

Standards Committee

Wednesday 6 November 2013

7.00 pm

Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

Membership

Councillor Cleo Soanes (Chair)
Councillor James Barber (Vice-Chair)
Councillor Kevin Ahern
Councillor Dora Dixon-Fyle
Councillor Toby Eckersley
Councillor Dan Garfield
Councillor David Hubber
Councillor Tim McNally
Councillor Mark Williams

Reserves

Councillor Nick Dolezal
Councillor Gavin Edwards
Councillor Renata Hamvas
Councillor Jeff Hook
Councillor Michael Mitchell
Councillor Wilma Nelson
Councillor Michael Situ

INFORMATION FOR MEMBERS OF THE PUBLIC

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Contact

Kenny Uzodike on 020 7525 7236 or email: kenny.uzodike@southwark.gov.uk
Webpage: <http://www.southwark.gov.uk>

Members of the committee are summoned to attend this meeting

Eleanor Kelly

Chief Executive

Date: 28 October 2013



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Standards Committee

Wednesday 6 November 2013
7.00 pm

Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

Order of Business

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1. PRELIMINARY BUSINESS		
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2. MINUTES		1 - 3
To approve as a correct record the Minutes of the open section of the meeting held on 11 June 2013.		
3. THE CIVIC ASSOCIATION		
A brief outline on the work of the Civic Association and an update on the Civic Awards.		
4. MEMBER DEVELOPMENT AND TRAINING		
A verbal update on member development and training.		
5. REVIEW OF THE COMPLAINTS MADE UNDER THE CODE OF CONDUCT		4 - 8
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8. GUIDANCE NOTES ON INVESTIGATIONS PROCESS FOR COMPLAINTS MADE UNDER THE CODE OF CONDUCT	17 - 23
9. WORK PROGRAMME	24

To consider the current work programme and to update it as appropriate.

ANY OTHER OPEN BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.

EXCLUSION OF PRESS AND PUBLIC

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

PART B - CLOSED BUSINESS

ANY OTHER CLOSED BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.

Date: 28 October 2013

Agenda Item 2



Standards Committee

MINUTES of the OPEN section of the Standards Committee held on Tuesday 11 June 2013 at 7.00 pm at Ground Floor Meeting Room G02B - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Toby Eckersley
 Councillor Dan Garfield
 Councillor David Hubber
 Councillor Tim McNally
 Councillor Renata Hamvas (Reserve)

OTHERS PRESENT: Mark Roelofsen, Independent Person
 William Dee, Independent Person
 Doreen Forrester-Brown, Director of Legal Services
 Norman Coombe, Head of Corporate team
 Kenny Uzodike, Constitutional Team

1. PRELIMINARY BUSINESS

As apologies of absence had been received from the chair and vice-chair, voting members were confirmed and nominations were sought from members present for a chair for the meeting.

Councillor Tim McNally was nominated as chair by Councillor David Hubber and the nomination was seconded by Councillor Toby Eckersley.

Councillor Tim McNally was appointed to chair the meeting.

- **Apologies:**

Apologies of absence were received from Councillors Cleo Soanes (chair), Dora Dixon-Fyle, James Barber, Kevin Ahern. Councillor Renata Hamvas attended as reserve.

- **Disclosures of interests and dispensations:**

There were no declarations.

- **Notification of any items of business which the chair deems urgent:**

There were none.

2. MINUTES

RESOLVED:

That the minutes of the meeting held on 24 April 2013 be agreed as a correct record and signed by the chair.

3. REVIEW OF MEMBER AND OFFICER PROTOCOL AND COMMUNICATIONS PROTOCOL

Members heard a presentation from Norman Coombe, the head of the corporate team.

He informed members that protocol had been amended as requested by members at the last meeting of the committee and the amendments were listed in paragraphs 5-9 of the report.

Members discussed the amendments and asked questions.

RESOLVED

That the revised member and officer protocol be agreed for presentation to constitutional steering panel and thereafter, council assembly for approval, subject to the inclusion of the definition of "The Source" as the council's intranet in paragraph 81 of the member and officer protocol.

4. REVIEW OF ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011 AND OTHER MATTERS

Members heard a presentation from Norman Coombe, head of the corporate team.

He informed members that the further amendments listed in paragraph 8 of the report had been made to the arrangements to deal with concerns raised by members at the last meeting of the committee.

