



STANDARDS COMMITTEE

—Agenda—

**MONDAY
12 JANUARY 2004**

7.00 PM

**COMMITTEE ROOM 4
HAMMERSMITH
TOWN HALL
LONDON W6 9JU**

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Membership

Mr. Christopher Troke (Chair)
Mr. Steven Moussavi
Ms. Rafela Fitzhugh
Councillor Colin Aherne
Councillor Chris Allen
Councillor Nicholas Botterill

Jpc/02/01/04

STANDARDS COMMITTEE

—Agenda—

12 JANUARY 2004

CLICK ON ITEMS IN BLUE TO GO STRAIGHT TO REPORT

**PAGE (refers to
printed agenda)**

1. ELECTION OF CHAIR FOR THE MEETING

- 1.1 If the Chair of the Committee is absent for any reason, members of the Committee (independent and Councillor) shall elect a Chair for the meeting from among the independent members present.

2. APOLOGIES FOR ABSENCE

3. [MINUTES – 29 OCTOBER 2003](#)

3 – 5

- 3.1 To confirm and sign the Minutes of the meeting held on 29 October 2003 as an accurate record.

4. DECLARATION OF INTERESTS

If a Councillor has any personal or prejudicial interests in a particular report, they should declare an interest.

A Councillor should not take part in the discussion or vote on any matter in which they have a prejudicial interest. They should withdraw from the meeting while the matter is under discussion unless the disability to discuss the matter has been removed by the Standards Committee.

5. [ADJUDICATION PANEL FOR ENGLAND – APPEAL FORM](#)

6 – 8

- 5.1 The Committee is asked to note the standard appeal form issued by the Adjudication Panel for England for use in lodging appeals to the President of the Adjudication Panel from determinations made by the Standards Committee.

(NB: It should be noted by members that the right of appeal will not be granted automatically, but is at the absolute discretion of the President of the Tribunal.)

[Adjudication Panel appeal form](#)

6. [s.66 DETERMINATIONS – FORMS & PROCEDURE](#)

9 - 21

- 6.1 The Committee is asked to note the forms and procedures which will be used when cases are referred to the Monitoring Officer from an Ethical Standards Officer (ESO) for local determination.

(+ Power-Point presentation)

[Pre-hearing form to respondent Councillor](#)

[Pre-hearing form to ESO](#)

[Model hearing procedure](#)

ANY OTHER BUSINESS

ipc/ 02/01/04

STANDARDS COMMITTEE

—Minutes—

29 OCTOBER 2003

Present:

Mr. Christopher Troke (Chair)
Mr. Steven Moussavi
Ms. Rafela Fitzhugh
Councillor Colin Aherne

ITEM	ACTION BY
Item 1 <u>APOLOGIES FOR ABSENCE (IF ANY)</u> Apologies for absence were received from Councillors Allen & Botterill.	PAD/JPC to note for Minutes
Item 2 <u>MINUTES – 30 JULY 2003</u> <u>RESOLVED:</u> That the Minutes of the meeting held on 30 July 2003 be confirmed and signed as an accurate record.	PAD/JPC to note
Item 3 <u>DECLARATIONS OF INTEREST</u> There were no declarations of interest made at this meeting of the Committee.	
Item 4 <u>SCHEME OF ALLOWANCES</u> The Committee received a report on the members' Scheme of Allowances, which had been agreed by the Full Council on 24 September 2003. Amongst its provisions, the agreed Scheme provided for the payment to Independent Members of the Standards Committee of the sum of £400 per annum (i.e.£33.33 per calendar month gross) in recognition for their contribution and time given over to the work of the Committee. As agreed by the Council, payments would be back-dated to May 2003 (i.e. the start of the new Municipal Year), and would be up-rated annually by the same percentage increase as the national Local Government Pay Award until the next review of	

the Allowances Scheme in 2007/8 financial year.

Independent members on the Committee were asked to provide details of their NI number and bank account details, which should be sent (on a strictly confidential basis) to the Clerk to the Committee so that the details could be entered on the Council's automated payroll system, enabling direct payment to their bank accounts on a monthly basis via BACS.

