STANDARDS COMMITTEE DETERMINATION HEARING PANEL

2 DECEMBER 2009

REDACTED AGENDA





NOTICE OF MEETING

Standards Committee - Determination Hearing Panel

WEDNESDAY, 2ND DECEMBER, 2009 at 10:00 HRS - CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22 8LE.

COUNCILLOR

Councillors Santry and Williams

MEMBERS:

INDEPENDENT Ms. Sykes, Mr. Lovegrove and Ms. Loyd

MEMBERS:

AGENDA

- 1. APOLOGIES FOR ABSENCE (IF ANY)
- 2. ELECTION OF THE CHAIR OF THE DETERMINATION HEARING PANEL FOR THE DURATION OF THE PROCEEDINGS
- 3. DECLARATIONS OF INTERESTS

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest and if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct and/or if it relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

4. PROCEDURAL MATTERS

- i. Outline of Hearing
- ii. The Determination Hearing Panel will be recommended to exclude the Public and Press in order to consider the lifting of the exempt classification on certain documents to be considered at this hearing, circulated as exempt documents.

Please note that the documents if released will be in a redacted form.

5. EXCLUSION OF THE PUBLIC AND PRESS

The following item is likely to be subject of a motion to exclude the press and public from the meeting as it contains exempt information as defined in Section 100a of the Local Government Act 1972; namely information relating to any individual, and information which is likely to reveal the identity of an individual, and information subject to legal privilege; and also in accordance with the Standards Committee (England) Regulations 2008 (regulation 5), and Section 53 of the Local Government Act 2000.

- 6. CONSIDERATION OF RELEASE OF EXEMPT INFORMATION WITHIN THE PUBLIC DOMAIN DURING THE PUBLIC PART OF THE PROCEEDINGS
- 7. RE-INCLUSION OF THE PUBLIC AND PRESS
- 8. DETERMINATION OF COMPLAINT SC002/089 (PAGES 1 158)

Documents for consideration

- (i) Report of the Monitoring Officer
- (ii) Pre-Hearing process summary
- (iii) Agenda contents list detailing summary of documentation
- (iv) Appendices 1 to 5

9. CONSIDERATION OF ANY ADDITIONAL PROCEDURAL POINTS

10. DELIBERATIONS OF THE HEARING PANEL ON DISPUTED MATTERS OF FACT

The Panel, having heard the representations of the parties concerned and considered the evidence, including any witnesses, will then deliberate.

All parties other than the Panel Members, Legal Adviser to the Panel, and Committee Manager will withdraw from the proceedings.

All parties will be invited back in to the proceedings. The Chair of the Determination Hearing will give the decision of the Panel.

11. DELIBERATION OF THE HEARING PANEL AS TO WHETHER ON THE FACTS THERE HAS BEEN A FAILURE TO COMPLY WITH THE CODE OF CONDUCT

The Panel, having heard the representations of the parties concerned and considered the evidence, including any witnesses, will then deliberate.

All parties other than the Panel Members, Legal Adviser to the Panel, and Committee Manager will withdraw from the proceedings.

All parties will be invited back in to the proceedings. The Chair of the Determination Hearing will give the decision of the Panel.

12. DELIBERATIONS OF THE HEARING PANEL AS TO SANCTION TO BE IMPOSED IN THE EVENT THAT A FAILURE TO COMPLY IS FOUND

The Panel, having considered Form C and heard the representations of the parties concerned will then deliberate.

All parties other than the Panel Members, Legal Adviser to the Panel, and Committee Manager will withdraw from the proceedings.

All parties will be invited back in to the proceedings. The Chair of the Determination Hearing will give the decision of the Panel.

13. RECOMMENDATIONS TO THE COUNCIL

The Panel will consider representations from the investigating officer and will decide whether to make any recommendations to the Council with a view to promoting a high standard of conduct.

14. SUMMARY WRITTEN DECISION

The Panel will provide a short summary decision in writing. A full written decision will be approved by all Panel Members as soon as practicable and will be communicated to the parties.

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Deputy Head of Local Democracy and Member
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24 November 2009



Agenda item:

[No.]

DETERMINATION HEARING PANEL ON 2 DECEMBER 2009

Report Title: Local Determination Hearing into Complaint of Failure to Comply with the Members' Code of Conduct (Ref SC2/089)

Report of: The Head of Legal Services and Monitoring Officer

Wards(s) affected: All

Report for: Decision

1. Purpose and Recommendation

1.1 The Panel is convened to hear and determine the complaint in accordance with the local procedure rules and guidance from the Standards Board

Oph holdsloy

Report Authorised by: John Suddaby, Head of Legal Services and Monitoring Officer

Contact Officer: Terence Mitchison, Principal Project Lawyer Corporate Telephone: 020 8489 5936 email: terence.mitchison@haringey.gov.uk

2. Local Government (Access to Information) Act 1985

2.1 This report is exempt from publication as it contains exempt information in the attachments under paragraphs 1, 2 and 5 of Part 1 of Schedule 12 to the Local Government Act 1972 namely information revealing or likely to reveal the identity of individuals and information subject to legal professional privilege.

3. Report

- 3.1 This Hearing Panel was established to determine this complaint (ref SC2/089) at the special meeting of the Standards Committee on 9 September 2009.
- 3.2 The Pre-Hearing Process Summary attached to this report sets out the background, the pre-hearing process, the matters agreed, the matters in dispute and issues likely to arise including the extent to which the hearing should be held in public and the

exempt documents be made public.

- 3.3 The covering agenda summarises the steps in the hearing procedure. The full hearing procedure is the first document in Appendix 1.
- 4. Comments of the Chief Financial Officer
- 4.1 There are no direct financial implications.
- 5. Comments of the Head of Legal Services
- 5.1 This report is from the Head of Legal Services and Monitoring Officer
- 6. Equalities Implications
- 6.1 There are no specific implications
- 7. Use of Appendices
- 7.1 (i) The Pre-Hearing Process Summary
 - (ii) The Agenda Contents List
 - (iii) 5 Appendices contents summarised in (ii)

NOT FOR PUBLICATION

By virtue of paragraph(s) 1, 2, 5, 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

NOT FOR PUBLICATION

By virtue of paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972

PRE-HEARING PROCESS SUMMARY

COMPLAINT BY MS. KARLENE AKINDELE AGAINST COUNCILLOR HALEY - LOCAL REFERENCE SC2/089

LONDON BOROUGH OF HARINGEY – STANDARDS COMMITTEE HEARING PANEL

MEMBERS OF HEARING PANEL – CLLRS SANTRY AND WILLIAMS AND MS. C. SYKES, MS. A. LOYD AND MR R. LOVEGROVE

MONITORING OFFICER - JOHN SUDDABY

CLERK TO THE STANDARDS COMMITTEE AND ITS SUB-COMMITTEES/PANELS - CLIFFORD HART

DATE OF HEARING - WEDNESDAY 2 DECEMBER 2009

TIME OF HEARING - COMMENCING AT 10.00 A.M.

LOCATION OF HEARING - HARINGEY CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22

1. THE COMPLAINT

- 1.1 The complaint was made on 17 October 2008 by Ms. Karlene Akindele (the complainant) who was the Grants Programme Manager in the Corporate Voluntary Sector Team within the Directorate of Policy, Performance, Partnership and Communication. The complaint comprised three distinct but related allegations.
- 1.2 The first allegation arose from a meeting with a community organisation on 5 March 2007, attended by both Cllr Haley and the complainant, when Cllr Haley was said to have intimidated, and behaved disrespectfully towards, the complainant. The initial complaint made on 27 March was not under the Members' Code of Conduct. It was investigated by a Council senior manager, Tim Dauncey, who reported on 8 June 2007 recommending conciliation between the parties. But both parties were unhappy with this report and asked for a further investigation by an independent external person. Mr Donovan Bean, an external consultant, agreed to undertake this.
- Because of his unhappiness with the investigation process so far, Cllr Haley instructed external Solicitors, Messrs Curwens, to advise him and to write a letter to the complainant. It is this letter from Curwens, dated 26

October 2007, which is the subject of the second allegation and the only outstanding matter at this hearing.

- 1.4 The letter from Curwens referred to the meeting on 5 March, the initial complaint and the Council's investigation. Curwens said that the complainant's actions "may be deemed outside your [i.e. the complainant's] professional duties and you can be held personally liable for defamatory allegations made against our client [i.e. Cllr Haley] which result in damage to his professional reputation. Any finding of liability against you would give our client a right to claim financial compensation from you." Further on the letter stated "We have advised our client that unless a satisfactory solution can be found, he will be left with no option but to issue legal proceedings against you and the Council in order to protect his professional reputation. The costs of these proceedings will be sought directly from both you and the Council."
- 1.5 In her subsequent complaint dated 17 October 2008, the complainant said (Appendix 3, page 30 of the documents appended to the investigation report, in the final paragraph at the bottom of the page) "This was an extremely frightening letter and caused me great anxiety and stress. To receive a letter that an elected member of the Council was planning to sue me was something that I took extremely serious as I was only doing my duties as an officer of the Council. I find the letter to be intimidating and I felt that I was been bullied and threatened because I had raised a complaint against him. I also felt that the intention of this letter was for me to drop my complaint against him."
- 1.6 No legal proceedings were, in fact, commenced after this letter went to the complainant since it appears that the parties were trying to achieve a solution through mediation.
- 1.7 Mr Bean reported in June 2008 recommending that Cllr Haley write a letter of apology to the complainant. A meeting was convened on 14 October 2008 to implement these recommendations. Cllr Haley was not present but he was represented by a Council senior manager, Stuart Young. The complainant was present with a Union representative accompanying her. Stuart Young informed the complainant that Cllr Haley had expressed his readiness to apologise provided that this would be the end of the matter. The complainant considered this a further attempt to intimidate her. She added the events of this meeting as her third allegation when she lodged her formal complaint, dated 17 October 2008, that Cllr Haley had contravened the Code of Conduct.

THE INVESTIGATION REPORT

2.1 The complaint was considered by an Assessment Sub-Committee of the Standards Committee which met on 12 November 2008. The Sub-Committee decided to refer the complaint to the Monitoring Officer for investigation. The Monitoring Officer delegated the conduct of the investigation to a Principal Lawyer within the Council's Legal Service,

Raymond Prince. The investigating officer interviewed both the complainant and Cllr Haley and others present at the meetings which were the subject of the first and third allegations. This was the only formal investigation conducted under the legislation connected to the Code of Conduct.

- 2.2 The investigating officer concluded his report with findings that Cllr Haley had contravened three sub-paragraphs of the Code of Conduct by virtue of his decision to instruct Solicitors to send a "letter before action" to the complainant (i.e. a final warning to the opposing party to reconsider before the writer starts formal Court proceedings). The investigating officer found "more probably than not" that the letter was designed to force the complainant into withdrawing or not pursuing her intended complaint to the Standards Committee. As such Cllr Haley's action amounted to "disrespect" contrary to paragraph 3 (1) of the Code, "bullying" contrary to paragraph 3 (2) (b) and "intimidation" of a likely complainant contrary to paragraph 3 (2) (c).
- 2.3 The investigating officer did not find any breach of the Code by Cllr Haley in relation to the first and third allegations in the Code i.e. in relation to the events at the meetings on 5 March 2007 and the 14 October 2008.
- 2.4 The investigation report was considered by a meeting of the Standards Committee on 2 July 2009. The Committee resolved to accept the findings of the investigating officer and to refer the breaches directly connected with Curwens' letter to a local determination hearing.

3. PRE-HEARING PROCESS

- 3.1 The outcome of the meeting of the Committee on 2 July was communicated to Cllr Haley the next day. On 10 August the Monitoring Officer wrote to Cllr Haley sending the full investigation report and appendices, the Procedure Rules for Local Determination Hearings and Forms A to E so that Cllr Haley could indicate his response to the investigating officer's report.
- 3.2 A subsequent special meeting of the Standards Committee on 9 September varied the membership of the Hearing Panel to that stated on page 1 of this Summary. The Committee also agreed to reschedule the hearing date from the dates originally fixed in late September in order to accommodate Cllr Haley's prior commitments.
- 3.3 Cllr Haley was reminded to respond to Forms A to E by emails from the Monitoring Officer on 27 October. Cllr Haley responded on 17 November with his completed Forms A, B, D and E which are in Appendix 5 to this report. Form C will be made available to the Panel only if there is a finding of noncompliance with the Code.
- 3.4 Cllr Haley in his Form B wishes to support his case with two documents not which were not produced to the investigating officer, and so were not attached as appendices to his report. These documents are, first, an Attendance Note dated 21/11/07 from "AGC" of Curwens acting on behalf of

Cllr Haley recording his telephone call with Mr Dyson of Badhams Law acting on behalf of the Council and the complainant in relation to the threatened defamation proceedings. The second document is a letter of apology sent by Cllr Haley to the complainant on 8 September 2009. Both documents are at the end of Appendix 5 to this report.

