

18 JULY 2006

<u>ITEM</u>		<u>PAGE</u>
1.	<u>MINUTES – 31 JANUARY 2006</u>	
1.1	To confirm and sign the Minutes of the meeting held on 31 January 2006 as an accurate record.	
2.	APOLOGIES FOR ABSENCE	
3.	DECLARATION OF INTERESTS	
3.1	If a Councillor has any personal or prejudicial interests in a particular report, they should declare the interest.	
3.2	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.	
4.	<u>COMMITTEE CONSTITUTION & TERMS OF REFERENCE</u>	
4.1	The Annual Council, at its meeting on 24 th May 2006, re-constituted the Standards Committee and appointed Mr.Christopher Troke, on rotation, as its Chairman for the Municipal Year 2006/7. The Committee is asked to note its Constitution and Terms of Reference.	
5.	<u>APPOINTMENT OF INDEPENDENT MEMBERS</u>	
5.1	The Committee is asked to note the process (including length of term) for the appointment of independent members to the Committee.	
6.	<u>STANDARDS COMMITTEE WORK PROGRAMME</u>	
6.1	The Committee is asked to note its proposed work programme.	

7.. “BRIDGING THE GAP” – 5TH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

- 7.1 The 5th Annual Assembly of Standards Committees will be held on 16 – 17 October 2006 at the ICC, Birmingham, and the Committee is asked to authorise two delegates to attend.

8. ITEMS FOR INFORMATION

[Investigations/Determinations](#)

- 8.1 The Committee is asked to note its agreed procedures for dealing with local investigations and determinations.

jpc/29/06/06

STANDARDS COMMITTEE

—Minutes—

31 JANUARY 2006

Present:

Mr. Steven Moussavi (Chair)
Mr. Christopher Troke
Mrs Grace Moody-Stuart
Councillor Chris Allen

Officers in attendance:

Michael Cogher, Head of Legal Services
Lesley Courcouf, Monitoring Officer
Peter Savage, ACE (Policy and Partnerships)
Richard Leigh, Committee Co-ordinator

ITEM		ACTION
Item 1	<u>APOLOGIES FOR ABSENCE</u>	
Item 1.1	Apologies for absence were received from Councillor Colin Aherne and Councillor Nicholas Botterill	
Item 2	<u>MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE HELD ON 5 OCTOBER 2005</u>	
Item 2.1	<u>RESOLVED</u> - to agree and sign the minutes as an accurate record.	

Matters Arising

NB: In response to the discussion in connection with Matters Arising, the Head of Legal Services undertook to organise training for members of the Standards Committee, to take place shortly after the Annual Council Meeting on 24 May, as the names of the councillors serving on the Committee would not be known until then. He agreed also to provide informal training for Mrs Moody-Stuart, who had recently become a member.

**ACE(OD)/MC to
note and
arrange**

ACE(OD) undertook to bring a detailed work programme to the Committee at its meeting on 4 April.

ACE(OD)/LC to note and action

Mrs Moody-Stuart observed that this would provide a useful framework for the annual report which independent members now had to provide to the Standards Board for England. It was agreed that the independent members would be involved in the post-election induction process.

ACE(PP)/PS to note

The Committee agreed that the names of officers present should be included in the minutes in future.

ACE(PP)/RL/JC to note

Item 3 DECLARATIONS OF INTEREST

Item 3.1 There were no declarations of interest made by members of the Committee at this meeting.

Item 4 PLANNING AND LICENSING GUIDANCE FOR MEMBERS - LOCAL PROTOCOL

Item 4.1 The Committee agreed that this report should be revised to take account of the following points, and presented to the Committee again at its meeting on 4 April.

ACE(OD)/ MC to note and action for 4 April mtg.

- (a) It had been the practice of the previous Monitoring Officer to agree that planning applications from Councillors which were entirely uncontentious should be determined by Planning Officers under delegated powers.
- (b) If a decision on such an application was in any way inconsistent with the Unitary Development Plan, Planning Officers must be able to justify this inconsistency to the satisfaction of the Monitoring Officer.
- (c) A Councillor with a prejudicial interest in a planning application may not attend meetings in a personal capacity.
- (d) "Objectors" should read "anyone making representations"; and to ... "by both the applicant and any objectors at the hearing" should be added ... "or in writing beforehand".
- (e) Ward Councillors may not attend Licensing hearings, except as an objector in their own right, as persons living within the vicinity of the premises.
- (f) In paragraph 25, for "objectors" substitute "anyone making representations".
- (g) In paragraph 38, (a) is incorrect - see (e) above.
- (h) In paragraph 40, the names of officers should be omitted.