He also informed members that an email from Councillor Stephen Govier had been taken into consideration when the amendments were made.

RESOLVED:

That the amendments to the arrangements for dealing with standards allegations under the Localism Act 2011 as stated in Appendix A be agreed.

5. WORK PROGRAMME

Members discussed the work programme.

It was noted that details of a cross party training in domestic abuse would become available after the forthcoming Domestic Abuse Panel meeting.

RESOLVED:

That the work programme be noted.

6. UPDATE ON INDEPENDENT PERSONS

Members heard a verbal update from the Doreen Forrester-Brown, director of legal services.

She informed the committee that Mr Mark Roelofsen was attending his last meeting as Independent person as his tenure n would end on 17 October 2013 and this was his last meeting.

Doreen Forrester-Brown and subsequently the chair, thanked Mr Roelofsen on behalf of the committee for his substantial contribution to the committee.

RESOLVED:

That the update on independent persons be noted.

Meeting ended at 7.40pm.

CHAIR:

DATED:

Item No. 5.	Classification: Open	Date: 6 November 2013	Meeting Name: Standards Committee
Report title:		Review of the complaints made under the Code of Conduct	
Ward(s) or groups affected:		All	
From:		Director of Legal Services	

RECOMMENDATION

- That the committee considers the report.

BACKGROUND INFORMATION

- The Localism Act 2011 ("the Act") provides for the abolition of the former standards regime including Standards for England, statutory standards committees, the jurisdiction of the First Tier Tribunal over standards of conduct, and a nationally set code of conduct for councillors.
- Southwark formed a standards committee and appointed three independent persons. As required by the Act the process to appoint an independent person was open and transparent, jointly with Lambeth, and the appointments were approved by Council Assembly.
- One independent person [the former independent chair of Standards Committee] was required to stand down. Southwark now have 2 independent persons.

KEY ISSUES FOR CONSIDERATION

- The Act requires local authorities to have arrangements to investigate allegations and make decisions on them. The current arrangements have been in place since 1 July 2012.
- In August 2013, the Committee for Standards in Public Life produced an Annual Report which expressed concern at the operation of the standards regime since it was revised through the Localism Act 2011. The committee expressed concern in particular about:
 - the operation of the standards regime in local authorities where leadership was inadequate;
 - the lack of meaningful sanctions;
 - the weakness of the 'independent person' arrangements; and
 - the lack of time that was available for transition to the new system.
- The monitoring officer has therefore analysed the complaints data from January 2010 to date. This is shown in appendix A. In addition the monitoring officer has collected data from other London boroughs; this is shown in Appendix B.

Conclusions

8. Since the initial complaints in 2012 post Localism Act the number of complaints returned to pre Localism Act levels. The new arrangements have allowed the monitoring officer to provide local solutions to resolve complaints without formal investigations.
9. So far no complaints from members of the public have resulted in a finding of breach of the code of conduct. Since the Localism Act regime came into force the number has gone down.
10. There may be a number of reasons for this, such as the current lack of sanctions available has inhibited complaints. This may be particularly true of complaints by officers.
11. The ability of the monitoring officer to deal with complaints informally may have lead to less formal complaints. As to the use of the filter with the independent person, this does not appear to be a factor at this stage. However the role of the independent person may impact on the reduction in complaints as they gain experience.
12. The monitoring officer stresses that the regime is still relatively new and any conclusions are subjective.
13. With the exception of Islington, Southwark have the highest proportion of 'member against another member' complaints [See Appendix B]. This information is provided for members to have information about complaints in other authorities and to benchmark the number of complaints against those in Southwark. Members should note that the monitoring officer did not seek information about the number of complaints which were upheld against Members.
14. The cost of these complaints is difficult to quantify, however payments to external solicitors or investigating officers can be quantified.

Community impact statement

15. The ability for members of the public to make complaints about councillors' failure to comply with a code of conduct may be of concern to local people and communities. In addition, lack of clarity on interests may create confusion for local people as to what action can be taken if they consider a councillors conduct to be at fault. This could affect the reputation of the council.