PAD/JPC to note and action with Central Admin. once details received.

RESOLVED: That the report on the Scheme of Members' Allowances be noted.

Item 5 **S.113 – LOCAL GOVERNMENT ACT 2003**

The Committee received a report on the operation of s.113 of the Local Government Act 2003, which had received Royal Assent and had become law on 18 September 2003.

s.113 of the Act concerned new powers given to Standards Committees which would enable them to establish Sub-Committees for the purpose of delegating the carrying out any of their functions. This could, for example, be considered in relation to the granting of dispensations, or in the determination or investigation of locally referred allegations of misconduct from the Standards Board for England, or for "urgency". Any Sub-Committees so established would be appointed from the membership of the parent Committee, which would also determine the number of members appointed and the length of their term of office.

Monitoring Officers were similarly given powers to delegate their functions to another person (whether internally in the authority or externally) in those cases where they felt conflicts of interest might otherwise arise. This power of delegation could also be sub-delegated onwards by that person if further conflicts of interest arose.

The Committee noted that, in accordance with the Act, both these new powers would come into force two months after enactment of the LGA 2003 – i.e. on or after 18 November 2003.

The Committee, in noting its new powers, was minded at this juncture not to exercise the power to establish any Sub-Committees, as the quorum of the main Committee itself remained as 3 members (one of whom had to be an independent), which at present did not seem to present any difficulty in achieving.

The Committee also felt itself to be ready to begin conducting determination hearings, were any to be referred down to it from the Standards Board for England.

Monitoring Officer(s) to note

RESOLVED: That the new powers of delegation given to Standards Committees and Monitoring Officers, as set out in s.113 of the Local Government Act 2003, be noted.

Item 6 **TRAINING EXERCISE FOR STANDARDS COMMITTEE MEMBERS**

The Committee observed a training video provided by the Standards Board for England, and participated in a training exercise. The video and training exercise covered the following key areas of the Code of Conduct:

- Declaration of interests & duty to inform
- Appropriate allegations
- Personal & prejudicial interests
- Investigation process

Item 7 **ANY OTHER BUSINESS**

a) Ms.Fitzhugh requested whether the meeting of the Committee scheduled for 4 May 2004 could possibly be brought forward to a date in April 2004, as she was likely to be in hospital giving birth at that time.

PAD/JPC to arrange change of date with Chair & Chief Whip.

b) Mr.Moussavi requested that he be sent a copy of the Standards Board Guidance booklet "Standards Committees Determinations" for information.

PAD/JPC to action.

c) Noted that the 3 independent members would be meeting their counter-parts at a meeting of West London Alliance (WLA) Standards Committee members on 13 November in Brent. The WLA comprised (in addition to LBHF) the Boroughs of Brent, Ealing, Harrow, Hillingdon, & Hounslow. This informal meeting had been organised by the independent Chair of L. B. Brent's Standards Committee as a means of raising and discussing matters of common interest or concern with other WLA members, and would involve a guest speaker (Anne Rehill) from the Standards Board for England.

Meeting Ended: 8.06pm

CHAIR

12 JANUARY 2004

ADJUDICATION PANEL FOR ENGLAND APPEAL FORM

ALL WARDS

Councillors will be aware that Hammersmith & Fulham Standards Committee now has the power to hear and determine cases referred to it by an Ethical Standards Officer.

The Adjudication Panel for England, the body to which Councillors must lodge appeals against Standards Committees' determinations, has produced an appeal form for use by Councillors when they wish to lodge an appeal under the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

(It should be noted that the right to appeal to the Adjudication Panel for England is not automatic – permission must first be sought and granted, and may be refused.)

A copy of the Adjudication Panel for England's appeal form is attached to this report for members' information. It may also be obtained from the Adjudication Panel's website www.adjudicationpanel.co.uk or from their offices at 23 Victoria Avenue, Harrogate, North Yorkshire HG1 5RD. (Tel: 01423 538783)

CONTRIBUTORS

PAD.

RECOMMENDATION:

That the Adjudication Panel for England's appeal form be noted.