Item 5 **"STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE" - ODPM DISCUSSION PAPER**

Item 5.1 Councillor Allen expressed reservations about the Standards Committee both assessing the need for an investigation and also carrying it out. The Monitoring Officer pointed out that paragraphs 12 and 13 on page 25 of the discussion paper indicated the view of the Standards Board on this issue. She also said that it was part of her responsibility to press for local mediation where this was considered feasible. It was her view that some of the cases reported in the discussion paper could have been dealt with more effectively at local level. Mrs Moody-Stuart asked for further information on how other councils arrange the process of mediation.

**ACE(OD)/JC/RL
to research
action**

Item 6. STANDARDS BOARD FOR ENGLAND DVD: "GOING LOCAL - INVESTIGATIONS AND HEARINGS"

Item 6.1 The DVD, recently produced by the Standards Board, dealt with the processes of investigation and that of the Panel hearing. Members expressed the view that the coverage of the latter was not adequate. It was not clear, for example, whether the Panel ought to give consideration to the different strands of an allegation one at a time or all together, nor how it was to determine the appropriate sanctions.

NB: Mr Troke asked for clarification on the length of time for which an independent member could serve. It was thought that this might be four years. The Head of Legal Services undertook to check this and report back to the Committee at its next meeting on 4 April.

**ACE(OD)/ MC to
note & action**

ANY OTHER BUSINESS

Two recent documents from the Standards Board for England were circulated to members: Bulletin No.27, and a letter dated 11 January 2006 on the proposed changes to the framework governing standards of conduct.

Meeting began 7:00 pm
Meeting ended 8:40 pm

CHAIR.....



STANDARDS COMMITTEE

4

18 JULY 2006

STANDARDS COMMITTEE CONSTITUTION & TERMS OF REFERENCE

ALL WARDS

The first item of business following the Annual Council meeting is for the Committee to note its Constitution and Terms of Reference.

The Committee's Constitution was revised at the Annual Council meeting to reflect the legal position of enabling one member of the Council's Executive to be a member of the Committee. (Previously it had been decided that no members of the Executive should sit on the Committee). A copy of the revised Constitution is ***attached*** for information. The Committee's Terms of Reference remain unchanged.

Members are asked to note the revised Constitution and Committee Terms of Reference for the Municipal Year 2006/07.

CONTRIBUTORS

RECOMMENDATION:

ACE (P&P)

That the Committee's revised Constitution and Terms of Reference be noted.

STANDARDS COMMITTEE
TERMS OF REFERENCE

1. CONSTITUTION

1.1 The Standards Committee shall be appointed by the Council under Section 53 of the Local Government Act 2000.

1.2 The Constitution of the Committee may be amended in the light of further Regulations and guidance from the Secretary of State and/or the Standards Board for England.

2. MEMBERSHIP

2.1 Membership of the Committee shall be appointed by the Council and shall consist of:

3 Councillors (2 Administration - no more than one of whom may come from the Executive, and one Opposition)

3 independent members (appointed by the Council on a simple majority after recommendation by the Standards Committee Appointments Panel)

3. QUORUM

The quorum for the meeting shall be 3 members, one of whom must be an independent member.

4. VOTING

4.1 All members of the Committee shall have voting rights. In the event of an equality of votes, the Chairman shall have the casting vote.

5. CHAIRMAN

5.1 The Committee shall elect its own Chairman, with the intention that this shall be one of the three appointed independent members on annual rotation.

6. PROCEDURES

6.1 Council Standing Orders (as applicable to committees) shall apply at meetings of the committee.

6.2 Meetings of the committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

7. TERMS OF REFERENCE

7.1 To promote and maintain high standards of conduct within the Council by Councillors, Co-opted members and employees, and to oversee the Council's ethical framework.

7.2 To assist members, co-opted members and employees of the authority to observe the authority's Codes of Conduct (Councillors statutory Code and Staff Code of Conduct). To oversee and monitor the application of the Council's local protocols, and to recommend to Council any changes or additions needed.