- 3.5 The investigating officer has now considered Cllr Haley's Forms A and B and his comments are set out below.
- 3.6 With respect to Cllr Haley's Form A (his disagreements with the investigation report):
- (i) re: paragraph 7.2.2 Cllr Haley says he did not intend the Solicitor's letter to raise doubts in the complainant's mind about whether to pursue her complaint. The investigating officer stands by his investigation report at paragraphs 7.2.2 and 6.3
- (ii) re: Appendix A, Page 31 Form 2 Cllr Haley is referring to the complainant's third allegation about the meeting on 14/10/08. The investigating officer found no breach of the Code of Conduct in respect of this allegation.
- (iii) re: paragraph 7.2.3 and subsequent "boxes" The investigating officer does not understand what point(s) Cllr Haley is making here, as there appears to be some missing text.
- 3.7 With respect to Cllr Haley's Form B (his additional evidence):
- (i) re: paragraph 1 The telephone attendance note dated 21/11/07 The investigating officer comments that this note shows that litigation was avoided but it does not alter the fact that Curwens letter of 26/10/07 was sent.
- (ii) re: paragraph 2 This is the same point as at 3.6 (i) above.
- (iii) re: paragraph 3 This is the same point as at 3.6 (ii) above.
- (iv) re: paragraph 4 Cllr Haley says that he was advised (presumably by Curwens in relation to their letter of 26/10/07) that this letter would not be considered as bullying or intimidation in law because it was not a sustained attack on an individual over a period of time. The investigating officer responds that guidance from the Standards Board, included in Appendices 1 and 4 to this report, is to the effect that a single episode or event, if sufficiently serious, may amount to bullying or intimidation.
- (v) re: paragraph 5 Cllr Haley says that he wrote his letter of apology to the complainant after taking advice from two barristers. The investigating officer comments that the weight, if any, to be attached to this document is a matter for the Panel to decide.

- The investigating officer has no objection to the admission of the two documents put in by Cllr Haley i.e. the attendance note dated 21/11/07 and his letter to the complainant dated 08/09/09.
- 4. THE MEMBERS' CODE OF CONDUCT

Paragraph 3 of the Code is as follows:

- (1) You must treat others with respect.
 - (2) You must not-
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

5. THE MATTERS AGREED

- 5.1 The only matters in dispute at this hearing relate to the letter dated 26 October 2007 sent by Curwens to the complainant and the circumstances around the sending of that letter.
- 5.2 It is agreed that Cllr Haley instructed Curwens to advise him on matter of the initial complaint dated 27 March 2007 and Tim Dauncey's report. It is agreed that Cllr Haley instructed Curwens to write to the complainant.
- 5.3 It is agreed that no legal proceedings were commenced by Cllr Haley against the complainant or the Council.

6. THE MATTERS IN DISPUTE

- 6.1 The matters in dispute from the view point of Cllr Haley are set out fully in the completed Form A and Form B (Appendix 5).
- 6.2 The Monitoring Officer's representative has attempted to summarise these matters in dispute as follows:
- (a) In his Form A Cllr Haley refers to paragraph 7.2.2 of the investigating officer's report. Here the investigating officer finds it more probable than not that Cllr Haley did instruct his Solicitors to write in such strident terms in order to raise doubts in the complainant's mind about pursuing her complaint. Cllr Haley says that he did not intend the Solicitors letter to raise such doubts in the complainant's mind and that the letter was not to dissuade her from pursuing her complaint. The investigating officer stands by his investigation report at paragraphs 7.2.2 and 6.3
- (b) In his Form B at point 4 Cllr Haley refers to advice from his Solicitor that the letter would not be considered bullying or intimidation "in law" because it was not a sustained attack on an individual over a period of time. The investigating officer responds that guidance from the Standards Board, included in Appendices 1 and 4 to this report, is to the effect that a single episode or event, if sufficiently serious, may amount to bullying or intimidation.

7. HOLDING THE HEARING IN PUBLIC/PRIVATE

- 7.1 Guidance from the Standards Board states that hearings should be held in public where possible to make sure the hearing process is open and fair. The guidance does acknowledge that there may be circumstances where part of a hearing should be held in private.
- 7.2 Cllr Haley has indicated in Form D that he wishes all documents referring to the first/initial allegation to be withheld (from the public/press) because this allegation remains unproven.
- 7.3 The investigating officer agrees with Cllr Haley that there is no public interest in disclosing these documents relating to the first/initial allegation for two reasons. Firstly, there is no finding of any breach of the Code of Conduct in respect of that meeting. Secondly, the Panel should be able to decide the outstanding allegation without the need to refer to the **detail** of the first/initial allegation, although some mention of it's existence will be required in order to put the outstanding allegation into context. Indeed, the letter itself makes reference to the meeting on 5 March 2007.
- 7.4 The investigation officer will submit that the hearing should be held in public and documents relating to the second allegation should be made publicly available but subject to the following points:

- (i) the Panel and the parties should agree to conduct the oral hearing without express references to the complainant whose identity, as a Council employee, needs to be protected. This is because the Council owes a duty of care to its employees and the public interest in knowing her identity is minimal. For example, the employee in question could be referred to simply as "the complainant".
- (ii) the other documents set out in Appendices 2, 3 & 5 to this report, which have hitherto been treated as exempt, could be made available publicly subject to the redaction of any details tending to identify the complainant.

8. WITNESSES

- 8.1 Cllr Haley has indicated in his Form E that he does not wish to call any witnesses. He will have the right to give evidence himself.
- 8.2 The investigating officer does not propose to call any witnesses and will rely upon the evidence in the investigation report and its supporting appendices.

9. REPRESENTATION

- 9.1 Cllr Haley will attend and present his case in person. He is not being represented.
- 9.2 The investigating officer, Raymond Prince, will attend and present his report and findings in person.
- 9.3 The Monitoring Officer, John Suddaby, will attend to advise the Panel on law and procedure.

10. PROCEDURE SUMMARY

- 10.1 The full local procedure for local determination hearings is attached in Appendix 1 to this report.
- 10.2 There are three main stages to the procedure:
 - (i) Making findings of fact about the matters in dispute between the investigating officer and the subject Member,
 - (ii) Determination, on the facts found, whether the subject Member did fail to follow the Code of Conduct, and
 - (iii) In the event of a finding that the subject Member failed to follow the Code, then the Panel will determine the appropriate penalty.

10.3 With the agreement of the Panel, Cllr Haley and the investigating officer will be able to give oral evidence, refer to documentary evidence and ask questions of the other party. Members of the Panel will have the opportunity to ask questions of the parties. Cllr Haley and the investigating officer will be able to make representations at appropriate points in the procedure.

Dated

24 November 2009

Page 15 Page 11

By virtue of paragraph(s) 1, 2, 5, 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

EXEMPT DOCUMENT

LOCAL DETERMINATION HEARING - COMPLAINT AGAINST CLLR HALEY CONTENTS LIST OF AGENDA PAPERS

<u>APPENDIX 1 – Procedural Documents - public</u>

Haringey Procedure Rules for hearings. (pages 15-18)

Members' Code of Conduct – Standards Board guidance on treating others with respect, bullying and intimidation. (pages 19-22)

Standards Board guidance (2003) on excluding the public from hearings. (pages 23-25)

Standards Board guidance on Standards Committee Determinations i.e. local hearings. (pages 26-60)

APPENDIX 2 - exempt

Investigating Officer's report 2 June 2009. (pages 61-72)

APPENDIX 3 - Investigating Officer's original appendices - exempt

Appendix A – schedule of evidence and materials taken into account (page 73)

Witness Statement of Complainant dated 24 December 2008. (pages 74-75)

Witness Statement of Cllr Brian Haley dated 26 March 2009. (pages 76-79)

Wifness Statement of dated 30 December 2008. (pages 80-81)

Witness Statement of Section 2009. (pages 82-84)

Witness Statement of dated 24 April 2009. (pages 85-86)



Declaration of Acceptance of Office and Undertaking to Observe the Code of Conduct signed by Cllr Haley dated 10 May 2006. (page 87)

Complaint Form dated 17 October 2008. (pages 88-95)

Complainant's original complaint dated 27 March 2007 (appendix 1 to her complaint form). (pages 96-98)

Letter from Curwens Solicitors to the Complainant dated 26 October 2007 (appendix 2 to her complaint form). (pages 99-100)

Letter dated 18 November 2008 sent to the Complainant recording the decision to investigate made by the Assessment Sub-Committee on 12 November 2008. (pages 101-102)

Report dated 8 June 2007 on investigation carried out by Tim Dauncey. (pages 103-106)

Report dated June 2008 on investigation carried out by Donovan Bean. (pages 107-118)

Email dated 24 December 2008 from Stuart Young, Assistant Chief Executive - People and Organisational Development, to Raymond Prince. (page 119)

Email dated 23 April 2009 from the complainant to Raymond Prince. (page 120)

Email dated 5 May 2009 from (page 121)



Email dated 2 June 2009 from Cllr Haley to Raymond Prince. (page 122)

APPENDIX 4 - Investigating Officer's original appendices – public

Members' Code of Conduct. (pages 123-135)

Standards Board guidance on treating others with respect and bullying. (pages 136-142)

<u>APPENDIX 5 – Pre-Hearing Process documents – exempt</u>

Letter from Monitoring Officer's representative dated 10 August 2009. (pages 144-146)

Page 13

Email from Monitoring Officer's representative to Cllr Haley dated 27 October 2009. (page 147)

Form A – Response of Cllr Haley to Investigation Report. (pages 148-149)

Form B – Additional evidence from Cllr Haley. (pages 150-151)

Form D – Cllr Haley's response on procedural matters. (pages 152-154)

Form E – Cllr Haley's witnesses (none). (page 155)

Attendance Note dated 21 November 2007 from Messrs Curwens, Solicitors, acting for Cllr Haley which relates to a telephone conversation with Badhams Solicitors, acting for the complainant and the Council. (pages 156-157)

Letter dated 8 September 2009 from Cllr Haley to the complainant. (page 158)

Page 20 Page 14

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APPENDIX I - PROCEDURAL DOCUMENTS PUBLIC

Procedure for hearing allegations of breach of the Members' Code of Conduct by the Standards Committee or a Hearing Sub-Committee

Interpretation

- 1. "Subject Member" means the member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the subject member's nominated representative. Where the hearing involves a complaint against more than one member then this includes all the subject members.
- 2. "Investigator" means the Monitoring Officer (MO) who referred the investigator's report to the Committee, and includes the MO's nominated representative. In the case of matters that have been referred to the MO or the Committee by an Ethical Standards Officer (ESO), the "investigator" mean the ESO or other appointed investigating officer, and his/her nominated representative.
- 3. "Committee" means the Standards Committee and includes to a Hearing Sub-Committee of the Standards Committee. Action taken by the Chair shall be deemed to be authorised by the Committee unless the Committee by majority vote determines otherwise at any time. When it is necessary or desirable to amend or amplify this Procedure, the Committee will take into account representations from the parties and its legal advisor but the Committee will determine all questions relating to procedure and the admission of evidence.
- 4. "Legal advisor" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or a lawyer appointed for this purpose from outside the Council.

Preliminary Matters

Date for Hearing

5. The date and time for the hearing shall be determined by an officer appointed by the Head of Local Democracy and Member Services in consultation with the Committee members, the subject member and the investigator. In the event that agreement between these persons cannot be reached within a reasonable time, the officer shall determine the date and time in consultation with the Chair of the Committee.

Attendance

6. If the subject member or the investigator fails to attend the Committee at the date and time fixed for the hearing, the Committee shall decide whether to proceed in their absence or whether to adjourn to another date having regard to any representations made by, or on behalf of, the absent party and any party present and any advice from the legal advisor. There will be a presumption that the hearing should proceed in the absence of a party who has had reasonable prior written notice of the date and time unless there are exceptional circumstances.

Representation

7. The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another non-legally-qualified person.

Two or more Subject Members

8. If there are two or more subject members, then the Committee will agree such modifications to this procedure as will allow each subject member to be separately represented, if he/she so wishes, and to be given a separate opportunity to make representations and ask questions of witnesses. Any representations and evidence specific to one/some subject members, but not other subject members, shall be properly and separately considered.

Legal advice

9. 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 should be shared with the subject member and the investigator if they are present.

Setting the scene

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

Preliminary procedural issues

11. 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

- 12. 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.
- 13. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
- 14. 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 subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 15. The subject member should then have the opportunity to make representations to support his/her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

Page 17

- 16. 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 subject member.
- 17. If the subject 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.
- 18. If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he/she must give good reasons for not mentioning it before the hearing. After considering the subject 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 subject 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.
- 19. The Committee will usually move to another room to consider the representations and evidence in private.
- 20. On their return, the Chair will announce the Committee's findings of fact.

Did the Subject Member fail to follow the Code?

- 21. The Committee then needs to consider whether or not, based on the facts it has found, the subject member has failed to follow the Code of Conduct.
- 22. The subject member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.
- 23. The Committee should then consider any verbal or written representations from the investigator.
- 24. The Committee may, at any time, question anyone involved on any point they raise in their representations.
- 25. The subject member should be invited to make any final relevant points.
- 26. The Committee will then move to another room to consider the representations.
- 27. On their return, the Chair will announce the Committee's decision as to whether or not the subject member has failed to follow the Code of Conduct.

If the Subject Member has not failed to follow the Code of Conduct

28. If the Committee decides that the subject 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 Council.

If the Subject Member has failed to follow the Code

- 29. If the Committee decides that the subject member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the subject member as to:
- a) whether or not the Committee should set a penalty; and
- b) what form any penalty should take.
- 30. The Committee may question the investigator and subject member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 31. The Committee will then move to another room to consider whether or not to impose a penalty on the subject member and, if so, what the penalty should be.
- 32. On their return, the Chair will announce the Committee's decision.

