

Executive Summary and Recommendations

Title of Report: **Update on the Local Determination of Complaints
and Sub-Committee Business**

Date: **17 March 2010**

1. Summary of this Report

- 1.1 This report is submitted following the request of the Committee to be updated on the work of its Sub-Committees.

2. Recommendations

- 2.1 That the report be noted.



City of Westminster

Committee Report

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| Item No: | |
| Date: | 17 March 2010 |
| Classification: | For General Release |
| Title of Report: | Update on the Local Determination of Complaints and Sub-Committee Business |
| Report of: | Head of Legal Services |
| Wards involved: | None |
| Policy context: | High Ethical Standards |
| Financial summary: | There are no financial implications arising from this report |
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1. Background Information

- 1.1 Since the commencement of the local determination of complaints the Monitoring Officer has referred two complaints to the Standards Sub-Committee No 1 for consideration at the initial assessment stage. The Sub-Committee agreed to refer both of these for investigation.
- 1.2 One of these investigations has been concluded and determined by Sub-Committee No 3 and the findings have been circulated to all members of the Committee. In summary, the Sub-Committee found that there had been no breach of the Code of Conduct.
- 1.3 The second investigation has been concluded and determined by Sub-Committee No 3. The findings are attached as Appendix A.
- 1.4 Since the last meeting the Sub-Committee have considered and granted three applications for dispensation from the Code. These all related to planning applications submitted by a Member and a planning application on which a Member had made an objection.

If you have any queries about this report or wish to inspect any of the
Background Papers, please contact:
Mick Steward on 020 7641 3134

Background Information

- Reports and Minutes of Standards Sub-Committee of 15 December 2009

**THE (HEARING) SUB-COMMITTEE OF THE WESTMINSTER CITY COUNCIL
STANDARDS COMMITTEE MEETING OF 15 DECEMBER 2009**

COMPLAINT AGAINST COUNCILLORS BARBARA GRAHAME AND AZIZ TOKI

Complainant: Councillor Melvyn Caplan

Chairman: Mrs Liz Peace, CBE

Standards Sub-Committee Members: Councillors Rupert D'Cruz and Tim Mitchell and Lord Richard Best, OBE

Monitoring Officer: Peter Large

Investigating Officer: Rhian Davies

Committee Officer: Mick Steward

Case Reference: 02/09

Hearing Date: Tuesday 15 December 2009

Summary of Complaint:

The Standards Committee received a complaint from Councillor Melvyn Caplan alleging that Councillors Barbara Grahame and Aziz Toki had breached the City Council's Code of Conduct for Members. The complaint alleged that Councillors Grahame and Toki had used council facilities in connection with party political matters, produced newsletters for circulation to the public on a large scale and had sought officer assistance to do so.

The Standards (Assessment) Sub-Committee on 14 July 2009 referred the complaint to the Monitoring Officer for investigation. The Monitoring Officer appointed Rhian Davies, Principal Solicitor, as the Investigating Officer.

Relevant Sections of the Code

The Investigating Officer considered paragraph 6 of the City Council's Code of Conduct for Members.

You:

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority;
 - (i) act in accordance with your authority's reasonable requirements;

- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Summary of Evidence Considered and Representations:

The Investigating Officer's report set out details of her investigation, the interviews which she had undertaken and the matters which she had taken into account in reaching her conclusions.

The Investigation found that in September 2008, December 2008 and April 2009 Councillors Grahame and Toki distributed Church Street Action Reports to a list of their known contacts within the Church Street ward. All of these Action Reports made frequent references to "your Labour Councillors", "Councillors Grahame and Toki", "the Labour Government" and "Karen Buck, MP". The Investigating Officer's report set out more fully the specific reference which led her to conclude that a breach of the Code had taken place. The report also set out the estimated cost of issuing these reports using Council resources by calculating the cost of printing, postage and officer time. The total approximate cost to the Council of producing these reports was £305.50.

The Investigating Officer's report set out fully the comments from Councillors Grahame and Toki, which explained the purpose of the Action reports and how the mailing list had been drawn up. Both Councillors advised that they had not previously seen the Code of Recommended Practice on Local Authority Publicity. Neither Councillor considered the distribution to have been on a large scale.

The Sub-Committee considered the response to the findings submitted by Councillor Paul Dimoldenberg, which had been circulated. The Committee noted that both Councillors had confirmed that they did not accept the findings.

Councillor Paul Dimoldenberg, with the consent of the Sub-Committee represented Councillors Grahame and Toki. He disputed that anything had been done incorrectly. He referred to the IDeA guidance which encouraged Councillors to become involved in all issues relating to their wards and to seek the views of and to advise their constituents. He questioned how they could do this without sending newsletters and said that the limit of 50 copies, set out in the Code of Governance, was inappropriate and had not been updated since the introduction of the Cabinet decision making system. Councillor Dimoldenberg continued by questioning the motive of Councillor Caplan as some of the criticism specifically related to issues within his portfolio.

Councillor Dimoldenberg also submitted that the expenditure involved was minor, compared with that involved with the Westminster Reporter which frequently refers to Conservative Councillors by name and is sent to every household several times a year. He advised that using the name of the political party on business cards had been accepted practice for some time. On the issue of political advantage he said that the Church Street Action Reports were only circulated to less than 3% of the electorate for the ward.

In conclusion, Councillor Dimoldenberg said that both Councillors had a long record of service, only one complaint had been received and that this was not the forum to resolve political differences.

Councillors Grahame and Toki added that they both felt that this issue should have been dealt with in a much less formal way. It was only after the 3rd Action Report had been issued that a complaint was made. If a concern had been raised at an earlier stage both Councillors confirmed that they would have been happy to have made changes to the reports.

Findings of Fact, including Reasons

The Standards Sub-Committee found that the Church Street Action Reports did in parts contain language which was inappropriate, the effect of which was likely to promote support for a particular political party.

The Sub-Committee were of the view that the repeated references to “your Labour Councillors” and references to “Labour” and references to national issues in a local ward newsletter were inappropriate. .

Accordingly, the Sub-Committee found that a breach of the following sections of the Code had occurred:

Paragraph 6 (b) (i), and (ii) and 6 (c)

You

- (b) must, when using or authorising the use by others of the resources of your authority;
 - (i) act in accordance with your authority’s reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

In accordance with the guidance received from the Standards for England, obtained and reported by the Investigation Officer, the Sub-Committee concluded that there had not been a breach of paragraph 6 (a) of the Code since paragraphs, 6 (b) (i) and (ii) and 6 (c) adequately dealt with the complaint and there was therefore no merit in considering a breach of paragraph 6 (a):

You

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

However in all the circumstances, including the content of the newsletters as a whole and the extent of distribution, the Sub-Committee were satisfied that the overall effect of the breach was limited and therefore agreed that no formal sanction should be imposed.

The Sub-Committee asked the Monitoring Officer to arrange relevant training for all Members of the Council, which specifically included the Code of Recommended Practice on Local Authority Publicity, which it recommended that Councillors Grahame and Toki attend.

It was noted that it was likely that this training would be delivered as part of the Councillors' Induction Programme held post the May 2010 City Council elections.

The Sub-Committee also asked that a review be carried out of the relevant parts of the Code of Governance to ascertain if any updating is necessary, that consideration be given to what further guidance could usefully be given on the publication of ward newsletters. The outcomes to be reported to the Standards Committee.

Chairman: _____

Date: _____