary**

This report sets out the key features of the existing procedure for handling complaints of breach of the Member Code of Conduct (the Code), summarises how it has been applied and asks the Committee members whether they wish to amend the procedure.

## 2 **Purpose**

The purpose of the report is to ensure that the procedure for investigating complaints of breach of the Code is fit for purpose.

## 3 **Recommendations**

That the Committee:

- 3.1 note the contents of the procedure for handling complaints of breach of the Code:
- 3.2 note how it has been applied to date: and
- 3.3 consider whether any changes to the procedure are needed, and if so what.

## 4 **Background**

- 4.1 Prior to the implementation of the Localism Act 2011, the procedure for handling complaints of breach of the Code was largely prescribed in law, and until the Localism Act took effect, the Council's procedure complied with those legal provisions. Many local government commentators considered the legal requirements cumbersome, and research conducted by the now defunct body 'Standards for England' demonstrated that despite the detailed proscriptive and expensive procedure, there were relatively few findings of breach. Where such findings were made, the breach was often not of sufficient gravity to carry a significant sanction.

- 4.2 With the introduction of the Localism Act 2011, the Government made wide ranging changes to the ethical framework for local authorities. In particular it changed the statutory requirements of the Code, the most significant of which was to make failure to declare a disclosable pecuniary interest, or to participate in a decision notwithstanding a disclosable pecuniary interest, a criminal offence. By contrast, lesser breaches now do not carry any statutory sanction. Local authorities were given the power to build on the statutory minimum elements in its local Code, and to investigate complaints of breach locally. Standards for England, the national body with responsibility for handling the most serious allegations of breach was abolished, and local authorities were given wide discretion to devise their own procedures for handling complaints of breach of the Code.
- 4.3 On 28 June 2012 the Council agreed the Code which is currently in force in Lewisham, and on the same date the Council agreed the procedure which now appears at Appendix 1. Key features of the procedures are as follows:-
- (a) that complaints be referred to the Monitoring Officer in writing.
  - (b) that where the Monitoring Officer thinks it appropriate, she may try to resolve the matter informally by discussion with both the complainant and the member concerned or otherwise.
  - (c) where this cannot be achieved or where the Monitoring Officer thinks it appropriate that a formal investigation take place, the Monitoring Officer may investigate the complaint personally or appoint another person to do so on her behalf.
  - (d) the Monitoring Officer or the person appointed by her to investigate the complaint will produce a report of their investigation
  - (e) Once the Monitoring Officer or the person appointed by her to investigate the complaint has completed their investigation whether or not they are of the view that a breach of the Member Code of Conduct has occurred, they will send a copy of their report and all supporting documentation to the Independent Person .
  - (f) the Independent Person will review the documentation sent by the Monitoring Officer and any further documentation received from the member concerned and produce a report for the Standards Committee.
  - (g) A sub committee of the Standards Committee will consider the Monitoring Officer report, the report of the Independent Person and any written representations made by the member concerned.
  - (h) At their own discretion the sub committee of the Standards Committee may call the member concerned, the Monitoring Officer and/or the person appointed by her to investigate the complaint, and the Independent Person and any other person they deem necessary to

answer their questions should they choose to do so.

- (i) The sub committee of the Standards Committee will make a decision as to whether the Code of Conduct has been breached and if so what action to take in respect of that breach.
- (j) If the allegation is proven, the member will have a right of appeal to another sub committee of the Standards Committee. Their decision will be final.
- (k) if the allegation appears to relate to failure to register or declare disclosable pecuniary interests, or to participation in the consideration of a matter where the member's interest precludes such participation, such breaches may result in prosecution. In appropriate circumstances such matters may be referred to the police at any time, at which point the Council's investigation may cease until the police investigation is complete.

## **5 The procedure in practice**

- 5.1 There have been three allegations of breach since introduction of the existing procedure. All of these allegations were made by a member against another member. Two were made by one member and these refer to closely related incidents – Case A; and the other was also made by a different member against another – Case B.

### Case A

- 5.2 The complaint was made in writing. It appeared to the Monitoring Officer (M.O.) that in this case, informal resolution was not appropriate, as the complainant did not agree to it and wanted an investigation to take place. Applying the criteria set out in the procedure by reference to which a decision is made whether or not to investigate, the M.O. decided at initial assessment stage that the complaint was sufficiently serious to warrant investigation and that it was in the public interest to investigate. There was sufficient information on which to commence an investigation.
- 5.3 The M.O. interviewed the member concerned in the presence of a note taker and also interviewed the witnesses. She wrote a report which was forwarded to the Independent Person (I.P.) and the member concerned. The I.P. prepared her report which concurred with that of the M.O.
- 5.4 The member concerned did not attend the Sub-Committee meeting where the matter was considered, though invited to do so. The Sub Committee did not make any finding of breach, but did recommend training for the member concerned and that he should not participate in licensing decisions until he had completed that training. Those recommendations were complied with.

### Case B



5.5 The complainant referred an allegation to the M.O. about another member that referred to the action of, and messages sent by the member concerned in a private capacity whilst not on Council business. The M.O. conducted very preliminary enquiries in order to be able to apply the criteria for initial assessment. In the course of those preliminary enquiries, it transpired that the person with capacity to consent to the action and message had given it and so the basis for the complaint fell away. The M.O. informed the complainant of this fact.