Recommendations to the Council

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

The written decision

34. The Committee will announce its decision on the day of the hearing and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft as soon as practicable after the hearing before memories fade.

Page 19

THE CODE OF CONDITIONS Grifce for members May 2007







General obligations under the Code of Conduct

Treating others with respect See Paragraph 3(1)

You must treat others with respect.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Complying with equality laws

See Paragraph 3(2)(a)

You must not do anything which may cause your authority to breach any equality laws.

Equality laws prohibit discrimination on the grounds of sex, race, disability, religion or belief, sexual orientation and age.

The provisions of these laws are complex. In summary, there are four main forms of discrimination:

- Direct discrimination: treating people differently because of their sex, race, disability, religion or belief, sexual orientation or age.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their sex, race, disability, religion or belief, sexual orientation or age, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of sex, race, disability, religion or belief, sexual orientation or age, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

 Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality. They also impose specific positive duties on certain authorities.

Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code of Conduct.

Bullying and intimidation

See Paragraphs 3(2)(b) and 3(2)(c)

You must not bully any person including other councillors, council officers or members of the public.

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.





You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

Compromising the impartiality of officers of the authority

See Paragraph 3(2)(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

You should not approach or pressure anyone who works for, or on behalf of, the

authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

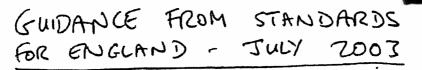
Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Disclosing confidential information

See Paragraph 4(a)

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- · You are required by law to do so.



BOARD

45

APPENDIX 4

Excluding the public from hearings

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees). If the committee considers that 'confidential information' is likely to be revealed during the hearing, the committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The committee also has the power to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are listed in Appendix 3. The committee should act in line with Article 6 of the European Convention on Human Rights, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The committee also has a duty to act fairly and in line with the rules of natural justice.
- 3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:
 - a morals;
 - b public order;
 - c justice;
 - d national security in a democratic society; or
 - a protecting young people under 18 and the private lives of anyone involved.

candards Committee determinations Guidance for monitoring officers and Standards Committees

- 4 There should be a public hearing unless the committee decides that there is good reason, which fails within one of the five categories above (3a to e), for the public to be excluded.
- 5 The committee must also act in line with Article 10 of the European Convention on Human Rights, which sets out the right for people to 'receive and impart information and ideas without Interference by public authority'. Any restrictions on this right must be 'prescribed by law and...necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiallty of the judiciary'.
- 6 Conflicting rights often have to be balanced against each other. The committee must act in line with Article 8 of the *European Convention* on *Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the committee) may interfere with this right unless it is:
 - a In line with the law; and
 - b necessary in a democratic society in the interests of:
 - i national security;
 - ii public safety;
 - iii the economic wellbeing of the country:
 - iv preventing crime or disorder;
 - v protecting people's health and morals (which would include protecting standards of behaviour in public life); or
 - vi protecting people's rights and freedoms.

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 7 In relation to people's rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be 'necessary in a democratic society'. A measure will only be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.
- 8 The Standards Board for England recommends that a Standards Committee should move to a private room when considering its decisions. We do not consider that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

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This guidance is designed to help members and officers in relevant authorities who are involved in the determination of complaints that a member may have breached the Code of Conduct. It reflects the Standards Committee (England) Regulations 2008 (the regulations). These regulations are mandatory and this guidance must be taken into account by your authority.

It details each stage of the determination of complaints process and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required. The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the determination of complaints.

It applies to:

district, unitary, metropolitan, county and London borough councils
English police authorities
fire and rescue authorities (including fire and civil defence authorities)
the London Fire and Emergency Planning Authority
passenger transport authorities
the Broads Authority
national park authorities
the Greater London Authority
the Common Council of the City of London
the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the determination of complaints must take this guidance into account when doing so.

Any reference in this guidance to a standards committee includes a reference to sub-committees established to consider a monitoring officer's investigation report and to consider determination hearings. Any reference to the "subject member" is a reference to the member who is the subject of the complaint that the Code of Conduct may have been breached.

You can contact the Standards Board for England on

or email

The Standards Board for England has issued this guidance to reflect the Standards Committee (England)
Regulations 2008 (the regulations) in respect of holding determination hearings. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue further regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

The main purpose of the standards committee's determination hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take. All complaints that a member may have breached the Code are assessed by the relevant authority's standards committee.

The standards committee must establish a sub-committee (the assessment

sub-committee) which is responsible for assessing complaints that a member may have breached the Code. A complainant may make a request for a review of the standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a review sub-committee which is responsible for carrying out these reviews.

The standards committee should appoint a sub-committee (the consideration and hearing sub-committee) to consider a monitoring officer's investigation report and to hold determination hearings. This sub-committee must be chaired by an independent member of the standards committee.

On completion of an investigation the monitoring officer must make one of the following findings:

There has been a failure to comply with the Code.

There has not been a failure to comply with the Code.

They must write an investigation report and send a copy of it to the subject member. Alternatively, where a Standards Board ethical standards officer has completed an investigation and decided that a complaint should be determined by the standards committee, they will refer their report to the monitoring officer.

The monitoring officer must refer the report to the standards committee. A consideration and hearing sub-committee should be appointed to receive and consider such reports.

If the investigator, in their report, finds no failure to comply with the Code of Conduct, the standards committee must decide whether to accept that recommendation. The standards committee must also decide whether it or the Adjudication Panel for England should hear the case. This preliminary decision must be formally made and recorded.

A meeting of the standards committee to consider the monitoring officer's investigation report must be convened under Regulation 17 of the regulations. Regulation 8(6) allows the consideration of any information presented for that purpose to be considered as exempt information.

As with all exempt information decisions, the standards committee must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. When advising on this matter the monitoring officer should consider the effect of Regulation 17(4). This regulation allows the subject member to prohibit the publication of a notice, stating that the standards committee has found that there has been no failure to comply with the Code.

Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the meeting. In most cases, the public interest

in transparent decision-making by the standards committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined.

A member of the standards committee who considers and overturns a monitoring officer's finding that there has been no failure to comply with the Code may participate in a subsequent hearing.

This meeting to consider the monitoring officer's investigation report provides a useful opportunity for the standards committee to consider the potential issues which might arise during the pre-hearing process.

This consideration meeting is separate to the meeting at which the hearing is conducted. If the investigation report finds that there has been a failure to comply with the Code a hearing must take place – unless the standards committee decides that the matter should be referred to the Adjudication Panel for England for determination.

Under Regulation 18 of the regulations, a standards committee must hear a complaint within three months of the date on which the monitoring officer's report was completed. If the investigation was carried out by an ethical standards officer, the standards committee must hear the complaint within three months of the date that the monitoring officer received the ethical standards officer's report.

As with a meeting to consider a monitoring officer or ethical standards officer's report, when the standards committee is convened for a hearing under Regulation 18 it is also subject to Regulation 8(6).

When assessing whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, monitoring officers similarly need to consider the effect of Regulation 20(2). This allows the subject member to prohibit normal publication of the committee's notice of the finding of no failure to comply with the Code of Conduct.

As before, despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a hearing. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the hearing. In most cases, the public interest in transparent decision-making by the standards committee will outweigh the subject member's interest in

limiting publication of an unproven allegation that has not yet been determined.

In most cases all parties will agree that the hearing should take place in public. It is sensible to seek the views of the relevant parties as early as possible to allow for legal advice to be sought if required.

If the standards committee decides that a hearing is appropriate they should give a copy of the report to:

- the subject member
- the clerk of any relevant town or parish council
- the standards committees of any other authorities concerned

The hearing must take place at least 14 days after the subject member receives a copy of the report from the monitoring officer. However, the hearing can be held sooner than 14 days after the member receives a copy of the report if the subject member agrees.

The standards committee may consider the report in the subject member's absence if the subject member does not go to the hearing. If the standards committee is satisfied with the subject member's reasons for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

If the standards committee does not hear the matter within three months of receiving the completed report, it must ensure that the matter is heard as soon as possible after that. Except in the most complicated cases, standards committees should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total.

When scheduling hearings, standards committees should bear in mind that latenight and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

Other than in very straightforward cases, authorities should use a pre-hearing process to:

identify whether the subject member disagrees with any of the findings of fact in the investigation report

identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide

identify whether evidence about those disagreements will need to be heard during the hearing

decide whether there are any parts of the hearing that are likely to be held in private

decide whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material

The pre-hearing process should usually be carried out in writing. However, occasionally a meeting between the standards committee, the relevant parties and their representatives may be necessary. It is important for the monitoring officer advising the standards committee to consider pre-hearing matters carefully.

Some matters in the pre-hearing process may be decided only by the standards committee or consideration and hearing sub-committee (if one is appointed). Therefore, if it is necessary for the standards committee to meet, they will have to do so formally as with any other council committee meeting. However, it is usually more appropriate for the majority of the pre-hearing process to be dealt with by the monitoring officer or other suitable officer.

The officer providing administrative support to the standards committee should write to the subject member proposing a date for the hearing, and they should do this in consultation with the chair of the standards committee.

They should also outline the hearing procedure, the member's rights and they should additionally ask for a written response from the subject member within a set time. This is to find out whether the subject member:

wants to be represented at the hearing by a solicitor, barrister or any other person

disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements

wants to give evidence to the standards committee, either verbally or in writing

wants to call relevant witnesses to give evidence to the standards committee

wants any part of the hearing to be held in private

wants any part of the investigation report or other relevant documents to be withheld from the public

can attend the hearing

It is important for standards committee members involved in the pre-hearing process to bear in mind the distinction between the essential facts of the case and any inferences based on those facts. A critical part of the pre-hearing process should be an attempt to focus the relevant parties' attention on isolating all relevant disputes of facts between them.

This is because attention to the factual issues will save valuable time later on in the determination process.

The standards committee should start this process by requesting that the subject member makes clear precisely what findings of fact in the report it disagrees with and why.

It should invite the monitoring officer or ethical standards officer to comment on the subject member's response within a set time period. This is to ensure that all parties are clear about the remaining factual disputes and can prepare to deal with those issues on the appointed day.

The standards committee should also ask the relevant parties to provide outlines or statements of the evidence their witnesses intend to give. This will allow the standards committee to decide how many witnesses may reasonably be needed and to identify the issues they will be dealing with at the hearing.

It should only allow the relevant parties to raise new disagreements over factual matters in the investigation report at the hearing in exceptional circumstances, such as new evidence becoming available that the parties could not have produced before. The standards committee should make clear to the subject member that unless they comply with the above procedure, it may rule that it will not allow the new evidence to be presented at the hearing.

Members of the standards committee should consider the evidence provided to them before the hearing to identify any potential conflicts of interest.

In addition they should consider the evidence to identify any connection with the people involved or any other doubts they have over the integrity of the hearing. If they have such concerns, they should seek advice from the monitoring officer as soon as possible. For example, they may know a witness who will be giving controversial evidence or they may have an interest in an important element of the case.

The standards committee may also arrange for any other witnesses to be present who they feel may help in determining the case. This may include the complainant. However, the standards committee cannot order witnesses to appear or give evidence.

committee has received responses from the subject member and from the investigating officer. The pre-hearing process summary should:

set the date, time and place for the hearing

summarise the allegation

outline the main facts of the case that are agreed

outline the main facts which are not agreed

note whether the subject member or investigating officer will go to the hearing or be represented at the hearing

list those witnesses, if any, who will be asked to give evidence, subject to the power of the standards committee to make a ruling on this at the hearing

outline the proposed procedure for the hearing

You can find a checklist for this pre-hearing process summary document in the toolkit — .

The standards committee's clerk should consult with the committee's legal adviser and send a pre-hearing process summary to everyone involved in the complaint at least two weeks before the hearing. This should be done after the standards

Members should bear in mind that a standards committee hearing is a formal meeting of the authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

The standards committee should work at all times in a demonstrably fair, independent and politically impartial way. This helps to ensure that members of the public, and members of the authority, have confidence in its procedures and findings.

The standards committee should bear in mind the need to maintain public confidence in the council's ethical standards. This requires that the standards committee's decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the subject member, the council and the public. For the subject member, an adverse decision by the committee can result in censure or in suspension for up to six months.

The subject member may choose to be represented by counsel, a solicitor, or by any other person they wish. If the subject member concerned wants to have a non-legal representative, the subject member must obtain the consent of the standards committee.

The standards committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

The standards committee controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned.

In many cases, the standards committee may not need to consider any evidence other than the investigation report or the ethical standards officer's report, and any other supporting documents.

However, the standards committee may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report.

The standards committee can allow witnesses to be questioned and cross-examined by the subject member, the monitoring officer, the ethical standards officer or their representative. Alternatively, the standards committee can ask that these questions be directed through the chair. The standards committee can also question witnesses directly.

Generally, the subject member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. The subject member must make their own arrangements to ensure that their witnesses (and witnesses they would like to question) will attend the hearing.

The standards committee has the right to govern its own procedures as long as it acts fairly. For this reason, the standards committee may limit the number of witnesses if the number is unreasonable.