Resource implications

16. Any implications can be maintained within current budgets.

Legal implications

17. The specific legal implications relating to this report have been included in the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Constitution.	http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html 2nd floor, PO Box 64529, London, SE1P 5LX	Lesley John 020 7525 7228
Committee for Standards in Public Life Annual Report	2nd floor, PO Box 64529, London, SE1P 5LX	Norman Coombe 020 7525 7678

APPENDICES

No.	Title
Appendix A	Complaints Breakdown
Appendix B	Benchmarking data

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Legal Services	
Report Author	Norman Coombe, Head of Corporate Team	
Version	Final	
Dated	23 October 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	23 October 2013	

Appendix A

Complaints Breakdown

Southwark

Between May 2010 and July 2012 matter were dealt with by the Standards Sub - Committee¹

Year	2010	2011	2012	2013
Total number of complaints	7	7	12 ²	4
Member complains against member	Total 4 1 [sent for investigation breach upheld] 1 [sent for investigation no breach] 2 [no further action]	None	Total 4 1 [sent for investigation complaint withdrawn] 2 [sent for investigation no breach] 1 [local solution by monitoring officer]	Total 2 1 [sent for investigation no breach] 1 [local solution by monitoring officer]
Member of public complains against members	Total 1 1 [sent for investigation no breach]	Total 6 1 [sent for investigation no breach] 5 [no further action]	Total 8 1 [sent for investigation no breach] 7 [no further action]	Total 2 1 [sent for investigation no breach] 1 [no further action]
Officer complains against members	Total 2 1 [sent for investigation no breach] 1 [no further action]	Total 1 1 [sent for investigation breach upheld]	None	None

¹ Between May 2010 and July 2012 matter were dealt with by the Standards Sub - Committee

² 5 received before July 2012

Appendix B

Member Complaints under the Localism Act 2011 or the Standards Regime

Benchmarking Data Period - 1 January 2010 to Date

Authority Name	2010	2011	2012	2013 (to date)	Total	Of the total how many were complaints by members against another member	How many complaints were made by members of the public against members	Comments
Southwark	7	7	12	4	30	10	17	3 complaints were made by staff against members.
Lambeth	2	0	0	0	2	1	1	
Lewisham	1	4	1	1	7	1	6	
Hackney	5	8	3	4	20			
Haringey	1	0	0	6	7	1	6	We have only included complaints that were referred to the Assessment Sub Committee.
Enfield								No data received
Islington	5	2	2	4	13	5	6	2 complaints were made by staff against members
Croydon	3	5	3	1	12	0	12	
Westminster								No data received
Ealing	4	4	5	9	22	5	17	Complaints by staff have never been formal complaints. Instead, they are dealt with informally by the MO directly with party whips.
Wandsworth	0	0	4	3	7	0	7	6 of these complaints relate to allegations about the actions and statements of a relevant Cabinet Member and local ward councillors concerning the proposed development of a school to which the complainants object. 4 of these are from the same complainant. The figures refer to complaints <i>received</i> , but not necessarily concluded, in the calendar years indicated.
Brent								No data received

Agenda Item 6

Item No. 6.	Classification: Open	Date: 6 November 2013	Meeting Name: Standards Committee
Report title:		Review of the Code of Conduct	
Ward(s) or groups affected:		All	
From:		Director of Legal Services	

RECOMMENDATIONS

1. That the committee considers the report.
2. That the committee agree in principle to the introduction of other interests to the code of conduct and instruct the monitoring officer to bring a further report to standards committee for consideration.

BACKGROUND INFORMATION

3. The Localism Act 2011 ("the Act") provides for councils to impose a code of conduct on members of the authority. Section 29 of the Act requires monitoring officers of relevant authorities to establish and maintain a register of members' and co-opted members' interests, and to make the register available for inspection and to publish it on their authority's website.
4. Section 30 of the Act requires members or co-opted members to notify the monitoring officer of any disclosable pecuniary interests of them or a spouse or civil partner they live with. The section also allows the Secretary of State to make regulations defining a "disclosable pecuniary interest", and requires the monitoring officer to enter any notified disclosable pecuniary interest in the authority's register, as well as any other interest notified to them, whether or not it is pecuniary.
5. What is a 'disclosable pecuniary interest' is detailed in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ("the Regulations"). A 'disclosable pecuniary interest' is an interest of the member or their partner (which means spouse or civil partner, a person with whom the member is living as husband or wife, or a person with whom the member is living as if they are civil partners).
6. Section 31 of the Act requires members or co-opted members to disclose a disclosable pecuniary interest that they are aware of at a meeting or if acting alone, where any matter to be considered relates to their interest. If the interest is not entered in the authority's register, it requires members to register it within 28 days. The monitoring officer must then enter the interest in the authority's register.
7. If the member is present at a meeting of the council assembly, or any committee, sub-committee, joint committee or joint sub-committee of the council, or any meeting of the cabinet or a committee of the cabinet, and they are aware they have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- They may not participate in any discussion of the matter at the meeting
 - They may not participate in any vote taken on the matter at the meeting
 - If the interest is not registered, the member must disclose the interest to the meeting
 - If the interest is not registered and is not the subject of a pending notification, the member must notify the monitoring officer of the interest within 28 days.
8. Where the member considers that disclosure of the details of a disclosable pecuniary interest entered in the register could lead to the member, or a person connected with the member, being subject to violence or intimidation, and the monitoring officer agrees, then copies of the register that are made available for inspection and any published version of the register will not include details of the interest, but may state that the member has a disclosable pecuniary interest, the details of which are withheld under Section 32 of the Act.