## **6 Other authorities**

6.1 Officers have conducted some research into a sample of the procedures used elsewhere. There is no set pattern and there is a wide range of practice. For example, some authorities have introduced procedures that are very bureaucratic, and tantamount to an adversarial court hearing in all cases coming before the committee. In others, the procedures appear to be ill defined and ad hoc. Some do not publicise their procedures

6.2 A small number of authorities involve their Independent Person at the initial assessment stage in the decision whether to investigate. This is not an approach which officers would recommend as it is open to the criticism that by forming an opinion at that early stage, (particularly if it is to proceed to investigate), the Independent Person cannot be truly independent if and when a Monitoring Officer report is submitted for their review. For this reason it is not proposed that this be adopted in Lewisham.

6.3 Officers are of the view that the procedure in Lewisham seems generally to strike the right balance. The principles underlying the procedure in Lewisham are that it be fair, simple, flexible and easily understood by all involved in it. Officers would advise against a more rigid or complicated procedure which is not only likely to be more cumbersome, but also resource intensive. That said there is no room for complacency and there are a number of areas in which the committee is invited to consider whether amendment might be appropriate.

## **7 Suggestions for possible amendment to the procedure**

7.1 Currently, there is no reference in the procedure to the standard of proof required for a finding of breach of the code to be made out. Though the standard would clearly be on a balance of probabilities (as opposed to beyond reasonable doubt as in criminal cases) this may not be understood by everybody involved in the process. It is suggested that it would be a useful addition to make the procedure clearer to everybody. If this is accepted, the procedure could be amended as set out in Appendix 2 at para 15

7.2 It would also focus the mind of those involved in the process if more time limits were explicit in the procedure for steps in the process. Whilst it is important to allow flexibility where investigation is protracted or where

circumstances are particularly complicated, it might be sensible to provide timings that normally apply, so that if possible, slippage can be avoided. If the committee endorses this approach then the procedure could be amended as set out in Appendix 2 paragraph 3 and 15.

- 7.3 It is not explicit in the procedure that the Sub-Committee may make recommendations for other action, despite the fact that they make no finding of breach, as in Case A. Clearly in some cases, though member action may be ill-advised, it may fall short of a formal breach of the Code. In such circumstances, it would be sensible for there to be no doubt that it is within the Sub-Committee's powers to require other action (e.g. training, changes to procedures) despite not making any finding of breach. Were the committee to consider this appropriate, the amendments set out in Schedule 2 Paragraph 18 could be made.
- 7.4 Apart from the changes referred to in paragraphs 7.1 – 7.3 above, officers suggest that because experience of use of the procedure is limited because there has not been a lot of referrals under the procedure, and to date particular problems have not emerged, that members of the Committee might want to bring this matter back for review in 12-18 months to see whether significant amendments are required at that stage

## **8. Financial Implications**

There are no specific financial implications arising from this report.

## **9. Legal Implications**

- 9.1 The arrangements for handling complaints of breach of the Code are consistent with the duties and powers in the Localism Act 2011.
- 9.2 It is noteworthy that for breaches of the Code which do not relate to those for which prosecution is a sanction, there are no special sanctions available to the Council or its Standards Committee. They will be limited to censure, publicity, and in very limited circumstances certain other actions.
- 9.3 Article 6 of the European Convention on Human Rights incorporated into national law by the Human Rights Act 1998 enshrines the right to a fair hearing. Officers advise that this requirement is met by the procedure for handling allegations of breach as it stands which also fulfils the requirement for any hearing to comply with the rules of natural justice. If amendments are made as set out in Appendix 2, this would remain the case.
- 9.4. Members are reminded of their duty under the public sector equality duty set out in Section 149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and promote good relations between those with protected characteristics and those without such characteristics. Officers have not identified any specific equalities implications arising from this report.

## **10. Crime and Disorder Implications**

- 10.1 There are no specific crime and disorder implications, save to note that it is a criminal offence not to declare disclosable interests in the Register of Members' Interests. Participation in consideration of a matter in which a member has a disclosable interest is also liable to prosecution.
- 10.2 The entire Code and the procedure to handle complaints of breach are designed to promote ethical behaviour of the highest standard, to promote public confidence and reduce the prospect of improper behaviour.

## 11. **Environmental Implications**

There are no specific implications arising.

For further information about this report please **contact Kath Nicholson**, Head of Law on 0208 314 7648

## **Procedure for handling complaints of breach of the Member Code of Conduct**

### **Introduction**

- 1) This booklet describes the procedure that the London Borough of Lewisham will use to deal with complaints of breach of its Member Code of Conduct.

### **Making a complaint**

- 2) Complaints should be made in writing (including by fax or email) to the Monitoring Officer, LB Lewisham, Town Hall, Catford, London SE6 4RU (fax no 0209 314 3107); email [monitoring.officer@lewisham.gov.uk](mailto:monitoring.officer@lewisham.gov.uk) . Complaints may be made using the Ethics Complaint Form available on the Council's website and from the Monitoring Officer. If a complainant finds it hard to put their complaint in writing, Council staff will help them to do so. The Council will make reasonable adjustments to help a disabled complainant.