The standards committee will normally take a decision on whether to hear any particular evidence or witness only after having heard submissions from both parties on the issue.

Witnesses of facts that are disputed would normally attend the hearing and should be prepared to be cross-examined. Witnesses as to the character of the subject member, if required, regularly present their evidence in writing and may or may not actually attend the hearing.

Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect. Authorities may wish to consider developing a witness care scheme. At the very least, witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

Standards committees should recognise that subject members also need to be kept fully appraised of the process and any changes to it. Some authorities appoint an officer as a point of contact with the subject member for the duration of the process.

If the standards committee finds that a subject member has failed to follow the Code of Conduct and that they should be sanctioned, it may impose any one or a combination of the following: censure of that member

restriction for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions meet the following requirements:

They are reasonable and proportionate to the nature of the breach.

They do not unduly restrict the person's ability to perform the functions of a member.

partial suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008)

suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008)

that the member submits a written apology in a form specified by the standards committee

that the member undertakes such training as the standards committee specifies

that the member participates in such conciliation as the standards committee specifies

partial suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) or until such time as the member has met exceed of the following restrictions:

They have submitted a written apology in a form specified by the standards committee.

They have undertaken such training or has participated in such conciliation as the standards committee specifies.

suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) or until such time as the member has met of the following restrictions:

They have submitted a written apology in a form specified by the standards committee.

They have undertaken such training or has participated in such conciliation as the standards committee specifies.

Suspension or partial suspension will normally start immediately after the standards committee has made its decision. However, if the standards committee chooses, the sanction may start at any time up to six months following its decision. This may be appropriate if the sanction would otherwise have little effect on the subject member. For example, in the case of a suspension or partial suspension where there are no authority or committee meetings which the subject member would normally go to in the period

after the hearing has finished. The standards committee should also confirm the consequences, if any, for any allowances the subject member may be receiving.

Periods of suspension or partial suspension set by a standards committee do not count towards the six-month limit for absences from authority meetings, after which a member would normally be removed from office under section 85 of the Local Government Act 1972.

When deciding on a sanction, the standards committee should ensure that it is reasonable and proportionate to the subject member's behaviour. Before deciding what sanction to issue, the standards committee should consider the following questions, along with any other relevant circumstances:

What was the subject member's intention? Did the subject member know that they were failing to follow the Code of Conduct?

Did the subject member get advice from officers before the incident? Was that advice acted on or ignored in good faith?

Has there been a breach of trust?

Has there been financial impropriety, for example improper expense claims or procedural irregularities?

What was the result of failing to follow the Code of Conduct?

What were the potential results of the failure to follow the Code of Conduct?

How serious was the incident?

Does the subject member accept they were at fault?

Did the subject member apologise to the relevant people?

Has the subject member previously been warned or reprimanded for similar misconduct?

Has the subject member failed to follow the Code of Conduct before?

Is the subject member likely to do the same thing again?

How will the sanction be carried out? For example, who will provide the training or mediation?

Are there any resource or funding implications? For example, if a subject member has repeatedly or blatantly misused the authority's information technology resources, the standards committee may consider withdrawing those resources from the subject member.

Suspension may be appropriate for more serious cases, such as those involving:

trying to gain an advantage or disadvantage for themselves or others

dishonesty or breaches of trust

bullying

Sanctions involving restricting access to an authority's premises or equipment should not unnecessarily restrict the subject member's ability to carry out their responsibilities as an elected representative or co-opted member.

The following is an extract from useful guidance published by the Adjudication Panel for England on aggravating and mitigating factors they take into account when assessing an appropriate sanction:

An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.

A member's previous record of good service.

Substantiated evidence that the member's actions have been affected by ill-health.

Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.

Compliance with the Code since the events giving rise to the determination.

Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

Dishonesty.

Continuing to deny the facts despite clear contrary evidence.

PROMPTED TO BE STORED AND THE

Seeking unfairly to blame other people

Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.

Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

The Adjudication Panel for England also advises the following:

In deciding what action to take, the Case Tribunal should bear in mind an aim of upholding and improving the standard of conduct expected of members of the various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy. Thus, the action taken by the Case Tribunal should be designed both to discourage or prevent the particular Respondent from any future non-compliance and also to discourage similar action by others.

Case Tribunals should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.

This guidance does not include a firm tariff from which to calculate what length of disqualification or suspension should be applied to particular breaches of the Code. Any such tariff would in any event need to have regard to the need to make adjustments toward the lower end of the spectrum if there are mitigating factors and towards the upper end if there are aggravating factors.

The standards committee should announce its decision at the end of the hearing. It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade. The officer providing administrative support to the standards committee will normally also draft minutes of the meeting.

The standards committee must give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this should be within two weeks of the hearing.

The relevant parties are:

the subject member the complainant the standards committees of any other authorities concerned any parish or town councils concerned the Standards Board for England

The standards committee must arrange for a summary of the decision and reasons for it to be published in at least one newspaper that is independent of the authorities concerned. The newspapers where the decision and reasons are published should be circulated in the area of the authorities involved. A summary of the decision may also be published on the website of any authorities concerned, and

in any other publication if the standards committee considers it appropriate.

If the standards committee finds that the subject member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding. In such cases, the subject member is also entitled to decide that no summary of the decision should be passed to local newspapers.

If the standards committee finds that the subject member failed to follow the Code but that no action is needed, the public summary must:

say that the member failed to follow the Code, but that no action needs to be taken

outline what happened

give reasons for the standards committee's decision not to take any action

state that the member may appeal against that finding

If the standards committee finds that a member failed to follow the Code and it imposed a sanction, the public summary must:

say that the member failed to follow the Code

outline what happened

explain what sanction has been imposed

give reasons for the decision made by the standards committee

state that the member may appeal against that finding

The standards committee's reports and minutes should be available for public inspection for six years after the hearing. However, sections of documents relating to parts of the hearing that were held in private will not have to be made available for public inspection.

For consistency and thoroughness, standards committees should use the following format for their full written decisions.

10 11 July 0.03000 (0.00)

The front cover of the standards committee's full written decision should include the name of the:

authority
subject member
complainant
standards committee member who
chaired the hearing
standards committee members who
took part in the hearing
monitoring officer
ethical standards officer who referred
the matter (if applicable)
local investigator who investigated the
matter (if applicable)
clerk of the hearing or other
administrative officer

It should also include:

case reference numbers from the principal authority and from the Standards Board for England, (if applicable)

the date of the hearing

the date of the report

The standards committee's full written decision should include:

a summary of the complaint

the relevant section or sections of the Code of Conduct

a summary of the evidence considered and representations made

the findings of fact, including the reasons for them

the finding as to whether the member failed to follow the Code, including the reasons for that finding

the sanctions imposed, if any, including the reasons for any sanctions

the right to appeal

The Local Government Act 2000 enables the Adjudication Panel for England and standards committees to suspend and partially suspend members found to be in breach of the Code of Conduct. But, it does not specify exactly what members can and cannot do in their official capacity during the term of suspension.

This has led to confusion in some authorities as to what representative roles, if any, a suspended member can perform. It has also led to confusion over what council facilities they are allowed to use and what entitlements they can continue to receive as a suspended member. This section clarifies what representative roles, if any, a suspended member can perform.

Members under full suspension should not:

Take part in any formal business of the authority

A member who is fully suspended may not exercise any of the functions or responsibilities of membership of the authority. Section 83(9) of the Local Government Act 2000 further provides that a suspended member should not participate in any committee or sub-committee of the authority.

Have access to council facilities

Suspended members should not use or have access to council facilities. As the member is under suspension and

unable to conduct council business, it follows that any use of council facilities by a suspended member would not be conducive to the discharge of the functions of the authority. This is because the member would not be performing council business while suspended.

Receive their council allowance

Under Regulation 4(3) of the Local Authorities (Members Allowances) Regulations 2003, councils may specify in their member allowance schemes that:

Where a member is suspended or partially suspended from his responsibilities or duties as a member of an authority in accordance with part III of the Local Government Act 2000 or regulations made under that Part, the part of basic allowance payable to him in respect of the period for which he is suspended or partially suspended may be withheld by the authority.

It is recommended that members should not receive their allowance while under suspension because they are not performing their role as a member. But, the decision to withhold a member's allowance is ultimately at the discretion of the individual authority.

Members under suspension, should:

Make their suspended status clear

While suspended members remain councillors, they should put 'suspended' after their name when referring to themselves in writing as members. They should also notify constituents of this when contacted by them on constituency business. This is to ensure that all concerned are aware that the member is under suspension and unable to perform council duties.

Make arrangements for another member to handle their constituency work

With help from their council officers, suspended members can arrange for other ward members to handle their constituency work. Or, in the case of a single-member ward, suspended members can arrange for neighbouring ward members to take over their constituency work for the duration of the suspension. This ensures that constituents continue to be democratically represented.

The Code of Conduct does not apply to a person who has been suspended in respect of a relevant function of office for a relevant period of time, so long as the member makes it clear that they have been suspended and does not purport to act as a representative of their authority.

However, when amendments to section 52 of the Local Government Act 2000 come into effect, three paragraphs under the Code of Conduct will apply, "at any other time, where that conduct constitutes a criminal offence". As such, these paragraphs will still apply to members who are suspended. These paragraphs will be:

paragraph 3(2)(c) – intimidation of certain persons in relation to an allegation under the Code of Conduct

paragraph 5 - disrepute

paragraph 6(a) – improperly conferring or securing an advantage or disadvantage

Members can be partially suspended under sections 83(9) and (10) of the Local Government Act 2000. While members who are fully suspended cannot take part in any formal business of the authority during the period of suspension, members who are partially suspended are restricted only from certain activities or business.

The terms of a partial suspension must be set by the standards committee during sentencing. It will often involve suspension from certain committees, or restricted access to certain areas or individuals.

A partial suspension enables the committee to tailor a sanction to the particular breach, while still allowing the member to carry out other functions. For instance, a member who failed to uphold

the Code of Conduct at a planning committee could be suspended from taking part in planning committee meetings for a certain period. Or a member who bullied licensing officers about an application might be barred from contact with officers of the licensing department for a certain period. Again we recommend that members should not receive allowances relating to areas in which they are suspended from for the duration of their suspension.

Officers and members of the authority should be informed of a member's suspension and advised of the suspended member's rights and obligations, as detailed earlier. The council should also help the member make arrangements for another member, either from their ward or a neighbouring ward, to take over constituency work.

It may also notify the public in the authority's area that the member is suspended and unable to perform official council duties until the end of the suspension. Once the suspension has ended, the member is free to resume their duties in full as a member of the authority.

A member subject to a standards committee finding may apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

The President must receive the member's written application within 21 days of the member receiving notice of the standards committee's decision. In this application, the member (appellant) must outline the reasons for the proposed appeal and apply for any sanction imposed to be suspended, if appropriate. They must also indicate whether they want the appeal carried out in writing or in person.

When deciding whether to grant permission to appeal, the President will consider if there is a reasonable chance of the appeal being successful, either in whole or in part. The President will give the appellant concerned their written decision within 21 days of receiving the application. The President will also give their written decision to:

the Standards Board for England the standards committee of any authority concerned any parish or town councils concerned the complainant

If the President refuses to give permission, they will explain the reasons for that decision. If permission is granted, the President of the Adjudication Panel for England will arrange for a tribunal to deal with the appellant's appeal. The tribunal will be made up of at least three members appointed by the President. It may also include the President.

Any member of the Adjudication Panel for England with an interest in the matter may not be a member of the appeal tribunal. Likewise, any member of the Adjudication Panel for England who has been a member or officer of the authority concerned within the last five years cannot take part.

If the appellant does not agree to have the appeal carried out in writing, the appeal tribunal will hold a hearing. The tribunal must give the member notice of the hearing at least 21 days in advance. The appellant can be represented at the appeal hearing by counsel, a solicitor or any other person they choose. If the appellant wants to have a non-legal representative, the appellant must get permission from the tribunal beforehand. However, the tribunal may prevent that person acting as a representative if they are directly involved in the case.

The appeal tribunal can decide its own procedures. However, it is likely that both the standards committee and the monitoring officer or ethical standards officer will be given the opportunity to make representations in relation to the appeal. Additionally, in appropriate cases,

they can attend or be represented at the appeal hearing.

If the appellant agrees to have the appeal carried out in writing, the tribunal may still decide to hold a hearing at which the appellant can attend in person and be represented as outlined above. However, the tribunal may choose to carry out the appeal entirely through written representations.

If, after being given reasonable notice, the appellant fails to go to an appeal hearing or be represented at it, the tribunal may determine the matter in the appellant's absence. However, if the tribunal is satisfied that there is a good reason for the appellant's absence, it will postpone the hearing to another date.

The appeal tribunal will consider whether to uphold or dismiss the finding or part of the finding made by the standards committee.

If the tribunal upholds the standards committee's finding, or part of the finding, it may:

confirm any sanction imposed by the standards committee

vary any sanction by substituting any other sanction that was available to the standards committee

If the tribunal dismisses the finding of the standards committee, the decision and any resulting sanction will no longer apply from the date of the rejection. The standards committee must act on any directions given by the appeal tribunal.