Dispensations

9. Dispensations can only be granted on one of five grounds. These are set out in Section 33(2) of the Act as follows:
- I. Where the authority considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - II. Where the authority considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - III. Where the authority considers that granting the dispensation is in the interests of persons living in the authority's area,
 - IV. Where the authority is operating executive arrangements, and considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - V. Where the authority considers that it is otherwise appropriate to grant a dispensation.
10. The monitoring officer, in order to facilitate the smooth running of the Council and to enable members to be able to participate in decision making without risking criminal prosecution and following application, has granted dispensations, to all members in the following areas:
- Council housing in circumstances where they have a disclosable pecuniary interest unless relating to their own tenancy
 - School meals and transport unless relating to their child's school or they have some other particular disclosable pecuniary interests;
 - When considering the report concerning the setting the Scheme for Members' Allowances
 - When Council is considering and setting the Council Tax or other precept;

KEY ISSUES FOR CONSIDERATION

11. Over recent months there have been a number of developments in relation to the Code of Conduct and the registration of interests which members should be aware of. In August a councillor was granted permission to bring judicial review proceedings challenging the compatibility of the new local government standards regime with rights under the European Convention on Human Rights.
12. The case involves the decision by the councillor's local standards committee that they had breached the Code of Conduct by disclosing confidential information. The councillor considers the decision was:
 - irrational;
 - incompatible with rights under Article 10 ECHR to freedom of expression; and
 - incompatible with Article 6, because the standards committee that determined the councillor's civil rights and obligations was not independent and impartial. According to the claimant's legal team, this is because under the new local government standards regime introduced by the Localism Act 2011, the committee was not politically neutral and had a majority of members from the council's ruling group.

The monitoring officer will update on this when the case is determined.

13. In August 2013, the Committee for Standards in Public Life produced an annual report which expressed concern at the operation of the standards regime since it was revised through the Localism Act 2011. The committee expressed concern in particular about:
 - the operation of the standards regime in local authorities where leadership was inadequate;
 - the lack of meaningful sanctions;
 - the weakness of the 'independent person' arrangements; and
 - the lack of time that was available for transition to the new system.
14. Finally in September 2013 the Department for Communities and Local Government (DCLG) issued a further guide for councillors entitled 'Openness and transparency on personal interests'.
15. In summary the guidance states that 'All sitting councillors need to register their declarable interests-both declarable pecuniary interests, and other interests that must be declared and registered as required by your authorities code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union'.
16. As the Regulations only require registration and declaration of 'disclosable pecuniary interests', there is currently no provision in the Code of Conduct relating to non-pecuniary interests or personal interests. That is, there is no requirement to register or disclose interests relating (as example) to membership of other councils, or of organisations to which members have been appointed or nominated by the council).
17. Some members choose to disclose at meeting and this can create confusion if

another member does not. The monitoring officer therefore considers that Part 2 of the current code of conduct should be amended to clarify the position in relation to non-pecuniary interests. Possible amendments are shown in Appendix A attached. If accepted in principle further work on the protocols would be required with the proposed amendments being brought back to committee in March 2014.

Community impact statement

18. The ability for members of the public to make complaints about councillors' failure to comply with a Code of Conduct may be of concern to local people and communities. In addition, lack of clarity on interests may create confusion for local people as to what action can be taken if they consider a councillors conduct to be at fault. This could affect the reputation of the council.