7.3 To oversee the preparation and dissemination of advice and guidance on matters relating to the Councillors' Code of Conduct, and to review arrangements for Councillor training in this area.

7.4 To receive an annual report on the operation of the Council's Confidential Reporting Code (whistle-blowing policy).

7.5 To consider and advise on any matters relating to the Council's ethical framework, and to draw up a forward programme of work, so as to ensure effective oversight of such issues.

7.6 To grant dispensations in accordance with the Relevant Authorities (Standards Committees) (Dispensation) Regulations 2002.

7.7 To consider and determine allegations of breach of the Code of Conduct referred by an Ethical Standards Officer, and to investigate and determine allegations of Councillor misconduct referred from the Standards Board for England.

7.8 Other functions from time to time as agreed appropriate by the Council.



STANDARDS COMMITTEE

5

18 JULY 2006

APPOINTMENT OF INDEPENDENT MEMBERS

ALL WARDS

This report sets out the requirements and process for the appointment of the independent members of the Standards Committee

CONTRIBUTORS

ACE(OD)
HLS

RECOMMENDATION:

1. That the appointment process for the independent members of the Standard Committee be noted.
2. That the Committee reviews the process on an annual basis

1.0 Introduction

1.1 This report sets out the requirements in relation to independent members of the Standards Committee under the Local Government Act 2000 and the Relevant Authorities (Standards Committees) Regulations 2001 (“the Regulations”).

2.0 Size and Composition of Standards Committees

2.1 The Regulations require that where a Standards Committee has more than three members, at least 25% of the members must be independent members.

2.2 A person may not be appointed as an independent member unless the appointment:-

- (a) is approved by the majority of members of the authority (i.e. Full Council);
- (b) is advertised in one or more papers circulating in the authority’s area;
- (c) is of a person who submitted an application to the authority;
- (d) is of a person who has not within the previous five year period been a member or officer of the authority;
- (e) is of a person who is not a relative or close friend of a member of the authority.

3.0 The Hammersmith and Fulham Standards Committee

3.1 This comprises, together with three elected Councillors, three independent members who each satisfy the criteria set out above. The vacancies were advertised and each independent member duly applied, along with other candidates, and were interviewed by the Standards Committee Appointments Panel.

3.2 The Appointments panel duly made recommendations to full Council which appointed the independent members unanimously.

3.3 Independent members hold office for each municipal year or until their resignation. The practice of the authority so far has been to re-appoint all independent members at its Annual Meeting in May provided they continue to be willing to serve.

3.4 There is no statutory requirement or guidance to limit independent members to a particular number of terms nor any system of retirement by rotation. Whilst such practices could be adopted - for example appointing independent members for a four year term, following which some or all of the positions could be re-advertised - the Monitoring officer is of the view that this would not be appropriate given the need for the independent members to develop experience not only of the ethical framework, but also the nature of the authority and its culture etc. This is of particular importance given the relatively slow development of the ethical framework and the fact that independent members are less exposed to Council meetings etc. than their elected member counterparts.

3.5 In conclusion the Monitoring Officer recommends that the current arrangements be continued for the Municipal Year 2006/7 but that the issue is reconsidered by the Standards Committee on an annual basis.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of Holder of File/Copy	Department/Location
1	Local Government Act 2000	Michael Cogher, ext 2700	ACE(OD) Legal Services, HTH
2	Relevant Authorities (Standards Committees Regulation 2001)	Michael Cogher, ext 2700	ACE(OD) Legal Services, HTH

18 JULY 2006

CONTRIBUTORS	STANDARDS COMMITTEE WORK PROGRAMME	WARDS
ACE (P&P)/Cttee	At its meeting on 15 March 2005, the Standards Committee received a presentation by the Audit Commission on an “ethical health-check” it had recently undertaken in relation to the ethical governance arrangements adopted by the Council.	ALL
ACE (OD)	<p>The ethical health-check had been jointly devised by the Audit Commission / Standards Board for England following research which suggested a correlation between a strong ethical framework and good governance. The Audit Commission had therefore made the promotion and maintenance of high ethical standards a key element of all Councils’ Comprehensive Performance Assessments (CPA’s) from 2005 onwards.</p> <p>Although the authority’s CPA scoring at that time was “Excellent”, one suggestion made by the Audit Commission was that the Standards Committee could benefit from having a more specific forward work programme, and that information concerning potential ethical, governance, conduct or probity issues could be received by the Committee in a more systematic and timely fashion.</p> <p>Officers have given this suggestion some thought, and have attempted to draw up a suitable forward work programme for the Committee, a copy of which is attached at <u>Appendix A</u> to this report.</p> <p>The primary work of the Committee is, and will continue to be, the local investigation of misconduct allegations against members as referred by an ESO, and/or the determination of sanctions to be imposed for breaches of the Code of Conduct where these have been found.</p>	