### **Notice of complaint**

- 3) The Monitoring Officer will normally write to the complainant to acknowledge their complaint and write to the member concerned to tell them that an allegation has been received. The Monitoring Officer may decide that it is not appropriate to inform the member if s/he thinks it is not appropriate to do so, for example if by doing so any investigation would be affected, or there might be a risk that evidence could be destroyed.
- 4) Unless the Monitoring Officer decides that it would not be appropriate to inform the member of the complaint, s/he will also tell the member the paragraphs of the Member Code of Conduct that may have been breached.
- 5) The Monitoring Officer will normally tell the member concerned the name of the complainant, unless the Monitoring Officer thinks in all the circumstances it is appropriate not to do so.

### **Informal resolution**

- 6) In some circumstances it may be possible to resolve the complaint informally without considering whether it is necessary to proceed to investigation. If the complainant and the member concerned agree to this and it appears to the Monitoring Officer that informal resolution is appropriate, s/he will seek to achieve an informal resolution at that stage. It may be for example, in less serious allegations that an apology or a meeting between the parties may resolve the issue. However informal resolution is unlikely to be appropriate if the allegation is serious or the parties do not agree.

## Initial assessment

7) If informal resolution is not appropriate or possible, the Monitoring Officer will make initial enquiries so that s/he may reach a decision about whether the matter should be investigated in detail. If the Monitoring Officer is not satisfied that:-

- the complaint is against a member of the Council,
- the member was in office at the time of the alleged complaint , and
- the complaint, if proven would amount to a breach of the Member Code of Conduct in place at the time of the alleged breach

then the complaint cannot be investigated.

8) In making an initial assessment, the Monitoring Officer will apply assessment criteria in deciding whether to investigate further. These assessment criteria are designed to promote confidence that complaints will be taken seriously and dealt with properly. They also reflect the fact that any decision to investigate a complaint will cost public money and both officer and member time. The criteria are designed to balance the need to promote confidence in local governance and to make sure that public resources are applied appropriately.

*Public interest* – The Monitoring Officer must be satisfied that an investigation would be in the public interest, taking into account the time and cost involve. If the Monitoring Officer is not so satisfied s/he will decide not to investigate.

*Sufficient information* – The complainant must provide sufficient information to warrant an investigation. If not the Monitoring Officer will take no further action unless additional information is provided by the complainant.

*Previous action* – If there has already been an investigation or some other action under the Code of Conduct or by another regulatory body, in relation to the complaint, the Monitoring Officer will not normally decide to investigate, though s/he may do so if circumstances dictate (e.g. if a criminal charge was dropped)

*Repeated complaints* –If the complaint is the same or substantially the same as one previously dealt with, the Monitoring Officer will normally decide not to investigate.

*Timing* – If there has been a significant delay between the incident complained of and the submission of the complaint, the matter will not normally be investigated.

*Trivial matters* – If the Monitoring Officer takes the view that the matter is not sufficiently serious to warrant further action, no further action will be taken, unless there are compelling reasons to do so.

*Ulterior motive* – No further action will be taken if it appears to the Monitoring Officer that the complaint is motivated by malice or retaliation unless it involves a serious allegation.

*Special circumstances* – There may be circumstances where the Monitoring Officer takes the view that an investigation should occur even though the application of these criteria would suggest otherwise. For example, were a very serious allegation to be made after a long delay, it may be appropriate to investigate notwithstanding the delay.

These criteria are for general guidance, but they have to be applied in the light of any particular circumstances of each case.

### **Police involvement**

- 9) If it appears to the Monitoring Officer at any time that if proven the breach might amount to a breach of the criminal law and a referral to the police is appropriate, s/he may, if appropriate, defer any decision about investigation until the police investigation is complete.

### **Investigation**

- 10) If the Monitoring Officer decides that an investigation is appropriate, s/he will investigate the complaint or appoint another person to do so on her behalf. The investigation will be conducted thoroughly and both members and staff are required to co-operate with such investigation. Once the investigation is complete the Monitoring Officer, or person appointed to investigate on her/his behalf, will prepare a report for a sub committee of the Standards Committee. A copy of that report will be sent to the member concerned at least 4 weeks before the meeting of the sub committee. The member concerned will be entitled to make a written submission to the Standards Committee, but if s/he does so it must be delivered to the Monitoring Officer at least 2 weeks before the Sub Committee meeting.

### **Independent Person**

- 11) The Council [has appointed] an Independent Person whose views are to be sought prior to the Standards Sub Committee making any decision on an allegation that has been investigated. The Monitoring Officer will therefore send her/his report to the Independent Person at the same time as s/he sends it to the member concerned. Should the member make any written representations in response, the member may also send these to the Independent Person, but should they fail to do so, the Monitoring Officer will do so.
- 12) The comments of the Independent Person will be made in writing and presented to the Standards Sub Committee for consideration.

- 13) The member concerned is also entitled to approach the Independent Person directly for their views.