THE ADJUDICATION PANEL

FOR ENGLAND

LOCAL GOVERNMENT ACT 2000

The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003

APPLICATION FOR PERMISSION TO APPEAL

1	Your Name and Address	
2	Local Authority or other body of which you are a Member	
3	Date of Standards Committee Decision against which you seek to appeal <i>(The decision itself should be attached to this form)</i>	
4	Do you dispute that you failed to comply with the provisions of the Code of Conduct as determined by the Standards Committee	YES / NO <i>(if yes, please give your reasons)</i>

5	Do you wish to appeal against the sanction imposed by the Standards Committee?	YES / NO <i>(if yes please give your reasons)</i>
6	If permission to appeal is granted do you agree to the Appeal being determined by way of written representations?	YES / NO

Your signature

Print Name:.....

Date.....

President's Decision:

Permission	Granted / Denied
Reason if permission refused:	

Signed

Date

STANDARDS COMMITTEE

12 JANUARY 2004

CONTRIBUTORS

(PAD)

**s.66 DETERMINATIONS – FORMS &
PROCEDURES**

WARDS

All

Attached to this report at Appendices 1, 2 & 3 are the detailed forms and model procedure which will be used in s.66 determinations when the Standards Committee meet to consider and determine cases of misconduct referred to it by an ESO.

The forms and procedure are drawn from the Standards Board for England's guidance to local authorities, and is consistent with the principles set out in that guidance.

The Committee will receive a power-point presentation on the process on the night of the Committee meeting.

RECOMMENDATION:

- 1. That the forms and model procedure to be used in s.66 determinations be noted and agreed.**

jpc/02/01/04



**LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION)
REGULATIONS 2003 – STANDARDS COMMITTEE HEARING**

Please answer the following questions and return this form within ONE WEEK OF RECEIPT to: Director of Policy & Administration, Hammersmith Town Hall , King Street, W6 9JU.

1.	Please give any dates in the next 3 months when you will be unavailable to attend a hearing.		
2.	Are you planning to attend the Standards Committee hearing in person?	Yes/No	If No, give reasons here:
3.	Are you going to present your own case?	Yes/No	(If No, go to Q.4)
4.	Do you have legal (or other) representation?	Yes/No	If Yes, give name, address & telephone of legal (or other) representative here:
5.	Will the representative accompany you at the hearing, and/or present your case?	Yes/No	If Yes, state which below

6.	<p>Will you be calling any witness(es)?</p> <p>(NB: You will be responsible for making your own arrangements with your witness(es) to attend the hearing)</p>	Yes/No	<p>If Yes, list name(s), address(es) & telephone here:</p> <p>1.</p> <p>2.</p> <p>3.</p>
7.	<p>Will the witness(es) give direct evidence about the allegation?</p>	Yes/No	<p>If Yes, please outline their evidence here:</p> <p>1.</p> <p>2.</p> <p>3.</p>

8.	<p>In your opinion, should any part of the hearing, or any documentation, be withheld from the public?</p> <p>(NB: Normally the whole of the proceedings, including documentation, will be public)</p>	Yes/No	<p>If Yes, specify which part / document and your reasons here:</p>
9.	<p>Do you disagree with any of the findings set out in the ESO's report (attached)?</p>	Yes/No	<p>If Yes, state which paragraph(s) you disagree with and give reasons here:</p> <p>(continue on separate sheet if necessary)</p>

10.	Have you any further documentary evidence you wish to present to the Standards Committee?	Yes/No	If yes, list below , attach copies to this form and return to Monitoring Officer
11.	Are there any representations or other factors which you would like the Committee to take into account prior to making its determination?	Yes / No	If Yes, please give details below

jpc/24/11/03



LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003 – STANDARDS COMMITTEE HEARING (ESO FORM)

Please answer the following questions and return this form within ONE WEEK OF RECEIPT to: Director of Policy & Administration, Hammersmith Town Hall , King Street, W6 9JU.