In addition to this primary role, the remit of the Committee also encompasses:

- the consideration and periodic grant of dispensations to members;
- the development and promulgation of suitable training and information for members on ethical matters (especially post-election inductions) with proposed “refresher” training for members every two years;
- the review and update on an annual basis of the Council’s Local Protocols, as set out in the Council’s Constitution;
- the consideration of the annual District Audit Management Letter ;
- and the receipt and consideration of an annual monitoring report from the Monitoring Officer on the use of the Council’s whistle-blowing policy, covering any ethical or governance issues which have arisen during the course of the past municipal year.

The bulk of the Committee’s other work is generated by consultation papers, circulars and other advice or guidance from the Government or Standards Board itself, and this is promulgated by the Committee to all members for their information as and when it arises.

Apart from these areas, it is difficult to see where the Committee could usefully further extend its sphere of operations without taking on board or infringing on the work of other Council or Scrutiny Committees, such as the Audit Committee or Value for Money Scrutiny Committee.

The Committee is therefore asked to note its forward work programme as set out in Appendix A, which may be updated on a rolling basis each Committee.

RECOMMENDATION:

That the Standards Committee note and agree its proposed forward work programme .

LOCAL GOVERNMENT ACT 2000
BACKGROUND PAPERS

No.	Brief Description of Background Papers	Name/Ext. of holder of file/copy	Department/Location
1.	Audit Commission ethical health-check (LBHF)	John Cheong x 2062	Room 203, Hammersmith Town Hall

APPENDIX A

STANDARDS COMMITTEE PROPOSED FORWARD WORK PROGRAMME

TITLE	PROPOSED DATE
Political make up of the new Council	July Committee meeting
Council constitutional arrangements	July Committee meeting
Review of Members induction training	July Committee meeting
Update on ethical framework changes	July Committee meeting
Feedback from Annual Conference	October Committee meeting
DA Management Letter	January 2007 Committee meeting
Review of Local Protocols	March 2007 Committee meeting
Annual Monitoring Report	March 2007 Committee meeting

Model Hearing Procedures for the LBHF Standards Committee

Interpretation of terms

1. “Member” means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. (For the purposes of this procedure, the reference also includes the member’s nominated representative, if any).
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 referred for local investigation, references to the investigator mean the Monitoring Officer or another investigating officer, and his or her nominated representative).
3. “Committee” also refers to “a Standards Sub-Committee” where one has been established.
4. “Legal Advisor” means the officer responsible for providing legal advice to the Standards Committee, usually the Council’s Head of Legal Services.
5. “Pre-hearing” means the process (written questionnaire) by which the member has raised their disagreements or other issues with the investigator’s report and which is submitted to the Monitoring Officer / Committee in advance of the hearing.

Representation

6. The member may be accompanied or represented during the hearing by a Solicitor, Counsel or, by permission of the committee, another person, agreement to which shall not be withheld unreasonably.

Legal Advice

7. The Committee may take advice from the legal advisor at any time during the hearing or while considering the outcome. The substance of any legal advice given to the committee will be shared with the member and the investigator.

Introductions

8. After the members and the parties to the hearing have been formally introduced, the Chair will explain the procedures for the hearing.

Preliminary procedural issues

9. The committee will first resolve any issues or disagreements which have not been resolved during the written pre-hearing process (e.g. whether all or part of the hearing should be heard in public or in private).
10. After dealing with any preliminary issues, the committee will move on to consider whether or not there are any other significant disagreements about the facts, as contained in the investigator's report.

Disagreements over facts

11. If the member disagrees with any relevant fact(s) in the investigator's report without having given notice beforehand of that disagreement, he or she must give very good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will need to consider whether it would be in the public interest to continue the hearing in his / her absence. After considering the member's explanation for not raising the matter at an earlier stage, the committee may decide to :
 - (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 the investigator and/or any appropriate witnesses to be present.
12. If there is a disagreement, but the investigator is present, he or she will be invited to make representations to support their report, including any findings of fact .