### **Standards Sub Committee meeting**

- 14) The Standards Sub Committee will meet to consider the report of the Monitoring Officer and any written representations made by the member concerned as well as any views received from the Independent Person. The member will be entitled to attend the meeting, which will normally be held in public unless the Sub Committee takes the view that there are compelling reasons to the contrary. The Sub Committee will not normally take oral evidence at the meeting (but may decide to do so in appropriate cases). However it may require the member concerned, the Monitoring Officer (and/or person appointed on her/his behalf to investigate), the Independent Person and/or any other person to attend to answer their questions. The conduct of the meeting will be a matter for the Chair so long as the process used accords with the principles of fairness and natural justice. Legal advice will be available to the meeting.

### **Findings**

- 15) The Standards Sub Committee will decide whether there has been a breach of the Member Code of Conduct. Both the complainant and the member concerned will be notified in writing of the decision.

### **Appeal**

- 16) If there is a finding of breach, the Member concerned may appeal to a different sub committee of the Standards Committee within 21 days of the date of notification. The decision of that sub-committee will be final.

### **Sanctions**

- 17) If there is a finding of breach of the Member Code of Conduct, the Standards Sub Committee will decide whether it is appropriate to require action to be taken in respect of it. That may be a sanction, such as censure or in certain circumstances the withdrawal of access to Council facilities provided that is proportionate and does not interfere unduly with the members' ability to carry out their duties as a member. It may also report any finding of breach to the full Council and/or publicise them on the website and/or in a local newspaper. It may also recommend that a member in breach undergo training, or that Council processes be amended.

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### **Notice of complaint**

- 3) Usually within 5 days the Monitoring Officer will normally write to the complainant to acknowledge their complaint and write to the member concerned to tell them that an allegation has been received. The Monitoring Officer may decide that it is not appropriate to inform the member if s/he thinks it is not appropriate to do so, for example if by doing so any investigation would be affected, or there might be a risk that evidence could be destroyed.
- 4) Unless the Monitoring Officer decides that it would not be appropriate to inform the member of the complaint, s/he will also tell the member the paragraphs of the Member Code of Conduct that may have been breached.
- 5) The Monitoring Officer will normally tell the member concerned the name of the complainant, unless the Monitoring Officer thinks in all the circumstances it is appropriate not to do so.

### **Informal resolution**

- 6) In some circumstances it may be possible to resolve the complaint informally without considering whether it is necessary to proceed to investigation. If the complainant and the member concerned agree to this and it appears to the Monitoring Officer that informal resolution is appropriate, s/he will seek to achieve an informal resolution at that stage. It may be for example, in less serious allegations that an apology or a meeting between the parties may resolve the issue. However informal resolution is unlikely to be appropriate if the allegation is serious or the parties do not agree.



## Initial assessment

- 7) If informal resolution is not appropriate or possible, the Monitoring Officer will make initial enquiries so that s/he may reach a decision about whether the matter should be investigated in detail. If the Monitoring Officer is not satisfied that:-
- the complaint is against a member of the Council,
  - the member was in office at the time of the alleged complaint , and
  - the complaint, if proven would amount to a breach of the Member Code of Conduct in place at the time of the alleged breach

then the complaint cannot be investigated.

- 8) In making an initial assessment, the Monitoring Officer will apply assessment criteria in deciding whether to investigate further. These assessment criteria are designed to promote confidence that complaints will be taken seriously and dealt with properly. They also reflect the fact that any decision to investigate a complaint will cost public money and both officer and member time. The criteria are designed to balance the need to promote confidence in local governance and to make sure that public resources are applied appropriately.

*Public interest* – The Monitoring Officer must be satisfied that an investigation would be in the public interest, taking into account the time and cost involve. If the Monitoring Officer is not so satisfied s/he will decide not to investigate.

*Sufficient information* – The complainant must provide sufficient information to warrant an investigation. If not the Monitoring Officer will take no further action unless additional information is provided by the complainant.

*Previous action* – If there has already been an investigation or some other action under the Code of Conduct or by another regulatory body, in relation to the complaint, the Monitoring Officer will not normally decide to investigate, though s/he may do so if circumstances dictate (e.g. if a criminal charge was dropped)

*Repeated complaints* –If the complaint is the same or substantially the same as one previously dealt with, the Monitoring Officer will normally decide not to investigate.

*Timing* – If there has been a significant delay between the incident complained of and the submission of the complaint, the matter will not normally be investigated.

*Trivial matters* – If the Monitoring Officer takes the view that the matter is not sufficiently serious to warrant further action, no further action will be taken, unless there are compelling reasons to do so.

*Ulterior motive* – No further action will be taken if it appears to the Monitoring Officer that the complaint is motivated by malice or retaliation unless it involves a serious allegation.

*Special circumstances* – There may be circumstances where the Monitoring Officer takes the view that an investigation should occur even though the application of these criteria would suggest otherwise. For example, were a very serious allegation to be made after a long delay, it may be appropriate to investigate notwithstanding the delay.

These criteria are for general guidance, but they have to be applied in the light of any particular circumstances of each case.

### **Police involvement**

- 9) If it appears to the Monitoring Officer at any time that if proven the breach might amount to a breach of the criminal law and a referral to the police is appropriate, s/he may, if appropriate, defer any decision about investigation until the police investigation is complete.