Resource implications

19. Any implication can be maintained within current budgets.

Legal implications

20. The specific legal implications relating to this report have been included in the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Constitution.	http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html 2nd floor, 160 Tooley Street, PO Box 64529, London SE1P 5LX	Lesley John 020 7525 7228
Committee for Standards in Public Life Annual Report	2nd floor, 160 Tooley Street, PO Box 64529, London SE1P 5LX	Norman Coombe 020 7525 7678
DCLG 'Openness and transparency on personal interests'	2nd floor, 160 Tooley Street, PO Box 64529, London SE1P 5LX	Norman Coombe 020 7525 7678

APPENDICES

No.	Title
Appendix A	Proposed Amendments

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Legal Services	
Report Author	Norman Coombe, Head of Corporate Team	
Version	Final	
Dated	21 October 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	21 October 2013	

APPENDIX A

Proposed Amendments

Other Interests

'Relevant person' shall have the same meaning as in the Regulations

An **Other Pecuniary Interest** is an interest of a description set out in (i) or (ii) below but not a disclosable pecuniary interest:

- (i) Any contract for goods, services or works between you or a Relevant Person (or a body in which the relevant person has a beneficial interest) and the Authority which has been fully discharged within the last 2 years.
- (ii) Any tender bid quotation or expression of interest submitted by you or a Relevant Person (or a body in which the relevant person has a beneficial interest) to the Authority within the last 2 years.

Personal Interests

A **Personal Interest** is an interest in any matter to be considered at a meeting where:

- (i) it relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council; or
- (ii) It relates to or is likely to affect any body:
 - a. exercising functions of a public nature;
 - b. directed to charitable purposes; or
 - c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
 - of which you are a member or in a position of general control or management; or
- (iii) a decision in relation to that matter might reasonably be regarded as affecting your wellbeing or the wellbeing or financial position of a friend, relative or close associate to a greater extent than the majority of other council tax payers or inhabitants of the electoral division, affected by the decision.

Agenda Item 7

Item No. 7.	Classification: Open	Date: 6 November 2013	Meeting Name: Standards Committee
Report title:		Inspection of Southwark by the Office of the Surveillance Commissioner	
Ward(s) or groups affected:		All	
From:		Director of Legal Services	

RECOMMENDATION

- That the committee note the report.

BACKGROUND INFORMATION

- The Regulation of Investigatory Powers Act 2000 (RIPA) puts a regulatory framework around a range of investigatory powers used by local authorities. This is done to ensure the powers are used lawfully and in a way that is compatible with the European Convention on Human Rights. It also requires, in particular, those authorising the use of covert techniques to give proper consideration to whether their use is necessary and proportionate.
- RIPA legislates for the use by local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authorities core functions.
- The Office of Surveillance Commissioners (OSC) is responsible for overseeing the use of covert surveillance by designated public authorities.

KEY ISSUES FOR CONSIDERATION

- The council's use of these powers is subject to regular inspection and audit by the OSC in respect of covert surveillance authorisations under RIPA. During these inspections, authorisations and procedures are closely examined and Authorising Officers are interviewed by the inspectors.
- On 20 September 2013 OSC carried out a routine inspection. As part of the process the monitoring officer and authorising officers met with the inspector. Current policy arrangements and training strategy were among the topics discussed.
- Southwark are, at the time of writing, awaiting the inspectors report. On receipt an action plan will be draw up with a further report to standards committee.

Community impact statement

- Proper use of the powers is essential or public confidence could be damaged. This could affect the reputation of the council.

Resource implications

9. Any implication can be maintained within current budgets.

Legal implications

10. The specific legal implications relating to this report have been included in the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Legal Services	
Report Author	Norman Coombe, Head of Corporate Team	
Version	Final	
Dated	21 October 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	21 October 2013	

Agenda Item 8

Item No. 8.	Classification: Open	Date: 6 November 2013	Meeting Name: Standards Committee
Report title:		Guidance Notes on Investigations Process for Complaints made under the Code of Conduct	
Ward(s) or groups affected:		All	
From:		Director of Legal Services	

RECOMMENDATIONS

1. That the committee considers the report.
2. That the committee approves the adoption of the guidance notes.

BACKGROUND INFORMATION

3. The Localism Act 2011 ("the Act") requires local authorities to have arrangements in place to investigate allegations made under the Code of Conduct. The council's current arrangements have been in place since 1 July 2012 and are referenced in the Background Documents to this report.
4. Where the monitoring officer has referred a complaint for investigation there have been a small number of occasions where the expectations and understanding of a subject member or a complainant in respect of the investigations process has not always been addressed as well as the council would aim to do.