The appeal tribunal will give written notice of its decision to:

the appellant
the Standards Board for England
the standards committee of any
authority concerned
any parish or town councils concerned
the complainant

The tribunal will also publish a summary of its decision in one or more of the newspapers circulating in the area of the authorities concerned.

Members are responsible for meeting the cost of any representation at a standards committee hearing or appeal tribunal. Local authorities are able to take out insurance to cover this.

However, most insurance schemes will only cover the costs incurred by members who are found not to be in breach of the Code. Therefore members are advised to refer to the terms of their own insurance scheme.

Monitoring officers need to be aware of the potential conflicts involved in advising the standards committee and advising members.

It is important that standards committees receive high quality, independent advice. For this reason a monitoring officer should be the main adviser to the standards committee, unless they have an interest in the matter that would prevent them from performing this role independently. If this situation arises, a monitoring officer should arrange for another appropriately qualified officer to advise the standards committee.

The monitoring officer or other legal adviser's role in advising the standards committee is to:

make sure that members of the standards committee understand their powers and procedures

make sure that the determination procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible

make sure that the subject member understands the procedures the standards committee will follow

provide advice to the standards committee during the hearing and their deliberations

help the standards committee produce a written decision and a summary of that decision Monitoring officers play an important role in advising their members on a day-to-day basis. When performing this role, monitoring officers need to be aware of the potential conflicts of interest that can arise, as these conflicts could prevent them from advising the standards committee at a later stage.

However, conflicts of interest are not likely to arise simply from informal discussions between members and monitoring officers. Monitoring officers consider options for reducing the likelihood of such conflicts, including:

arranging for another officer to advise members

continuing to advise members, while identifying possible scenarios that may lead to future conflicts. They should also ensure that if their advice could be relevant to an investigation, they have another appropriately experienced officer who is prepared to support the standards committee in its hearings and deliberations.

Smaller authorities in particular may find it useful to make arrangements with neighbouring authorities to make sure that when a conflict arises, an appropriately experienced officer is available to advise the standards committee.

Authorities should use a pre-hearing process to:

Identify whether the subject member disagrees with any findings of fact in the investigation report.

Decide whether those disagreements are significant to the hearing.

Decide whether to hear evidence about those disagreements during the hearing.

Decide whether there are any parts of the hearings that should be held in private.

Decide whether any parts of the investigation report or other documents should be withheld from the public, prior to the hearing on the grounds that they contain 'exempt' material.

Below is a checklist for authorities to use before the hearing. At the end of Appendix 1 is model documentation to support it. The documentation is intended to give authorities a consistent approach to help them decide what the relevant issues are before the hearing itself. It is not compulsory.

The monitoring officer must give a copy of the investigation report to the subject member.

The officer providing administrative support to the committee, in consultation with the chair of the committee, should:

provide a copy of the standards committee's pre-hearing and hearing procedures to the subject member

outline the subject member's rights and responsibilities

propose a date for the hearing

ask for a written response from the subject member by a set time to find out whether they:

disagree with any of the findings of fact in the investigation report, including the reasons for disagreement

want to be represented at the hearing by a solicitor, barrister or any other person. This should be done while noting that the standards committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined

want to give evidence to the standards committee, either verbally or in writing

want to call relevant witnesses to give evidence to the standards committee

can attend the hearing on the proposed date

want any part of the hearing to be held in private

want any part of the investigation report or other relevant documents to be withheld from the public

send a copy of the subject member's response to the monitoring officer or ethical standards officer and invite the monitoring officer or ethical standards officer to say by a set time whether they want:

to be represented at the hearing

to call relevant witnesses to give evidence to the standards committee

any part of the hearing to be held in private

any part of the investigation report or other relevant documents to be withheld from the public to invite any other witnesses the committee feels are appropriate

The chair of the committee, in consultation with the legal adviser to the committee, should then:

confirm a date, time and place for the hearing

confirm the main facts of the case that are agreed

confirm the main facts which are not agreed

confirm which witnesses will give evidence

outline the proposed procedure for the hearing

provide this information to everyone involved in the hearing at least two weeks before the proposed date of the hearing



The officer providing administrative support to the committee, in consultation with the chair of the committee, should make sure that the subject member is aware of the following points.

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The hearing will be held in public and the relevant papers will be available for public inspection unless the standards committee is persuaded that there is a good reason to exclude the public. This is in line with the relevant access to information and human rights legislation.

The subject member has the right to:

go to the hearing and present their case

call a reasonable number of witnesses to give relevant evidence to the standards committee

be represented at the hearing by a solicitor, barrister or any other person.

permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined

Any disagreements with the finding of facts in the investigation report must be raised during the pre-hearing process. The standards committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.

The subject member does not have to go to the hearing or be represented. If the subject member chooses not to go to the hearing, the committee may make a determination in their absence.

After considering the written and verbal presentations, the standards committee will reach and announce its findings of fact, whether the subject member has failed to follow the Code of Conduct and whether a sanction should be applied. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the standards committee will give the member concerned its full written decision within two weeks of the end of the hearing.

If the standards committee decides that the member has failed to follow the Code and that the member should be sanctioned, it may do any one or a combination of the following:

Censure the member. This is the only sanction available when dealing with a person who is no longer a member of the authority.

Restrict the member's access to the resources of the relevant authority for up to six months, which could include limiting their access to the premises of the relevant authority.

Suspend or partly suspend the member for up to six months.

Suspend or partly suspend the member for up to six months on the condition that the suspension or partial suspension will end if the member apologises in writing, receives any training, or takes part in any conciliation that the standards committee orders them to. Conciliation involves an independent person helping the relevant people to try to reach an agreement on the matter set out by the standards committee.

Sanctions may start immediately or up to six months after the hearing, if the standards committee wishes.

The standards committee will also arrange to publish a summary of its findings and any sanction applied in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the standards committee finds that the member has not broken the Code, the member can ask the standards committee not to have this information published.

The member who is the subject of a standards committee finding has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

After the standards committee has received responses from the subject member and the monitoring officer or ethical standards officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

the name of the authority

the name of the subject member

the name of the complainant (unless there are good reasons to keep their identity confidential)

case reference numbers of the principal authority or the Standards Board for England

the name of the standards committee member who will chair the hearing

the name of the monitoring officer

the name of the ethical standards officer who referred the matter (if applicable)

the name of the clerk of the hearing or other administrative officer

the date the pre-hearing process summary was produced

the date, time and place of the hearing

STANDARDS COMMITTEE DETERMINATIONS

a summary of the complaint

the relevant section or sections of the Code of Conduct

the findings of fact in the investigation report that are agreed

the findings of fact in the investigation report that are not agreed

whether the subject member or the monitoring officer or ethical standards officer will attend or be represented

the names of any witnesses who will be asked to give evidence

an outline of the proposed procedure for the hearing

These forms are a guide only and can be found in the Share kerner of the state.

prepare their own forms as appropriate.

provides an example table to help the subject member identify any disagreements about the findings of fact in the investigation report.

any other evidence that is relevant to the complaint made about them.

helps the subject member set out any representations the standards committee should take account of if the subject member is found to have broken the Code of Conduct.

hearing and the witnesses who will give evidence.

Also included is which is a checklist of details for the pre-hearing process summary.

The model hearing procedures below aim to give standards committees a consistent approach to determining matters locally. These procedures are not compulsory, but authorities should make sure that any procedures they do use are consistent with the principles in this guidance.

Programme and the street

Standards committees need to have an efficient and effective hearing process. This will help committees deal with all the issues that need to be resolved in a way that is fair to the member. It will also reduce the prospects of any successful appeal.

The model procedure below is intended to give standards committees a consistent approach to determining matters locally.

The model procedures are not compulsory. However, authorities should make sure that any procedures they use are consistent with the principles in this guidance.

interpretation

'Subject 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.

'Investigator' means the monitoring officer or ethical standards officer and includes their nominated representative.

'Committee' also refers to a sub-committee.

'Legal adviser' means the officer responsible for providing legal advice to the standards committee. This may be the monitoring officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Representation

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

Legal advice

The committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the subject member and the investigator if they are present.

Setting the scene

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

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

After dealing with any preliminary issues, the committee should then move on to consider whether there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.

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 subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The subject member should then have the opportunity to make representations to support their version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.

At any time, the committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.

If the subject 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.

If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether it would be in the public interest to continue in their absence.

After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

continue with the hearing, relying on the information in the investigator's report

allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already

On their return, the chair will announce the committee's decision as to whether the subject member has failed to follow the Code.

The committee will usually move to another room to consider the representations and evidence in private.

On their return, the chair will announce

Did the subject member fail to follow the Code of Conduct?

the committee's findings of fact.

The committee then needs to consider whether, based on the facts it has found, the subject member has failed to follow the Code.

The subject member should be invited to give relevant reasons why the committee should decide that they have not failed to follow the Code.

The committee should then consider any verbal or written representations from the investigator.

The committee may, at any time, question anyone involved on any point they raise on their representations.

The subject member should be invited to make any final relevant points.

The committee will then move to another room to consider the representations.

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

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

If the subject member has failed to follow the Code of Conduct

If the committee decides that the subject member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject member as to:

whether the committee should apply a sanction

what form any sanction should take

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

The committee will then deliberate in private to consider whether to impose a sanction on the subject member and, if so, what sanction it should be.

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

Recommendations to the authority

After considering any verbal or written representations from the investigator, the committee will consider whether it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by standards committees) are:

Information relating to any individual.

Information which is likely to reveal the identity of an individual.

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority.

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Information which reveals that the authority proposes:

to give under any enactment a notice under or by virtue of which requirements are imposed on a person

to make an order or direction under any enactment

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information which is subject to any obligation of confidentiality.

Information which relates in any way to matters concerning national security.

Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

Appendix 3 is an extract from the Local Government Act 1972 (as modified in relation to local determination by standards committee).

Page 66 Page 60

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NOT FOR P By virtue of pa of the Local Go	Page 61 Agrabus Act 1972 Page 61 OFFICER'S REPORT	
U	PRIVATE AND CONFIDENTIAL - EXEMPT	
3		
- Constant		
	Case Reference: MO/DSH/COMP/ASC2	
0	Report of an investigation under Section 50 of the Level Courses of August 1999	

Report of an investigation under Section 59 of the Local Government Act 2000 by **Raymond Prince** appointed by the monitoring officer for The London Borough of Haringey into an allegation concerning **Councillor Brian Haley**.

DATE: 2nd June 2009

1				
•	Contents			
	1	Executive	summary	
Ţ	2	Councillo	r Brian Haley's official details	
j	3	3 The relevant legislation and protocols		
7	4	The evide	nce gathered	
1	5	Summary of the material facts		
n	6	Councillor Brian Haley's additional submissions		
U			g as to whether there have been failures to comply wit	
		the Code	of Conduct	
	8	Finding		
1				
	Appendix A		Schedule of evidence and materials taken into	

Executive summary

- 1.1 The complainant, Karlene Akindele, an employee of the London Borough of Haringey (the Council), had made a complaint to the Council dated 27th March 2007 against Councillor Brian Haley, a copy of which appears at Appendix A, pages 37-38 to this report. The complaint alleged that Councillor Haley had behaved in an offensive, abusive, intimidating and undermining way to her at a meeting which she attended on 5th March 2007 as part of the duties of her Council employment (hereafter referred to as 'the first allegation').
- The complaint was investigated by Tim Dauncey, then Interim Director Corporate Resources, a senior manager of the Council whose report appears at Appendix A, pages 43-46 to this report. In summary, Mr Dauncey reached the conclusion that based on his own experience, Councillor Haley's "behaviour and tone of voice can appear aggressive and intimidating. [Councillor Haley] himself recognises that he gives this perception". However, he went on to conclude that Ms Akindele was "an officer who lacks experience of working and dealing with Councillor Haley on a regular basis [which] could lead to the perception that Councillor Haley was abusive, offensive and intimidating". Accordingly, short of making any actual finding against Councillor Haley, Mr Dauncey recommended that both parties meet to resolve their differences via a "clearing of the air meeting".
- 1.3 The report was not, however, accepted by the parties, who both requested an independent investigation of the complaint due to their dissatisfaction with how the investigation had been conducted and concluded. Accordingly, it was decided that the complaint would be reinvestigated by a new independent investigator.
- 1.4 By this time, Ms Akindele says that she had received a letter from solicitors acting on Councillor Haley's behalf warning her that, due to her allegations against Councillor Haley, she could be liable for defamation. A copy of the letter appears at Appendix, pages 39-40 to this report. It was felt by Ms Akindele that the letter was bullying and intimidating and that the intention behind the letter was to get her to withdraw her complaint. Accordingly, Ms Akindele added this as a further ground to her complaint to be investigated (hereafter referred to as 'the second allegation').
- 1.5 In between times, an attempt by the parties to resolve their issues via mediation also proved unsuccessful.
- 1.6 The new investigation was carried out by Donavan Bean an independent external consultant, whose report dated June 2008 appears at Appendix A, pages 47-58 to this report. In summary, Mr Bean found that that "Cllr Haley behaved inappropriately towards Karlene Akindele at the meeting with the ACLC on 5 March 2007. I do, however, consider that this matter to be a relatively minor breach of the

Council's Protocol for Members Officer Relations and the Code of Conduct". He also found that the solicitors letter was "potentially a much more serious breach of the Council's Protocol and the Code of Conduct " in that "it is highly likely that any person receiving a letter of this kind would feel threatened, intimidated and, possibly, bullied". Accordingly, having dismissed a further attempt at mediation, Mr Bean recommended that Councillor Haley wrote a letter of apology to Ms Akindele, and be reminded of the need to "treat officers with respect, dignity and courtesy".