### **Investigation**

- 10) If the Monitoring Officer decides that an investigation is appropriate, s/he will investigate the complaint or appoint another person to do so on her behalf. The investigation will be conducted thoroughly and both members and staff are required to co-operate with such investigation. Once the investigation is complete the Monitoring Officer, or person appointed to investigate on her/his behalf, will prepare a report for a sub committee of the Standards Committee. A copy of that report will be sent to the member concerned at least 4 weeks before the meeting of the sub committee. The member concerned will be entitled to make a written submission to the Standards Committee, but if s/he does so it must be delivered to the Monitoring Officer at least 2 weeks before the Sub Committee meeting.

### **Independent Person**

- 11) The Council has appointed an Independent Person whose views are to be sought prior to the Standards Sub Committee making any decision on an allegation that has been investigated. The Monitoring Officer will therefore send her/his report to the Independent Person at the same time as s/he sends it to the member concerned. Should the member make any written representations in response, the member may also send these to the Independent Person, but should they fail to do so, the Monitoring Officer will do so.

- 12) The comments of the Independent Person will be made in writing and presented to the Standards Sub Committee for consideration.
- 13) The member concerned is also entitled to approach the Independent Person directly for their views.

### **Standards Sub Committee meeting**

- 14) The Standards Sub Committee will meet to consider the report of the Monitoring Officer and any written representations made by the member concerned as well as any views received from the Independent Person. The member will be entitled to attend the meeting, which will normally be held in public unless the Sub Committee takes the view that there are compelling reasons to the contrary. The Sub Committee will not normally take oral evidence at the meeting (but may decide to do so in appropriate cases). However it may require the member concerned, the Monitoring Officer (and/or person appointed on her/his behalf to investigate), the Independent Person and/or any other person to attend to answer their questions. The conduct of the meeting will be a matter for the Chair so long as the process used accords with the principles of fairness and natural justice. Legal advice will be available to the meeting.

### **Findings**

- 15) The Standards Sub Committee will decide on a balance of probabilities whether there has been a breach of the Member Code of Conduct. Both the complainant and the member concerned will be notified in writing of the decision normally within 5 days.

### **Appeal**

- 16) If there is a finding of breach, the Member concerned may appeal to a different sub committee of the Standards Committee within 21 days of the date of notification. The decision of that sub-committee will be final.

### **Sanctions**

- 17) If there is a finding of breach of the Member Code of Conduct, the Standards Sub Committee will decide whether it is appropriate to require action to be taken in respect of it. That may be a sanction, such as censure or in certain circumstances the withdrawal of access to Council facilities provided that is proportionate and does not interfere unduly with the members' ability to carry out their duties as a member. It may also report any finding of breach to the full Council and/or publicise them on the website and/or in a local newspaper. It may also recommend that a member in breach undergo training, or that Council processes be amended.

### **Other Action**

- 18) In circumstances where no formal finding of breach is made, but the Committee considers it appropriate, the Sub-Committee may still recommend other action which falls short of a sanction (for example, that a member undergo training, or that Council procedures be amended).

# Agenda Item 5

Standards Committee		
Title	Member Induction 2014: Code of Conduct	
Contributor	Head of Law	Item.
Class	Part 1 (Open)	26 March 2014

## 1. Purpose

- 1.1 To provide the Standards Committee with an overview of the plans for Member Induction, and specifically in relation to the Member Code of Conduct.

## 2. Summary

- 2.1 After an election, a programme of induction for members is implemented to ensure that all members are fully aware of the various roles and responsibilities they now have, and also of the legal and constitutional framework guiding their role. An induction programme also provides practical support and training for members in the various statutory and community roles they will undertake.
- 2.2 Every effort is made to ensure the programme of induction is comprehensive and engaging and that members are provided with extensive access to information and training. All sessions are scheduled to ensure maximum attendance.

## 3. Recommendations

- 3.1 The Committee is asked to:
- note the approach outlined in this report;
  - note the draft induction programme at Appendix A;
  - provide any comments on the plans for the delivery of the member induction programme, specifically in relation to the Code of Conduct

## 4. Member Induction 2014 -2015

- 4.1 The plans for member induction build upon the programme delivered in 2010, and member and officer feedback on member development over the last 4 years. In September 2013, the Cross Party Member Development Steering Group considered and agreed an approach to the development of the member development induction programme for 2014-2015.
- 4.2 The draft induction programme is outlined at Appendix A. All sessions are planned to take place in the evening, and on evenings that there are no other Council meetings scheduled to take place, to enable maximum member attendance.