KEY ISSUES FOR CONSIDERATION

5. Whilst the council has arrangements in place which meet its obligations under the Act the document containing the investigations process is relatively lengthy and officers believe the section specifically dealing with investigations would be more effective if it was shorter and contained in a separate document.
6. Officers have therefore drafted two separate guidance notes on the investigations process. One is for subject members and is attached in Appendix 'A'. The other is for complainants and is attached in Appendix 'B'.
7. When the Monitoring officer refers a complaint for investigation officers intend to send the respective guidance notes to the subject member and the complainant with the aim of both improving their understanding of as well as providing greater support in what can be a stressful process.

Community impact statement

8. The ability for members of the public to make complaints about councillors' failure to comply with a code of conduct may be of concern to local people and communities. In addition, lack of clarity on interests may create confusion for local people as to what action can be taken if they consider a councillors conduct

to be at fault. This could affect the reputation of the council.

Resource implications

9. Any implications can be maintained within current budgets.

Legal implications

10. The specific legal implications relating to this report have been included in the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Arrangements for Dealing with Standards Allegations Under the Localism Act 2011	http://www.southwark.gov.uk/downloads/download/140/complaint_form-breach_of_the_member_code_of_conduct Southwark Council 2nd floor, PO Box 64529, London, SE1P 5LX	Ian Mark 020 7525 3441

APPENDICES

No.	Title
Appendix A	Guidance Note for subject members
Appendix B	Guidance Note for complainants

AUDIT TRAIL

Lead Officer	Doreen Forrester-Brown, Director of Legal Services	
Report Author	Ian Mark, Senior Lawyer, Governance	
Version	Final	
Dated	22 October 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	22 October 2013	

APPENDIX A

The Investigation Process Subject member

Introduction

The purpose of this guidance is to explain the process which will be used by the Investigating officer during the investigation of a complaint under the Members Code of Conduct. The Investigating Officer has the discretion to vary this process.

Initial investigation

Where after consulting the council's independent person, and if appropriate the whip of the group to which the member who is the subject of the allegation belongs, the monitoring officer decides that a complaint merits a formal investigation, the complaint will be investigated as follows.

Step 1 Summary of the Complaint

The monitoring officer will write to the person making the complaint and the member who is the subject of the allegation summarising the allegation, outlining the monitoring officer's decision and the reasons for reaching that decision.

Advice and Support

A member who is the subject of a formal complaint can find the process of investigation very stressful.

A member wishing to seek support now and throughout the process could consider the following sources:-

- **Their group whip.**
- **A fellow party member, for example another member in the same ward.**
- **An independent legal adviser.**

Step 2 Appointment of the Investigating Officer

The monitoring officer will appoint an investigating officer. The person appointed could be a senior officer of the council, an officer from the London Borough of Lambeth (with whom we have a reciprocal agreement to undertake each others conduct investigations) or an external investigator for example a solicitor from a private firm with the relevant experience to conduct an investigation.

Step 3 Notification of the Investigating Officer

After the investigating officer has been appointed the monitoring officer will write to the person making the complaint and the member who is the subject of the allegation to confirm the name of the person who has been appointed. The investigating officer will then introduce him/herself to both parties by a letter which h/she may send direct or via the council's corporate team in legal services.

Step 4 Agreeing the Complaint

The investigating officer will ordinarily meet with the person making the complaint first to get an understanding of the nature of their complaint, and so that they can explain their understanding of events and suggest what documents the investigating officer needs to see, and who the investigating officer needs to interview as potential witnesses (if any). In exceptional circumstances the investigating officer may carry out the interviews over the telephone or set out a number of questions in writing. The Complainant will be asked to sign a copy of the complaint to confirm that they are satisfied that their complaint has been properly recorded.

Step 5 Subject member: The Complaint

The investigating officer will normally then, subject to any ruling on disclosure, write to the member who is the subject of the complaint and provide him/her with a full copy of the complaint, and meet with the member so that he/she can provide his/her explanation of events, and to identify what documents the investigating officer needs to see and who he/she needs to interview. Again, in exceptional circumstances, the interviews may be carried out over the telephone or set out a number of questions in writing.