- 1.7 The findings were made known to Ms Akindele, whereupon she complained further that at a meeting on 14th October 2008 convened to implement Mr Bean's recommendations she was informed that Councillor Haley had expressed his readiness to apologise providing she agreed to take no further action on the matter. It was further said by Ms Akindele that Councillor Haley was aware at this time that she intended to take the matter to the Standards Board. It was further said by Ms Akindele that she considered this request from Councillor Haley to be a further attempt to intimidate and bully her (hereafter referred to as 'the third allegation').
- 1.8 The complaint was considered by the Standards Committee Assessment Sub-Committee (ASC) on 12th November 2008. The ASC decided that the complaint could amount to a breach, by Councillor Haley, of one or more paragraphs of the Council's Code of Conductnamely 3 and 5 as detailed in paragraph 3 below being the paragraphs which I considered as part of my investigation. Accordingly, the ASC decided that the complaint should be referred for investigation to the Council's Monitoring Officer, as opposed to the Standards Board for England, pursuant to section 57A(2)(a) of the Local Government Act 2000. A copy of the decision letter appears at Appendix A, pages 41-42 to this report.
- Having fully investigated this complaint, and considered all of the available evidence, I find that there has been a breach of the Code of Conduct by Councillor Haley in relation to the second allegation, but that there has been no breach in relation to the first of third allegations.
- 2 Councillor Brian Haiey's Official Details
- 2.1 Councillor Haley was elected to office on 1st January 1997 for a term of 4 years, and has been subsequently re-elected. Councillor Haley is also a member of the following other relevant authorities: African-Caribbean Leadership Council, The Management Committee; North London Waste Authority; London Councils, Transport & Environment Committee; Groundwork North London; Environment Agency, Thames Regional Flood Defence Committee.
- 2.2 Councillor Haiey currently serves on the following committees: Full Council; Cabinet; Cabinet Member Signing; Better Places Partnership

0		
0		(HSP); Green Lanes Strategy Group; Haringey Strategic Partnership Board; Integrated Housing Board; St Ann's and Harringay Area
0	2.3	Councillor Haley gave a written undertaking to observe the Code of Conduct when he took up office.
	2.4	Councillor Haley has received training on the Council's Code of Conduct, the last occasion being on 16 th November 2007.
	3	The Relevant Legislation and Protocols
	3.1	The Council has adopted a Code of Conduct which includes the following paragraphs:
1		 3(1) - You must treat others with respect
		 3(2)(b) – You must not bully any person
		 3(2)(c) - You must not intimidate or attempt to intimidate any person (i) a complainant
		 5 — You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into
	4	The Evidence Gathered
7	4.1	have taken account of crai evidence received from the following:
À		Karlene Akindele
}		Councillor Brian Haley
}		•
.		
	4.2 F	ach of the above has assisted

- 4.2 Each of the above has provided a signed witness statement, copies of which appear at Appendix A, pages 1-13 to this report.
- 4.3 I have also taken account of the following documentary evidence:
 - The Council's Code of Conduct
 - The declaration of acceptance of office form signed by Councillor Haley



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- Complaint form dated 17th October 2008 completed by Ms Akindele
- Decision letter dated 18th November 2008 recording the decision made on the complaint by the Standards Committee Assessment Sub-Committee
- Report dated 8th June 2007 produced by Tim Dauncey
- Report dated June 2008 produced by Donavan Bean
- E-mail dated 24th December 2008 from Stuart Young, Assistant Chief Executive People and OD
- E-mail dated 23rd April 2009 from Ms Akindele
- E-mail dated 5th May 2009 from



- E-mail dated 2nd June 2009 from Councillor Haley
- Guidance from the Standards Board for England

A copy of the above documents also appear at Appendix A, pages 14-68 to this report.

- 5 Summary of the Material Facts
- 5.1 It is accepted by both parties that:
 - this complaint is against a Member of the Council
 - Councillor Haley was in office at the time of the alleged conduct
 - the Council's Code of Conduct was in force at the time.
- 5.2. The First Allegation
- 5.2.1. It is accepted by both parties that a meeting of the African Caribbean Leadership Council Board took place on 5th March 2007, and that they both attended that meeting.
- 5.2.2 It is not, however, accepted by Councillor Haley that he behaved in an inappropriate way towards Ms Akindele at that meeting.



5.3. The Second Allegation

5.3.1. It is accepted by Councillor Haley that he instructed a firm of solicitors called Curwens to write a letter dated 26th October 2007 to Ms Akindele, putting her on notice of the fact that her complaint which forms the basis of the first allegation was defamatory, and as such capable of giving rise to legal proceedings being issued against her personally, and if proved the right to claim compensation. It is not, however, accepted by Councillor Haley that this letter was an attempt to bully or intimidate Ms Akindele into not proceeding with the first allegation.

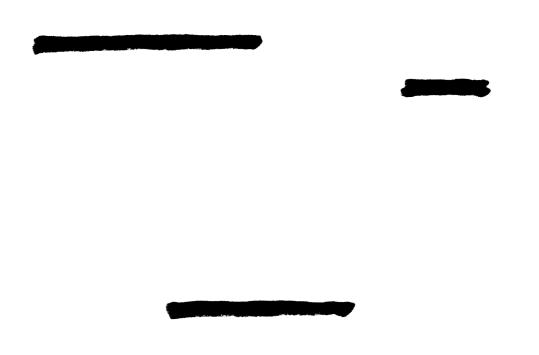
5.4. The Third Allegation

- 5.4.1. It is accepted by both parties that a meeting took place on 14th October 2008 for the purpose of determining how best to implement recommendation 44 of the report dated June 2008 produced by Donavan Bean into previous complaints made by Ms Akindele against Councillor Haley—see page 12 of the report from Mr Bean at Appendix A to this report. That recommendation required "steps be taken to advise Clir Haley to write a letter of apology to [Ms Akindele] and that he be reminded to treat officers with respect, dignity and courtesy as set out in the protocol".
- 5.4.2. It is also accepted by both parties that Councillor Haley did not attend the meeting on 14th October 2008, but that his views were put forward by Mr Young.
- 5.4.3. It is also accepted by both parties that Mr Young put forward an offer on behalf of Councillor Haiey to make an apology to Ms Akindele if that would bring an end to the matter.
- 5.4.4. What is not, however, accepted by both parties is the interpretation which is to be put on the terms of the offer. From Ms Akindele's perspective, she viewed the offer to be conditional, and as such treated it as a further attempt by Councillor Haley to intimidate and bully her into not taking planned action against him, namely to make a complaint to the Council's Standards Committee. Conversely, Councillor Haley viewed the offer as an innocent attempt to finally bring a matter which had been ongoing since March 2007 to an end.

6. Councillor Brian Haley's additional submissions

- 6.1. I circulated a draft of this report dated 14th May 2009 to Councillor Haley for comment.
- 6.2. Comments were received from Councillor Haley by e-mail dated 2nd June 2009, a copy of which appears at page 62 of Appendix A to this report. As can be seen, Councillor Haley has limited his comments to my findings on the second allegation.

- 6.3. Having taken full account of those additional comments I, nevertheless, stand by my finding not least because of the other material I relied on in reaching my view as set out in paragraph 7.2 below over and above the reason(s) as to why Councillor Haley may or may not have chosen to withdraw his threat of legal proceedings.
- 7. Reasoning as to whether there have been failures to comply with the Code of Conduct
- 7.1. The First Allegation
- 7.1.1. I found as a fact that the evidence on exactly what transpired at the meeting on 5th March 2007 was not sufficiently clear as to warrant a finding of a breach of the Code of Conduct by Councillor Haley.
- 7.1.2. As can be seen from the statements at Appendix A, the recollections of the 'independent' i.e. neither an officer nor a Councillor witnesses who attended the meeting that is ranged from nothing untoward occurring, to finding inappropriate behaviour on the part of Ms Akindele and her now former colleague, Mr who also attended the meeting. Equally, there is a mixed response from Councillors Thompson and Patel who were contacted by Mr Bean as part of his investigation see page 8, paragraphs 22 and 23 of Mr Bean's report at Appendix A to this report.
- 7.1.3. Accordingly, whilst I am prepared to accept that something did occur at the meeting in all probability borne out by frustration on the part of Councillor Haley at the manner in which the meeting had been organised, and the consequential waste of his time I take the view that whatever doubt which exists must go in his favour.
- 7.1.4. In reaching my finding I am aware that I am at odds with the finding made by Mr Bean on this point. However, unlike Mr Bean, I was able to formally interview, assess the credibility of and take a signed statement from both important to note that Mr Bean did not find fault with what Councillor Haley allegedly said at the meeting, only the manner in which he allegedly said it see page 9 paragraph 29 of Mr Bean's report at Appendix A to this report.
- 7.2. The Second Allegation
- 7.2.1. As can be seen from the statement made by Councillor Haley, he maintains that the only motivating factor behind his decision to instruct external solicitors to write to Ms Akindele, was his knowledge that the Council was, in his view, firmly behind Ms Akindele, to include taking the decision to instruct its own external solicitors. He did, however, make the point that he was not sure whether he was aware of the



development with the Council's solicitors before or after approaching his own solicitors.

- 7.2.2. Having considered the evidence on the point, I find as a fact that it is more probable than not that Councillor Haley did instruct his solicitors to write to Ms Akindele in such strident terms in order to raise doubts in her mind about whether to purse her complaint, in reaching this view, I had regard to the terms of the letter from Curwens itself. At page 2 paragraph 2 of the letter, the solicitors make it clear that the only way in which legal proceedings could be avoided would be if "a satisfactory solution [could] be found". The next paragraph of that letter sets out, in my view, what that solution was, namely the need for Ms Akindele to "reconsider the heated comments made against [Councillor Haley], immediately refer this matter back to the investigating officer and provide [Councillor Haley] with a written apology". Put shortly, withdraw her complaint.
- 7.2.3. I also had regard to comments made by the Council's in an e-mail to me dated 5th May 2009 see Appendix A to this report. That e-mail not only provided confirmation that the Council did not approach external solicitors until after it had received the letter from Councillor Haley's solicitors, but that, equally importantly, Councillor Haley only withdrew the threat of legal proceedings against Ms Akindele having been told by his solicitors that he would have to fund the case himself. The importance of this comment is that it runs contrary to what Councillor Haley told me was his motivating reason for not progressing the legal proceedings, namely in order to facilitate the mediation process see paragraph 11.3 of his statement.
- 7.2.4. Accordingly, whilst I entirely understand the position which Councillor Haley found himself in, I have chosen to find against him on the allegation for the reasons stated above.
- 7.2.5. Having reached this position, in order to determine whether there had been a breach of the Code of Conduct, I had regard to non statutory guidance issued by the Standards Board of England (the guidance). The guidance is based upon the Board's experience of conducting investigations, giving legal advice to Members and Monitoring Officers, and developing policy in relation to the Coded of Conduct. The relevant information which I considered appears at Appendix A to this report.
- 7.2.6. With regard to paragraph 3(1) of the Code disrespect the guidance states "failure to treat others with respect could cover any example of unfair, unreasonable or demeaning behaviour directed by one person against another". [Source: The 2003 Case Review]
- 7.2.7. With regard to paragraph 3(2)(b) of the Code bullying the guidance states that "The Standards Board defines bullying as offensive,

intimidating, malicious, insulting or humiliating behaviour by an individual or group of individuals, based on abuse or misuse of power or authority, which attempts to undermine an individual or a group". [Source: The 2007 Case Review]. Further guidance states that "The test for whether conduct is regarded as bullying is likely to be whether a neutral third party, a 'reasonable member of the public' would regard conduct as bullying if the had all the relevant facts". [Source: The 2006 Case Review].

- 7.2.7. With regard to paragraph 3(2)(c) of the Code intimidation or an attempt to intimidate any person who is likely to be a complainant the definition within the guidance of what amounts to bullying clearly incorporates intimidatory behaviour as an aspect. Further, I find as a fact that it is at least more probable than not that Councillor Haley was aware of the fact that Ms Akindele was likely to make a complaint to the Council's Standards Committee.
- 7.2.8. Having regard to the guidance as applied to my findings of fact, I go on to find that Councillor Haley's conduct in regard to the second allegation does amount to a breach of paragraphs 3(1), 3(2)(b) and 3(2)(c) of the Code of Conduct, in that the decision to send the letter in such terms amounted to unfair, unreasonable and intimidatory conduct designed to bring about a state of affairs which would force Ms Akindele to withdraw her complaint.
- 7.2.9. I do not, however, find that Councillor Haley's conduct amounted to a breach of paragraph 5 of the Code of Conduct. My reasoning for this finding is that this is clearly a state of affairs which, if as explained by Ms Akindele, is limited to a relatively minor disagreement between 2 individuals perhaps a not uncommon state of affairs in the context of 'normal' local government life and as such could not, in my view, be regarded as conduct which could reasonably be said to have either diminished public confidence in the ability of Councillor Haley to discharge his office as a Councillor, or harmed the reputation of the Council.