- 4.3 In addition to the range of face to face sessions outlined in Appendix A, an increased focus on ensuring information is available to members electronically has been developed. All members “homepages” will be set up to ensure that they have all the key documents and web links they need to access key information quickly and easily. This will include links to the extensive corporate eLearning package, and national and regional member development packages.
- 4.4 Members will also have access to a new eLearning package of 11 courses developed specifically for councillors (as outlined at Appendix B). The eLearning package can be accessed from any computer/tablet or smartphone via a secure web link, as well as from the councillor’s home page.
- 4.5 A “Members Handbook” will be produced and given to every councillor at the members welcome evening on the 29<sup>th</sup> of May, and will subsequently be available electronically. The Handbook will outline all of the key information Councillors will need, inclusive of the Member Code of Conduct. Copies of the 2010 members handbook will be made available at the meeting to give the Committee an idea of the range of information previously included.
- 4.6 Specifically in relation to standards and conduct, the following will be taking place:

Members welcome evening 29 May 2014

- All members will be given a copy of the Council Constitution and Member Handbook
- The Head of Law will follow the Chief Executive’s welcome with a briefing for all members outlining the principles of decision making

Induction Programme

- The Head of Law will deliver a session on the Member Code of Conduct on Thursday 5 June 2014 that all members will be requested to attend. A session on Data Protection, Freedom of Information and Access to Information will also be delivered on the same evening, as well as ICT hardware hand-out and support – to encourage broad attendance at this key training evening
- Personal Development Planning 1-2-1 sessions will be offered to all members in September 2014, to enable all members to reflect on their training so far and identify any further training needs to inform the further development of the induction programme for the rest of the year.
- There is time scheduled in the draft calendar of meetings for at least one member development session every month for the whole of 2014-2015; this will enable any necessary additional/refresher sessions to be scheduled in as and when necessary
- The responsibilities of the members code of conduct are reinforced within a range of other relevant member induction sessions, including, managing casework and social media for councillors, as well as also being reinforced within eLearning packages such as the “your role as a councillor”, “equalities and diversity” and “chaining meetings”
- Hardcopies of all member development sessions are sent out in the car run, to all members who did not attend the session, after the event and the

materials from the session are also made available to all members electronically.

#### ELearning

- The Code of Conduct will be available on all members home pages, as will be direct access to a comprehensive eLearning package. The Head of Law is developing a Code of Conduct eLearning module
- A Member Development SharePoint site is maintained, where all training that is delivered is stored and accessible for members
- The Overview and Scrutiny Manager is responsible for member development throughout the year and liaises with members directly regarding their training needs. Links with neighbouring boroughs and London programmes of development, such as the Centre for Public Scrutiny and the LGA, have been made to widen the range of development opportunities available to members.

### **5. Encouraging attendance at Code of Conduct training**

- 5.1 Some concern has been expressed that attendance at sessions which highlight members' duties under the Code of Conduct needs to be enhanced, as attendance has been patchy in the past. This item has been referred to the Standards Committee with a view to considering how member attendance at Code of Conduct training sessions might be improved. Members will see that the Code of Conduct training will be run on the evening when ICT equipment is to be distributed, and so members are likely to be in the building in any event and so may be more likely to attend..
- 5.2 In previous years, the Head of Law has, in an attempt to ensure that the training reaches the widest possible audience, offered cross party training and has also been happy to attend the individual party group meetings to present the training. Members of the Committee may wish to decide whether they would like this practice to be repeated or whether they wish to take some other action to encourage attendance. For example if a resolution were passed by this committee urging all members to attend and to treat it as essential training (possibly seeking a report back from officers) this could be circulated by officers to all new members shortly after the election, and a report back could be prepared for the first meeting of the newly elected Standards Committee in the next administration
- 5.3 It is noteworthy that the proposed induction programme provides that the Code of Conduct training takes place on 5<sup>th</sup> June 2014, which is as soon as possible after the new administration takes office. This is particularly important as all members will be bound by the Code from the point at which they take office. It is likely that approximately one third of the new Council will not have been Lewisham councillors previously and so will be unfamiliar with its Code and so will need to be aware of it as soon as possible. However, it is important that this training is not seen as something which is necessary for new members, but also as a refresher for those re-elected in May, so that their familiarity with the ethical framework is up to date, and there can be no doubt about the statutory and local requirements.

- 5.4 As well as present the training, the Head of Law will circulate the presentation material to all members by personal email, and make it known that she is available to answer any questions members may have about it. However, she would welcome any proposals the Committee may have to encourage attendance at the training and/or to make it more effective.

## **6 Individual Electoral Registration (IER)**

At a recent meeting of the Elections Committee, the Committee requested that an all party briefing be presented to the new administration on the impact of Electoral Registration, and though this is not strictly relevant to the work of this committee, the Head of Law will present such training in they new administration and a short resume of the key features of IER appears at Appendix C (circulated separately) at the request of the Chair of the Committee.

## **6 Financial implications**

There are no direct financial implications arising from the implementation of the recommendations in this report.

## **7. Legal implications**

The Localism Act 2011 imposes a duty on the Council to promote the highest ethical standards and the proposals in this report are consistent with it.

## **8. Equalities implications**

- 8.1 The Equality Act 2010 brought together all previous equality legislation in England, Scotland and Wales. The Act included a new public sector equality duty, replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 8.2 The Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.