Step 6 Witnesses

It is for the Investigating Officer to decide which witnesses to interview and in which order and whether to interview the witnesses over the phone or face to face.

Sharing Information:

It will be necessary for the Investigating Officer to share details of the complaint, whether a summary or the full details of the complaint with the witnesses. This is to ensure that the witnesses are aware of the allegations and can be asked specific questions to assist the Investigating officer in the investigation.

Step 7 Report

At the end of his/her investigation, the investigating officer will produce a draft report and will send copies of that draft report, in confidence, to the person making the complaint and to the member concerned to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.

Having received and taken account of any comments which are made on the draft report, the investigating officer will send his/her final report to the monitoring officer.

The remainder of the process is set out in the councils Arrangements for Dealing with Standards Complaints under the Localism Act 2011 which can be viewed via the following link http://www.southwark.gov.uk/downloads/download/140/complaint_form-breach_of_the_member_code_of_conduct

Questions and queries:

If you have any questions about the process please contact either:

Norman Coombe Head of Corporate Team, Legal Services on 020 7525 7678 or by e-mail at norman.coombe@southwark.gov.uk

Ian Mark Senior Lawyer (Governance). Legal Services on 020 7525 3441 or by e-mail at ian.mark@southwark.gov.uk

APPENDIX B

The Investigation Process Complainant

Introduction

The purpose of this guidance is to explain the process which will be used by the Investigating officer during the investigation of a complaint under the Members Code of Conduct. The Investigating Officer has the discretion to vary this process.

Initial investigation

Where after consulting the council's independent person, and if appropriate the whip of the group to which the member who is the subject of the allegation belongs, the monitoring officer decides that a complaint merits a formal investigation, the complaint will be investigated as follows.

Step 1 Summary of the Complaint

The monitoring officer will write to you and the member who is the subject of the allegation summarising the allegation, outlining the monitoring officer's decision and the reasons for reaching that decision.

Step 2 Appointment of the Investigating Officer

The monitoring officer will appoint an investigating officer. The person appointed could be a senior officer of the council, an officer from the London Borough of Lambeth (with whom we have a reciprocal agreement to undertake each others conduct investigations) or an external investigator for example a solicitor from a private firm with the relevant experience to conduct an investigation.

Step 3 Notification of the Investigating Officer

After the investigating officer has been appointed the monitoring officer will write to you and the member who is the subject of the allegation to confirm the name of the person who has been appointed. The investigating officer will then introduce him/herself to both parties by a letter which h/she may send direct or via the council's corporate team in legal services.

Step 4 Agreeing the Complaint

The investigating officer will ordinarily meet with you first to get an understanding of the nature of your complaint, and so that you can explain your understanding of events and suggest what documents the investigating officer needs to see, and who the investigating officer needs to interview as potential witnesses (if any). In exceptional circumstances the investigating officer may carry out the interviews over the telephone or set out a number of questions in writing. You will be asked to sign a copy of the

complaint to confirm that you are satisfied that your complaint has been properly recorded.

Step 5 Subject member: The Complaint

The investigating officer will normally then, subject to any ruling on disclosure, write to the member who is the subject of the complaint and provide him/her with a full copy of your complaint, and meet with the member so that he/she can provide his/her explanation of events, and to identify what documents the investigating officer needs to see and who he/she needs to interview. Again, in exceptional circumstances, the interviews may be carried out over the telephone or set out a number of questions in writing.

Step 6 Witnesses

It is for the Investigating Officer to decide which witnesses to interview and in which order and whether to interview the witnesses over the phone or face to face.

Sharing Information:

It will be necessary for the Investigating Officer to share details of the complaint, whether a summary or the full details of the complaint with the witnesses. This is to ensure that the witnesses are aware of the allegations and can be asked specific questions to assist the Investigating officer in the investigation.

Step 7 Report

At the end of his/her investigation, the investigating officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned to give both parties an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.

Having received and taken account of any comments which are made on the draft report, the investigating officer will send his/her final report to the monitoring officer.

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**STANDARDS COMMITTEE 2013-14
DRAFT WORK PROGRAMME**

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|-------------------|---|
| March 2014 | <ul style="list-style-type: none">• Civic Awards• Member training and development• RIPA |
| April 2014 | <ul style="list-style-type: none">• Arrangements• RIPA |

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Kenny Uzodike Tel: 020 7525 7236

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