7.3. The Third Allegation

- 7.3.1. As can be seen from the statement made by Councillor Haley, he maintains that the only reason why he put forward a conditional offer to apologise to Ms Akindele, was his desire to bring what had become a long running and protracted matter to an end, not least because the whole issue was having an adverse effect upon him.
- 7.3.2. Having considered the evidence, I accept what Councillor Haley told me on this point, on the basis that it was both credible and reasonable.
- 7.3.3. In reaching my view, I should state that I make no criticism of Ms AkIndele, who clearly subjectively formed a view as to what motivated Councillor Haley's position. However, I placed great weight on the very

fair evidence provided by Gerard McGrath, the Union representative who accompanied Ms Akindele to the meeting. In his statement he states that in his view, the position adopted by Councillor Haley was not "wholly unreasonable". I also placed great weight on the comments made by Stuart Young in his e-mail dated 24th December 2008 to me. He too took the view that Councillor Haley meant nothing untoward in adopting the position which he did.

7.3.4. In light of the above, I find as a fact that Councillor Haley's behaviour did not amount to breach of the Code of Conduct.

8. Finding

- 8.1. Having considered all of the evidence gathered as part of this investigation, I find that Councillor Haley has breached paragraphs 3(1), 3(2)(b) and 3(2)(c) of the Council's Code of Conduct arising out of his decision to instruct his solicitors to send a letter before action to Ms Akindele, which was, more probably than not, designed to force her into withdrawing her intention to make a complaint to the Council's Standards Committee, and as such amounts to disrespect, bullying and intimidation.
- 8.2. I make no such finding in relation to Councillor Haley's conduct arising out of the meetings held on 5th March 2007 and 14th October 2008.

Raymond Prince
Principal Lawyer, Housing and Litigation
Acting Deputy Monitoring Officer

2nd June 2009

Page 84 Page 72

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HARINGEY COUNCIL STANDARDS COMMITTEE ASSESSMENT SUB- COMMITTEE INVESTIGATION

CASE Ref MO/DSH/COMP/ASC2

WITNESS STATEMENT OF KARLENE AKINDELE

- 1. My full name is Karlene Akindele, and I am the complainant in this investigation.
- I have been asked by Raymond Prince, acting as Deputy Monitoring Officer, to make this statement as part of his investigation into a complaint which I made to the Council's Standards Committee against Councillor Brian Hayley, arising out of an incident which occurred on 14th October 2008.
- 3. I have been employed by the Council for the last 17 years in the post of Grants Programme Manager. My duties are to manage budgets for grants which the Council makes to the voluntary sector, and then to monitor those to whom such grants are given to ensure compliance with the terms attached to the grant.
- 4. My duties bring me into regular contact with elected Councillors as they are nominated by the Council to sit on various Community / Voluntary Sector Organisation Boards. They also sit on outside bodies such as the ALG which also brings us into contact with each other. I also have contact via organisations based in their Wards.

- I have direct contact with Councillor Hayley who sits on the African Caribbean Leadership Council Board (ACLCB). It is true to say that past issues have arisen between Councillor Hayley and I in relation to his involvement with the ACLCB. Those issues have formed the basis of investigations conducted by Tim Dauncey which led to a report in June 2007 and Donavan Bean which led to a report in June 2008.
- 6. My present complaint arises out of Councillor Haley's response to the investigation conducted by Mr Bean, and in particular to recommendations contained in his report. At paragraph 44 of the report, Mr Bean recommended that "steps be taken to advise Clir Hayley to write a letter of apology to [me] and that he be reminded to treat officers with respect, dignity and courtesy as set out in the protocol".
- 7. As a consequence of the report, I asked to meet with Stuart Young, Assistant Chief Executive, People and OD. The purpose of the meeting was for me to find out who would be instructing Councillor Hayley to initiate the recommendations contained in Mr Bean's report. The meeting took place on 14th October 2008 when my union representative, Gerard McCarty, was also present.

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- 8. At the meeting, Stuart advised us that he had approached Councillor Hayley, who advised him that he would write the letter of apology as recommended by Mr Bean, but only if I agreed to drop my intention to take the matter to the Standards Board. I understood 'the matter' to be my issues over Councillor Hayley's behaviour towards me at the public meeting of the ACLCB on 5th March 2007 and the subsequent letter dated 25th October 2007 from his solicitors. My reaction was to tell Stuart that I considered that to be blackmail, and so I was not prepared to go down that road, as I was going to take the matter to the Standard Board. I was appalled by this behaviour.
- I was hurt by the whole process. I felt that my integrity and professionalism 9. had been compromised. For an elected Member to try to bargain with me caused me to have to take counselling - I felt intimidated and bullied by him.
- 10. I also felt quite nervous about my job. Due to his position there was a feeling on my part that he could orchestrate things to lead to me losing my job, as I am aware that the effect this issue is having on his reputation as a lead Member of the Council. The fact that I denied his settlement request causes me to fear what will happen to me next. I do not feel that I should have to do my job under a cloud of intimidation and fear that some other form of intimidation and bullying will occur. In terms of working with the voluntary sector, I am now nervous. It is always in the back of my head when dealing with Members that I have made a complaint against a Member.
- 11. This issue has also impacted on me physically. I have lost weight and as I say above, have taken counselling - 10 sessions. I am also taking tablets for stress.
- 12. I still have to work with Councillor Hayley via the ACLCB. It is an uneasy relationship. I am worried about what his peers think of me. I do now try to keep out of his way, and intend to remove myself from dealings with the ACLCB. Indeed, I am asked by my manager, not to attend meetings alone when Councillor Hayley will be present at.
- I would like to see as an outcome to this process my comments at section D 13. of the pro forma complaint document I completed on 17th October 2008, namely full implementation of the recommendations contained in Mr Bean's report; that appropriate action be taken against Councillor Hayley for his breaches of the Members Code of Conduct; compensation paid to me for the impact this process has had on me.

confirm that the facts stated in this statement are true

Signed ... Karlene Akindele

Dated this 24 day of December 2008

HARINGEY COUNCIL STANDARDS COMMITTEE ASSESSMENT SUB- COMMITTEE INVESTIGATION

CASE Ref MO/DSH/COMP/ASC2

WITNESS STATEMENT OF COUNCILLOR BRIAN HALEY

- 1. My name is Brian Haley, and I am the respondent in this investigation.
- I have been asked by Raymond Prince, acting as Deputy Moritoring Officer, to make this statement as part of his investigation into a complaint which was made to the Council's Standards Committee against me by Karlene Akindele. I understand that the complaint arises out of an 3 incidents which occurred on 27th March 2007; on or after 26th October 2007 and 14th October 2008.
- I am aware of who Ms Akindele is via our contact arising out of meetings of the African Caribbean Leadership Council Board (ACLCB). She is appointed to the General Committee of the ACLC.
- 4. I was elected to office on 1st January 1997 for a term of 4 years, since when I have been re-elected for a further 2 terms. I represent the St Ann's Ward.
- I am a member of the following other relevant authorities: African-Caribbean Leadership Council, The General Committee; North London Waste Authority; London Councils, Transport & Environment Committee; Groundwork North London; Environment Agency, Thames Regional Flood Defence Committee.
- 6. I also currently serve on the following committees: Full Council; Cabinet; Cabinet Member Signing; Better Places Partnership (HSP); Green Lanes Strategy Group; Haringey Strategic Partnership Board; Integrated Housing Board; St Ann's and Harringay Area Assembly.
- 7. I gave a written undertaking to observe the Council's Code of Conduct when I first took up office.
- 8. I have received training on ethical governance, to include the Council's Code of Conduct. I am advised by Mr Prince that the records held by Member Services show that the last such occasion was on 16th November 2007.
- 9. I comment on the 3 allegations against made against me as follows.
- 10. ACLC moeting on 27th March 2007

10.1. I understand from Mr Prince that the allegation which is being made against me is that at the meeting I was offensive, abusive, intimidating, undermining and showed a lack of respect in my behaviour towards Ms Akindele in questioning her ability to take accurate minutes of the meeting. My general comment is that this did not happen.

- 10.2. I can confirm that I did attend a meeting of the ACLCB on 27th March 2007 in my capacity as a General Committee Member. I can confirm that Ms Akindele was also at the meeting. Other Board Members were my colleagues Councillors Sheik Thompson and J Patel, and 2 lay Members, In addition to Ms Akindele, I recall that one other officer was also present.
- 10.3. The issue arose out of the fact that at the meeting it became apparent that neither my colleague, Councillor Loma Reith the cabinet Member with responsibility for the ACLC brief was to be present, nor would a formal minute taker. I was disappointed about this as I thought that the meeting had been called formally to discuss an important issue a discussion on the manager of the centre, and whether there was a need to replace him and yet it became apparent that it was to be conducted in an informal way with no agenda or background information, and no formal minute taker.
- 10.4. I, along with my other 2 Councillor Members, pointed out that we were not happy with the suggestion by Ms Akindele that she would take the minutes. I made my views known in a robust but calm manner, and certainly not in a way which could be construed as being a personal attack on Ms Akindele in the manner which she describes. The basis for my view was that the meeting was unstructured and I wanted a Committee Clerk to take the minutes. This was nothing personal against Ms Akindele, who I had met on a couple of occasions before, once in similar circumstances where the meeting was again not attended by Councillor Reith, and with no papers. I simply left the meeting on that occasion. The fact remained that I did not know Ms Akindele, and she had never taken minutes of a meeting which I had attended. Accordingly, I simply wanted the meeting abandoned. I do not remember saying that I did not trust her to take the minutes.
- 10.5. Whilst I have no idea who would riormally take minutes at these meetings, my experience is that at structured meetings which I thought this was a clerk would normally attend. I felt that important issues were to be discussed, and as such the need for an accurate record of what was said would be required especially if the ACLC came back to query an issue in the future.
- 10.6. I repeat, this was never an issue over Ms Akindele. On the contrary, I think that it would be very unfair and irresponsible for any Councillor, never mind a Cabinet Member, to behave in the way alleged. I would not through my weight around or lord it over someone this is not my style. If it were my style, then I am sure that after 14 years of service sitting on both internal and external bodies covering contentious issues such as controlled parking zones, with junior and senior officers present, someone would have made a complaint against me before now.
- 10.7. I would also like to make the point that I was not the only Councillor to question the appropriateness of Ms Akindele to take the minutes, and yet no complaint has been made against other Councillors. In addition, I do wonder why a statement from the second officer at the meeting to corroborate the allegations being made by Ms Akindele was never taken at the time, but only

some 6/7 months later after I queried the point. I also question why that officer did not also make a complaint against me even though he was leaving the Council and so was arguably better placed to do so.

11. Solicitors letter dated 26th October 2007

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- 11.1. I understand from Mr Prince that the allegation being made by Ms Akindele is that in getting my solicitors to write the letter, this amounted to a further attempt by me to intimidate, bully and threaten her with a view to forcing her into not pursuing the formal complaint which she intended to make to the Council's Standards Committee. My general comment is that this is not true.
- 11.2. In order to understand why I instructed solicitors, it is important to put the situation I was in into context. I felt that Ms Akindele had the whole weight of the Council supporting her, and no support for me. I was also aware that the Council had taken its own external legal advice, but I cannot now be sure whether I knew this before or after I instructed my solicitors. Accordingly, I sought my own legal advice on what my options were.
- 11.3. I can confirm that there was no real motivation behind the letter, save that it was an attempt to set out what my position was in light of the fact that I had received a letter from the Council saying that it was going to investigate me. Indeed, it is true to say that I withdrew the letter as part of the mediation process I was invited to go through with Ms Akindele. The same is also true of the threatened legal proceedings referred to in the letter.
- 11.4. I can also say that at the time that the letter was written I did not know of Ms Akindele's intention to make a complaint to the Council's Standards Committee. On the contrary, I thought that she was referring to the internal investigation conducted by Tim Dauncey under the Member Officer protocol not the Code of Conduct in 2007. This investigation did not require statements from the two voluntary sector members that were also present, nor done solely on the back of Ms Akindele's complaint and came to the conclusion that this matter could be resolved by mutual agreement, and a meeting to iron out differences. My understanding is that his was not given an opportunity to give statements.
- 11.5. The Council accepted that its first investigation was not fully compliant and instructed an arbitrator. Donavan Bean, to conduct a second round of interviews towards the middle of 2008. This was done and the Councillors were interviewed and have produced statements which I have seen. I am still interviewed as part of that process as I have not seen statements from either. I am assured that the current deputy monitoring officer, who has been given the names of the representatives, will conduct such interviews as part of this

- 12. Meeting on 14th October 2008
- 12.1. I understand from Mr Prince that the allegation being made by Ms Akindele is that I offered a conditional apology as an underhanded, persuasive tactic to further intimidate and bully her into not making a complaint to the Council's Standards Committee. My general comment is that this is not true.
- 12.2. I can confirm that I met with Stuart Young Assistant Chief Executive, People and OD, with a view to him representing my views at the meeting with Ms Akindele on 14th October 2008. When I met Mr Young I advised him that, as I had said a year and a half earlier at the mediation stage, I was happy to sign a letter of apology to Ms Akindele if that would be the end of the matter. My motivation behind asking for an assurance that a line would be drawn under the matter was because the matter had been dragging on for such a long time, to include mediation which was a stressful time for me. I was also concerned that any apology without an assurance that this would end matters could be seen as an admission of the substantive issues if the matter was to
- 13. I cannot explain why Ms Akindele has made the complaint, but it does appear to me that she has undertaken a witch hunt against me personally and not the other Councillors who were also present at the meeting on 27th March 2007. I lost my stepfather at the end of 2008 which was a stressful time for my family; have this hanging over me for the past two years with no clear resolution has been a continual strain.