## **Background documents**

Lewisham Council's Constitution



## Appendix A

### Draft Member Induction Programme 2014

Session Topic	Delivery Method	Led by	Date /Time	Venue
<b>Core / Mandatory Offer: May – July</b>				
Members Open evening	<p>Welcome presentation from the Chief Executive and Head of Law.</p> <p>Meet and greet with Senior officers</p> <p>Collection of Constitution and Members Handbook</p> <p>Photos and ID badges done</p> <p>Return and checking of key paperwork</p> <p>View ICT options/Collect ICT hardware</p>	<p>Mayor, Chief Executive, Exec Directors, Head of Law, Governance support</p>	Thursday 29 <sup>th</sup> May 2014 7pm	Civic Suite
<p>Code of Conduct (inc Equalities Act responsibilities)</p> <p>Data Protection, FOI, Access to Information</p> <p>Managing casework (what is casework and how to manage it, organising surgeries (inc personal safety) and support from officers)</p>	<p>3 X 50 minute sessions running concurrently. Each session is a brief presentation &amp;Q&amp;A</p>	<p>Legal, Head of Law</p> <p>IM&amp;T, Georgina Chambers</p> <p>Corporate Complaints, Health and Safety, Salena and Derek</p>	Thursday 5 <sup>th</sup> June 7pm	Civic Suite
Collection and set up of ICT for new members	Set up of new laptops and	IM&T	Thursday 5 <sup>th</sup> June	Civic Suite

	phones and 121 support to log in		7pm	
Planning	Presentation, Q & A	Head of Planning	Thursday 12 <sup>th</sup> June 7pm	Civic Suite
Licensing	Presentation, Context Case Study Q & A	Licencing Officers	Tuesday 17 <sup>th</sup> June 7pm	Civic Suite
Safeguarding Children and Corporate Parenting		Ian Smith	Thursday 19 <sup>th</sup> June 7pm	Civic Suite
ICasework  (Icasework training and refresher on support available)	Computer based training for Icasework	Complaints and Casework team  Salena & Derek	Monday 23 <sup>rd</sup> June 7pm	Civic Suite
Overview and Scrutiny  (Health scrutiny training and partner meet and greet to take place 26 <sup>th</sup> June-2 <sup>nd</sup> July or as pre-session to first meeting on Thursday 3 <sup>rd</sup> July)	Presentation Q&A	Scrutiny team	Wednesday 25 <sup>th</sup> June 7pm	Civic Suite
Finance Training for Pensions Investment Committee members		Selwyn Thompson	Thursday 26 <sup>th</sup> June 6pm (in advance of 1 <sup>st</sup> meeting)	Civic Suite
Audit Committee and Public Accounts Select Committee finance training	To be 1 joint session, or two sessions running concurrently	David Austin	Monday 7 <sup>th</sup> July 7pm	Civic Suite
London Councils welcome for new councillors	London Councils	All newly elected councillors	Tentatively, Thursday 17 July	City Hall
Using Lewisham's ICT Facilities (incl Outlook and SharePoint, webpages for Council meeting info, and apps for public papers)	Small groups & 1:1	IM&T team	July 7pm TBC	Civic Suite
Introduction to Local Assemblies for New Members		Winston Castello	Wednesday 23 <sup>rd</sup> July	Civic Suite

<b>Other / Enhanced Offer: September – March</b>				
<b>(2 sessions per month scheduled into the calendar for Sept- Dec, 1 session per month scheduled for Jan – Mar)</b>				
Personal Development Plans / Learning Needs Questionnaire (to inform further development of the programme)	1:1	Salena Mulhere	September	Civic Suite
Borough Tour	Accompanied tour around key sites across the borough	Rob Holmans/ Nigel Adams	September	
Introduction to Planning for ward members				Civic Suite
Introduction to Licensing for ward members				Civic Suite
Managing Casework: iCasework - refresher				Civic Suite
Introduction to Local Government Finance for all members				Civic Suite
Social Media for Councillors				Civic Suite
Chairing Skills		TBC		Civic Suite

Member development days in draft calendar from September 2014-March 2015

Tuesday 2 September  
 Wednesday 24 September  
 Monday 20 October  
 Monday 10 November  
 Monday 24 November  
 Tuesday 6 January  
 Monday 16 February (half term)  
 Monday 16 March

## Appendix B

“Modern Councillor” E-Learning for Councillors currently includes:

- Your Role as a Councillor
- Data Protection
- Equality and Diversity
- Chaining Meetings
- Getting Started with Social Media
- Localism Act
- Public Speaking
- Risk Management
- Technology and Change
- Working with the Media
- Writing for the Web

“Designed to be easy to use, Modern Councillor’s modules are short and engaging, typically lasting 30 minutes. The content is structured in this way to allow councillors to complete training as and when their schedules allow. They can also revisit the material as often as they like”

[www.moderncouncillor.com](http://www.moderncouncillor.com)

**Individual Elector Registration**

**1. Background**

- a) By law, IER must be fully introduced by 1 December 2015, after the General Election in May 2015. From then, electoral registration will be individual (rather than household registration as now) and those people not automatically “passport” onto the new electoral roll will be required to produce their national insurance number (NINO) and date of birth (DOB) on registration.
- b) There are transitional arrangements. Electors will be taken off the electoral roll on 1<sup>st</sup> December 2015 if they have not:-
  - been “passport” in a matching of our electoral roll with DWP data, or
  - responded to the 2013/4 canvass (October to February), or
  - subsequently responded to IER requests to register.

