



City of Westminster

Committee Report

Item No:	
Date:	17 March 2010
Classification:	For General Release.
Title of Report:	Review of complaints process and approval of updated Local Complaints Protocol and Assessment Criteria
Report of:	Head of Legal Services
Wards involved:	All
Policy context:	The maintenance of high ethical standards
Financial summary:	There are no financial implications
Report Author:	Rhian Davies
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1. **Summary**

- 1.1 This report reviews how the local assessment framework in Westminster has worked since its introduction in May 2008, proposes amendments to the Local Procedure Protocol and introduces an Assessment Criteria.

2. **Recommendation**

- 2.1 That the Standards Committee:

- (i) Note the contents of this report
- (ii) adopt the Assessment Criteria for the assessment of local member complaints – attached at Appendix 1
- (iii) approve the amendments to the Local Procedures Protocol - attached at Appendix 2

3. **Background**

- 3.1 The Standards Committee (England) Regulations 2008 came into effect on the 8th May 2008. At its meeting on 14th July 2008, the Committee agreed to the creation of three sub-committees to deal with the initial assessment, review and determination of complaints about the conduct of Members. The Committee also adopted a Local Complaints Procedure.

- 3.2 Paragraph 10(3) of the Regulations require every Standards Committee to publish details of procedures it will follow in relation to allegations and gives Standards Committees the freedom to adopt whatever procedures it considers appropriate, subject to taking account of any guidance issued by Standards for England. As the Local Complaints Procedure has been in place for nearly two years and two hearings have been completed, it is an appropriate time to review the Local Complaints Procedure and address any lessons learnt.

4. **Update from the Standards for England**

- 4.1 At the Standards for England Conference in October 2009 Glenys Stacey, the Chief Executive of Standards for England, reported that the number of complaints in the financial year 2008/09 was broadly consistent with previous years when all complaints were received by the then Standards Board for England. Ms Stacey went on to state that whilst half of all complaints were dismissed at initial assessment, significantly more than under the previous regime were investigated. In 2007/08 only 14% of the complaints received were referred for investigation, yet in 2008/09 under the new local investigation procedures 29% of complaints were referred for investigation.

- 4.2 In total 2,863 complaints were received in 2008/09, of those complaints the decision taken by the relevant Standards Committees were to:

- take no further action 53% (1414),
- refer 29% (780) to the Monitoring Officer for investigation,

- refer 12% (327) to the Monitoring Officer for other action; and
- refer 6% (166) to the Standards for England.

Of the 780 investigations undertaken and completed by the Monitoring Officer, two thirds revealed that the Code had not been breached.

5. Review of matters referred as complaints

- 5.1 The City Council's Standards Committee received 47 complaints although 46 of those complained about the same incident relating to one Member.
- 5.2 In relation to the 46 complaints relating to the same allegation of misconduct, the Assessment Sub-Committee referred them all to the Monitoring Officer for investigation. Although all of the complaints were essentially the same, the Investigating Officer was obliged to individually contact each complainant as they were regarded as a party to the case. This was time consuming and not an effective use of resources.
- 5.2 The Assessment Criteria, attached as Appendix 1, therefore suggests that the Assessment Sub-Committee in the future may decide not to take any action in circumstances where *“the same, or substantially a similar allegation, has already been received and there is nothing further to be gained (for example, in view of sanctions) by considering this particular complaint.”* Accordingly where there is more than one complaint which relates to the same incident and the Assessment Sub-Committee consider that the alleged misconduct ought to be investigated, it may be that only one of the complaints is referred for investigation. The Assessment Sub-Committee may decide to take no action in respect of the other complaints. This approach is consistent with advice received from Standards for England.
- 5.3 For practical purposes, only 2 complaints have been received by the Standards Committee. Both of those complaints were referred by the Assessment Sub-Committee for an investigation by the Monitoring Officer. At the subsequent Hearing Sub-Committees it was held that in one case that the Code been breached but that it was unnecessary to impose a sanction, and in the other that the Code had not been breached.
- 5.4 Given that neither complaint resulted in a sanction being imposed, arguably there is a need to review the criteria used by the Assessment Sub-Committee when deciding to refer matters for investigation to the Monitoring Officer.
- 5.5 Accordingly, assessment criteria have been drafted for consideration by the Assessment Sub-Committee and are attached at Appendix 1. Some assessment criteria were previously contained within the Local Complaints Procedure. That information has now been removed from that document and expanded upon with a view to providing more detailed guidance for the Assessment Sub-Committee members when assessing complaints.

6. The Local Complaints Procedure

6.1 A draft of an amended Local Complaints Procedure is attached at Appendix 2. These amendments have been made for ease of use and following changes in the law and guidance. The notable changes to the Procedure are:

- Paragraph 1.4: Makes it clear that only the Standards Committee are able to provide a written summary of the allegation to the Member.
- Paragraph 3.3: Refers to the Assessment Criteria (Appendix 3) which will be used to assess all complaints.
- Paragraph 4: Some of the information relating to assessments has been deleted as it is now contained within the Assessment Criteria
- Paragraph 5.3 Any reviews must be completed within 3 months of receipt.
- Paragraph 8.5: Clarifies the process once the final investigation report has been completed.
- Paragraph 10.1: As from January 2010, any appeals from Standard Committees are to be heard by the First Tier Tribunal rather than the Adjudication Panel for England.
- Paragraph 10.2: Confirms that, in accordance with Regulation 17, the consideration meeting is held prior to the hearing. The information presented to the consideration meeting is exempt but the public interest test needs to be applied.
- Paragraph 11.6: Parties are able to provide new evidence at the Hearing Sub-Committee only in exceptional circumstances
- Paragraph 12.4: Provides greater detail as to the order of the hearing and provides the Chairman with the discretion to amend it as he/she sees fit.
- Paragraph 12.6: Provides greater detail on the sanctions available.
- Paragraph 12.7: Sets out the matters the Committee should consider before imposing a sanction

7 Reasons for Decision

7.1 The Local Complaints Procedure has been in place for nearly two years. During that time two complaints have been referred for investigation and subsequently heard by the Hearing Sub-Committee, it is now considered to be an appropriate time to review the Local Complaints Procedure and address any lessons learnt during the previous two years.

- 7.2 The Local Complaints Procedure has therefore been updated and a comprehensive guide to assessing complaints drafted for approval by the Committee.

If you would like to inspect one of the background papers or speak to someone about this report please contact Rhian Davies – 020 7641 2729; email: rdavies@westminster.gov.uk

Appendices

- Appendix 1 – Draft Assessment Criteria
- Appendix 2 - Draft Local Complaints Procedure

Background Documents

- Local Standards; national perspectives – Annual Review 2008-09
- Standards for England Guidance: The local standards framework