The hearing

13. The committee will invite the investigator first to present his/her case and to call any supporting witnesses to give evidence. Following the submission, the committee will then ask any questions, and will also give the respondent member the opportunity to ask questions and/or challenge the evidence put forward by any witness called by the investigator.
14. The roles set out above are then reversed, and the member has the opportunity to present his/ her case and to call any witnesses to give evidence in support or present mitigation. Following the member's submission, the committee will ask any questions, and will give the investigator the opportunity to ask questions and/or challenge the evidence put forward by any witnesses called by the respondent member.

15. This process is then followed by summing-up of their case by both parties. (No new evidence may be introduced at this stage). The respondent member will always go second, so as to have the last word on the matter.
16. Following this, both parties and their witnesses will be asked to leave while the committee retires to consider the facts and evidence, and reach a decision in private.

Did the member fail to follow the Code?

17. The committee will firstly consider and determine, based on the facts and evidence presented to it, whether or not the member has failed to follow the Code of Conduct.
18. The committee may make one of the following findings on the case:
 - (a) the member has not failed to follow the code;
 - (b) the member has failed to follow the code, but no further action need be taken;
 - (c) the member has failed to follow the code, and a penalty should be applied.

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

19. If the committee decides that the member has not failed to follow the Code of Conduct, it should consider whether any recommendations need to be made to the authority about issues arising from the case.

If the member has failed to follow the Code

20. If the committee decides that the member has failed to follow the Code of Conduct, it must then determine what penalty (if any) should be applied.
21. When determining the penalty, the committee must be careful to ensure that it is reasonable and in proportion to the member's behaviour. The committee should consider :
 - The member's intention - was the member aware he/she was breaching, or was likely to breach, the Code of Conduct at the time of the incident?
 - Had the member sought or received any advice before the incident, and if so, was it acted upon?
 - Had there been a breach of trust?
 - Had there been any financial impropriety?
 - How serious was the incident?
 - Did the member accept he/she was at fault?
 - Did the member apologise subsequently to the relevant people?
 - Had the member been warned or reprimanded for similar misconduct, or had they previously breached the Code?

22. Where a member has repeatedly or blatantly misused or abused the authority's resources or facilities, the committee may need to consider the withdrawal of use of those resources or facilities from that member.
23. In more serious cases, such as bullying of officers / members of the public, attempting to gain advantage for themselves or others, dishonesty, or breaches of trust, a suspension from office (maximum 3 months) may be in order.

Penalties

24. The committee may decide on one, or a combination, of the following penalties, to take effect on a date within a period of 6 months from imposition of the sanction, as specified by the Committee :

- to censure the member. (This is the only penalty available where the person is no longer a councillor);
- to restrict the member's access to the resources / facilities of the authority for any period up to a maximum of 3 months;
- partial suspension* of the member for any period up to a maximum of 3 months;
- suspension* of the member for any period up to a maximum of 3 months;
- a requirement that the member gives a written apology in a form specified by the Committee;
- a requirement that the member undergoes suitable training as specified by the Committee;
- a requirement that the member undertakes conciliation as specified by the Committee;
- to partly suspend* the member for any period up to a maximum of 3 months, or until such time as the member submits a written apology in a form specified by the Committee;
- to partly suspend * the member for any period up to a maximum of 3 months, or until the member undertakes appropriate training or conciliation;
- to suspend*, the member for any period up to a maximum of 3 months, or until the member submits a written apology in a form specified by the Committee;
- to suspend * the member for any period up to 3 months, or until such time as the member undertakes appropriate training or conciliation as specified by the Committee.

[Note: * = Partial suspension or suspension may also involve loss of the member's financial allowance, depending on the breach of the Code.]

The decision

25. The committee may give a short oral decision on the case at the conclusion of the hearing if practicable (although it may also reserve judgement at this time), but in any event, all parties to the hearing will be notified of the decision in writing (including reasons) within 10 working days of coming to a decision. (In normal circumstances, decisions will be made within 10 working days of the hearing).

Publicity

26. The committee's findings and decision on the case will be published in summary form in a local newspaper, unless the finding is "No breach of the Code", in which case, the member is permitted to request non-publication.

jpc/ 10 November 2004