**2. Dry Run**

- a) In June 2013, there was a dry run of the matching of data on our electoral roll with DWP data to give an indication of the likely outcome of the live data matching in June 2014. Various algorithms were applied during this matching process relating to the name of the elector and the address. The results were marked as red (no match) amber (weak match) and green (match).
- b) The live run will be the only opportunity to “passport” electors. Following the live run, LAs will have to undertake a series of measures under the IER regulations to increase the match rate ahead of the publication of the Register on 1 December 2015. The Cabinet Office used the dry run to gauge the amount of work local authorities will have to do to optimise the matching process following the live run. This in turn drove funding allocations.
- c) The results were what we would have expected from a London Borough with a high transitory demographic. When undertaking some preliminary data matching we found that a number of red matches resulted from new electors moving in, where the old electors, who had probably moved out, remained registered. This is not surprising for a register that was six months out of date at the time of the dry run. When the live run is conducted in June 2014, the register will be four months out of date.
- d) Approximately 68% of the 193,000 electors on our register were a green match, 5% were amber and 27% were red. The Cabinet Office tell us that the average match rate across Great Britain was 78% and the average for London was 68%.

**3. Local data matching**

- a) It should be stressed that neither dry run nor local data matching will change any existing records on our register. It is an indicator of what will happen when we undertake the live run and subsequent local data matching in June 2014.

- b) After the dry run, we carried out a local data matching exercise, and following matching with Council Tax records, the green match increased to 76%. If the results so far are a reliable reflection of the likely outcome of the live run in June 2014, we estimate that we will be able to passport approximately 80% of the electors on the register as at 1 July 2014.

#### **4. For those not passported,**

The process will be as follows:-

- Between July 2014 and December 2015, household enquiry forms (HEFs) will be sent to householders of properties that have not responded to the annual canvass and properties shown as void on our database (e.g. because of non eligible residents) seeking to confirm data of residents at the address. If there is no response, by law, another form must be sent and if there is still no response, then a door knock must ensue. We will probably have to send out about 20,000 HEFs.
- Also between July 2014 and December 2015, approximately 40,000 invitations to register will have to be sent out. Broadly, these forms are to be sent to individuals on the register whose details do not match the DWP records, and to those not yet on our register of whom we are made aware. These people must provide a NINO and DOB. Again these must be sent at least twice if there is no response followed by a knock on the door. If they do not match they will have to provide other identification and some form of attestation (yet to be confirmed) to Electoral Registration Officer (ERO).
- We currently have just over 5000 absent voters that do not match. Absent voters are the only category of electors who will have to match ahead of the Parliamentary elections in May 2015 or they will lose their right to vote by post. They will however be able to vote in person at the polling station.

#### **5. Risks**

The key risks are:

- Fall in the electoral roll in December 2015
- The competing demands of the Mayoral, Local and European elections.
- Considerable potential for voter confusion

#### **6. Next Steps**

- a) Continue with local data matching and identify other potential local databases
- b) Develop and implement an IER engagement plan
- c) Conduct live run and local data matching in July 2014
- d) Confirm registrations of "passported" electors in July 2014 (estimated to be approximately 143,000)
- e) For non passported electors conduct targeted canvass and registration initiative, post July 2014

STANDARDS COMMITTEE		
<b>Report Title</b>	INDEPENDENT PERSON APPOINTMENTS	
<b>Key Decision</b>		Item No.
<b>Ward</b>		
<b>Contributors</b>	HEAD OF LAW	
<b>Class</b>	Part 1 – For Information	Date: 26 March 2014

As the Committee will recall under changes introduced by the Localism Act 2011 there is a requirement for local authorities to appoint at least one independent person whose views are to be sought and then taken into account by the authority before it makes a decision on an allegation that has been investigated.

The Committee is asked to note that Erica Pinnear and Wendy Innes have been appointed to act as Independent Person to assist the Council in the investigation of complaints under the Council’s Member Code of Conduct. Brief details of the Independent Persons appear below.

**Erica Pinnear**

Erica lives in Bromley and has a B.A. Certificate in Education from Goldsmiths as well as an MBA in Education from London South Bank University. She held various teaching posts in Bromley for 25 years before being appointed to the position of head teacher at Prendergast School in 1998, a position she held until 2008 when she was appointed as Executive Headteacher. Though working in Lewisham for the last 15 years, she never been a Lewisham Council employee. Throughout her professional life she has conducted a number of sensitive investigative and disciplinary procedures and hearings. She also served on the Council of Queen Mary College of London University. Having retired recently, she serves as a Chair of Governors at a Lewisham primary School. Erica has been granted the Freedom of Lewisham.

## **Wendy Innes**

Wendy is based in Newcastle upon Tyne. She has an M.A. in Swedish Studies and is a solicitor with extensive experience of advising North Tyneside Council where she was employed for 17 years until 2013, most recently as head of the legal service and deputy monitoring officer there. Before that she worked for 5 years in a commercial legal firm. North Tyneside operates a directly elected mayoral system like Lewisham and Wendy is very familiar with the new ethical framework under the Localism Act, has conducted two independent investigations into allegations of breach of the Member Code of conduct in North Tyneside and presented reports about the investigations to their Standards Committee.