1.	Attached are the comments of (Cllr.....) on your investigation report. Do you have any further comments to make in relation to the responses.	Yes/No	If Yes, please set out below :
2.	Will you attend the Standards Committee hearing on.....?	Yes/No	

3.	Will you present your own case?	Yes/No	(If No, go to Q.4)
4.	Will you have legal (or other) representation?	Yes/No	If Yes, give name, address & telephone of your legal (or other) representative here:
5.	Will the representative accompany you at the hearing, and/or present your case?	Yes/No	If Yes, state which below
6.	<p>Will you be calling any witness(es)?</p> <p>(NB: You will be responsible for making your own arrangements with your witness(es) to attend the hearing)</p>	Yes/No	<p>If Yes, list name(s), address(es) & telephone here:</p> <p>1.</p> <p>2.</p> <p>3.</p>

7.	<p>Will the witness(es) give direct evidence about the allegation?</p>	Yes/No	<p>If Yes, please outline their evidence here:</p> <p>1.</p> <p>2.</p> <p>3.</p>
8.	<p>In your opinion, should any part of the hearing, or any documentation, be withheld from the public?</p> <p>(NB: Normally the whole of the proceedings, including documentation, will be public)</p>	Yes/No	<p>If Yes, specify which part / document and your reasons here:</p>

9.	Are there any other factors which you would like the Standards Committee to take into account prior to making its determination?	Yes / No	If Yes, please give details below
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jpc/24/11/03

Model Hearing Procedures for the Standards Committee

Interpretation

1. “Member” means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member’s nominated representative.
2. “Investigator” means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.
3. “Committee” also refers to “a standards sub-committee”.

“Legal Advisor” means the officer responsible for providing legal advice to the Standards Committee, usually the Council’s Head of Legal Services.

Representation

5. The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

Legal Advice

6. The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee will be shared with the member and the investigator if they are present where appropriate.

Setting the scene

7. After all the members and everyone involved have been formally introduced, the Chair should explain how the committee is going to run the hearing.

Preliminary procedural issues

8. The committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making findings of fact

9. After dealing with any preliminary issues, the committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator’s report.
10. If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.

11. If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the member an opportunity to challenge any evidence put forward by any witness called by the investigator.
12. The member should then have the opportunity to make representations to support his or her version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.
13. At any time, the committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.
14. If the member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
15. If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:
 - (a) continue with the hearing, relying on the information in the investigator's report;
 - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.

Did the member fail to follow the Code?

16. The committee then needs to consider whether or not, based on the facts it has found, the member has failed to follow the Code of Conduct.
17. The member should be invited to give relevant reasons why the committee should not decide that he or she has failed to follow the Code and, where appropriate make any representations as to what penalty if any should be imposed in the event that the committee finds that there has been a breach of the Code..
18. The committee should then consider any verbal or written representations from the investigator.

19. The Committee may, at any time, question anyone involved on any point they raise in their representations.
20. The member should be invited to make any final relevant points.
21. The committee will then move to another room to consider the representations having passed the appropriate motion to exclude the press and public.
22. On their return, the Chair will announce the committee's decision as to whether or not the member has failed to follow the Code of Conduct. If the Committee has already heard submissions as to the appropriate penalty the Committee may reach a decision in relation to this at this stage. If not it will be necessary to proceed to paragraph 24 below.

If the member has not failed to follow the Code of Conduct

23 If the committee decides that the member has not failed to follow the Code of Conduct, the committee can move on to consider whether it should make any recommendations to the authority.

If the member has failed to follow the Code

24 If the committee decides that the member has failed to follow the Code of Conduct, it will if it has not already done so consider any verbal or written representations from the investigator and the member as to:

- (a) whether or not the committee should set a penalty; and
- (b) what form any penalty should take.

Depending on the nature of the hearing the Committee may wish to hear representations as to the appropriate penalty either before or after they have made their determination as to whether there is a breach of the Code.

25 The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

26 The committee will then move to another room to consider whether or not to impose a penalty on the member and, if so, what the penalty should be.

27. On their return, the Chair will announce the committee's decision.

Recommendations to the authority

28 After considering any verbal or written representations from the investigator, the committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The written decision

29 The committee will reach its decision as soon as practicable and will notify the parties of its decision and provide full written reasons within 3 working days of the hearing..