I confirm that the facts stated in this statement are true

Signed

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Councillor Brian Haley

Dated this day of 26 03 2009

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	DECLARATION OF ACCEPTANCE OF OFFICE AND UNDERTAKING TO
	L BRIAN HALISI
P) case	Member of the London Borough of Haringey Council, declare that I take that the best of my judgement and ability.
	I undertake to observe the code as to the conduct which is expected of members of the London Borough of Haringey Council.
	Signed Eller Date 10/5/6
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	Signed Sed's mira
	Proper Officer of the Council (Chief Executive)
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COMPLAINT FORM : CODE OF CONDUCT FOR MEMBERS

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

To The Chairman, Assessment Sub-Committee of Haringey Standards Committee

A. Your details

 Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

Title:	MISS
First name:	KARLENE
Last name:	AKINDELE
Address:	
	Control of the Contro
Contact telephone:	
	V-1
Email address:	Nanene.akindele@haringev.co.uk
Email address: Signature;	Karlene.akindele@haringey.co.uk

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- 4. Members of the Assessment Sub-Committee
- Monitoring Officer of Haringey Council

A brief summary of your complaint may also be shared, by the relevant Sub-Committee with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your

	Form 2							
		THE PART PART PARTY	d, please complete Section C of this Fo ons or concerns with the Council's Mo	orm an				
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No second	2. Plea	se tell us which comp	plainant type best describes you:					
	סטנ	An independent	pted Member of the Council					
)	A Member of Parila A Monitoring Officer						
		Other council emplo Other (Haringey Co	oyee, contractor or agent of the Council ouncil employee)					
E	3. Equa	lity Monitoring Form	- please fill in the attached form.					
[]	3. Maki	ng your complaint						
	for E	The sanctions available to a Standards Committee are governed by law and more serious sanctions are only available to the Adjudication Panel for England. For a brief summary of sanctions available, please see information at the end of this Form.						
	4. Pleas breac	e provide us with the	name of the mamber(s) you believe	have				
	Title	First name	Last name					
	CLLR.	BRIAN	HALEY					
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adoption of a	you an ⊛xplain	complaining about	on (or on separate sheet(s)) what the Mem you believe breaches the Code of Conduc more than one member you should clear I person has done, with dates / witnesses	at. If				
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it is also important that you provide all the evidence you wish to have taken into account by the Standards Committee when it decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible, about exactly what you
 are alleging the member said or did. For instance, instead of writing
 that the member insulted you, you should state what it was they
 said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the allegation(s) being made occurred over 28 days after the alleged behaviour or conduct, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

- (Appendix 1) In March 2007 I took out a complaint against Clir. Haley with regards to his behaviour towards me at afreeting with the public when acting in his official capacity as an elected member of the Council. I found Clir Haley's behaviour towards me at a meeting to be offensive, abusive, intimidating and undermining and showed a complete lack of respect to my role as a council officer at that meeting. At this meeting Clir. Haley made defamatory comments about me that cast aspersions to my professional reputation and compromising my role as a council officer both with the Council and cutside as attendees at this meeting included people from the voluntary sector and elected members of the Council. This complaint was in the first instance investigated by Tim Dauricey the then interim Asst. Chief Executive of Strategy, which took over 4 months. This investigation was considered flawed by Clir Haley's solicitors and a request was made for a re-investigation.
- (Appendix 2 solicitor letter). Clir Haley's solicitor's letter to me of October 26 2007, advice that I can be held personally liable for defamatory allegations made against Clir. Haley and had a right to claim financial compensation from me. This was an extremely frightening letter and caused me great anxiety and stress. To receive a letter that an elected member of the Council was planning to sue me was something that I took extremely.

serious as I was only doing my duties as an officer of the Council. I find the letter to be intimidating and I felt that I was been builded and threatened because I had raised a complaint against him. I also felt that the intention of this letter was for me to drop my complaint against him.

- (Appendix 3 investigation report) in March 2008, another investigation was commissioned to re-investigate my complaint. This took into consideration my first complaint, the letter from Cilr. Haley's solicitors and an AGM that I had attended with Cilr. Haley present. This report also made recommendations point 44. After giving due consideration to the matters raised, I would strongly recommend that steps to be taken to advise Cilr. Haley to write a letter of apology to Karlene Akindele and that he be protocol.
- Tuesday 14th October 2008; at a meeting with Stuart Young ACE; Stuart advised me (in the presence of a witness) that Clir. Haley had advised him, that he will only write the letter of apology to me if I promised not to take the matter any further (Clir. Haley is aware of my intentions to take it to the Standard Board). I find Clir. Haley's request to be an underhanded persuasive tactic to prevent me from taking the matter to the Standard Board, I considered his request to be another attempt to intimidate and bully me:
- This matter has taken 18 months to be fully investigated and I had to wait for the result of the investigation before I take this matter to the Monitoring Officer. I have relentlessly tried to move this investigation to an earlier conclusion but was personally unable to do so.

(Continue on separate sheet(2), as necessary)

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

d. In the interests of falmess and in compilance with the rules of natural justice, we believe members who are complained about have a right to know who has made the compiaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:-

u

- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
- may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

0. Remedy sought

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

- That the full recommendation as outlined in Appendix 3 is acted on and Clir. Haley letter of apology to me should be unconditional.
- That the appropriate action under the code of conduct for Members/Standard Board is taken against Clir Haley for his attempt to intimidate, buily and force me to withdraw my complaint by threatening legal action against me and to further intimidate and buily me to take a conditional letter of apology.
- That I am commensurate to the level of upset and stress that I have experience over the last 18 months in particular the insurmountable stress that I went through knowing that I could be sued for doing my job.

(Continue on separate sheet(s), as necessary)

Additional information

- 3. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.
- 9. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
- 10. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

F. Process from here

- 11. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be presented to a meeting of the Assessment Sub-Committee of the Standards Committee for consideration / determination. You and the member against whom the complaint has been made will not be allowed to attend the deliberations of the Sub-Committee as the matter will be considered in private.
- 12. The Sub-Committee may resolve to:
 - (a) dismiss your complaint, with reasons;
 - (b) ask you for additional information, with reasons;
 - (c) refer your complaint to the Monitoring Officer for investigation (or other action); or
 - (d) refer your complaint to the Standards Board for England if the complaint does not fail within the jurisdiction of the Standards Committee.

13. You will be notified after the meeting and given information on any further stage(s) in the process at that time.

1

John Suddaby, Monitoring Officer, Haringey Council, River Park House N22 8HQ

Tel: 020 8489 3974 E-mail: john.suddaby@haringsy.gov.uk

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	Form 2				
	Haringey Council - information for monitoring purposes only -				
	Ethnic Origin				
	Choose one section from (A) to (E) then tick the appropriate box to indicate your cultural background. These are based on the 2001 Census with additional categories included.				
	A White				
) >	Any other White background please write here:				
	B Mixed White and Black - Caribbean Asian and Black				
	Any other Mixed background please write here:				
Č.	C Asian or Asian British Indian Kashmiri Pakistani Bangladeshi				
	Other Asian background please write here:				
	D Black or Black British Caribbean African				
	Any other Black background please write here: E Chinese or other ethnic group Chinese Arab Afghan Vietnamese Kurdish				
Additional	Any other please write here :				

Appendix 2.

Your reference:

Our reference: AGC/LDD/107554-1

Strictly Private & Confidential
Ms Karlene Akindele
Haringey Council
5th Floor River Park House
225 High Road
Wood Green
London N22 8HO

26 October 2007

Dear Ms Akindele

Re: Councillor Brian Haley

We have been instructed by Councillor Brian Haley in regards to defamatory allegations made by you following a meeting of the African Caribbean Council ("ACLC") Committee on 5 March 2007.

Our Client informs us that following a meeting of the ACLC Committee on 5 March 2007, you made a complaint against him on 27 March 2007. We understand that your complaint referred to our Client's conduct in the meeting and that you made a number of unsubstantiated allegations that he was offensive, abusive, and intimidating.

We are of the opinion from the evidence we have seen to date that it is clear our Cient has been the victim of a vitriolic and personal attack on his professional reputation.

We understand that the allegations made against our Client have not been substantiated, despite an internal Council investigation. It is also quite-clear that the investigation carried out by the Council was fundamentally flawed. We have therefore formally written to the Council and have requested a further independent investigation be carried out.

We must advise you that your actions may be deemed outside your professional duties and you can be held personally liable for defamatory allegations made against our Client, which result in damage to his professional reputation. Any finding of liability against you would give our Client a right to claim financial compensation from you.

Curwens

Crossfield House Gladbeck Way Enfield, Middlesex EN2 7HT

Trd: 020 8363 4444

Fax: 020 8884 7243

'Vebalis: 'www.curwana.co.uk

OX 142501 Enfloid 7

We do not accept service of documents by e-mail

Partness
Gesham Pry
Gesham Pry
Gesham Pry
Gesham Pry
Gesham Gesham
John Biddest
John Biddest
John Biddest
Jan Andenson
Alan Carter
Robert Peusson
Norma Morris
Jeffrey Durne
Richard Boulter
Peter Grunberger
Clame Pleusser
Steart Hougher
Joseft Paschalle
Smon Crooke
Simon Crooke

Consultants Christopher Wright

Associates
Lucy Suitions
Anne Stement
Devid Johnson

Other Curvens offices are

College Road Chastrent Telephone 01992 631461

High Street Hodderdon Telephone (1992 46372)

High Street Royston Telephone 01763 241261

Valentine 01992 712549

Solicitor Advocate
* Member of the Law Society
Frankly Law Panel

Curwens is regulated by the Solicitors Regulation Authority

Curwens

We have now formally written to the Council requesting a further independent investigation into your allegations. Clearly out Client cannot and will not tolerate defamatory comments being made about him that cause damage to his professional reputation both within the Council and outside.

We have advised our Client, that unless a satisfactory solution can be found, he will be left with no option but to issue legal proceedings against you and the Council in order to protect his professional reputation. The costs of these proceedings will be sought directly from both you and the Council.

In order to prevent this matter escalating may we respectfully ask that you reconsider the heated comments made against our Client, immediately refer this matter back to the investigating officer and provide our Client with a written apology.

May we respectfully suggest that you contact the investigating officer and borough solicitor upon receipt of this correspondence.

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Yours faithfully

ر المام المام

CURWENS



Your ref:

Cate: 18 November 2008

Our ref: MC/DSH/Comp/ASC2

Olrect disk ((20 8489 3974

Erneit: john.suddeby@haringey.gov.uk

Dear Ms Karlene Akindele.

Re: Notification of decision of Standards Committee Assessment 3ub - Committee 12 November 2008

On Wednesday 12 November 2008, the Standards Assessment Sub-Committee considered a complaint from Karlene Akindele concarning the alleged conduct of Councillor Brian Haley, a member of Haringey Council.

3ummary of Complaint

The complainant, Karlene Akindele, an employee of the London Borough of Haringey, had made a complaint to the authority in Merch 2007 against Councillor Haley, alleging that he had behaved in an offensive; abusive, intimidating and undermining way, to her at a meeting which she had attended as part of the duties of her Council employment. The complaint was investigated by a senior manager of the Council and, following criticism by Councillor Haley, it was decided that it should be re-investigated. By this time, the complainant says that she had received a letter from solicitors acting on Councillor Haley's behalf warning her that, due to her allegations against Councillor Haley, she could be liable for defamation. The complainant felt the letter was bullying and intimidating and that the intention behind the letter was to get her to drop her complaint. The complainant added this as a further ground to her complaint to be investigated. This investigation was carried out by an independent external consultant who made findings and advised Councillor Haley to apologise to Karlene Akindele.

The complainant was informed of this outcome and complains further that she was informed that Councillor Heley had expressed his readiness to apologise providing the agree to take no further action on the matter. The complainant says







hat Councillor Haley was aware at this time that she intended to take the matter to he Standards Board. The complainant considers this request from Councillor rialey to be a further attempt to intimidate and bully her.

Decision

The Standards Committee Assessment Sub-Committee (ASC) decided that the complaint presented to it could amount to a breach of one or more of the following paragraphs of the Code of Conduct:

- 3. (1) You must treat others with respect
- 3 (2) (b) You must not builty any person
- 3 (2) (c) You must not intimidate or attempt to intimidate any person who
 - (i) a complainant
- 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The ASC has therefore decided that the complaint should be referred for investigation.

The ASC considered whether this complaint should be referred to the Standards Soard for England on the basis that the subject Councillor is a leading Member of the Council, but has decided that this is an investigation which can be conducted at a local level.

The ASC has therefore decided to refer the complaint under section 57A(2)(a) of the Local Government Act 2000 to the Monitoring Officer to investigate.

Oated 18 11 108

Annabel Lovd.

Chair of the Standards Committee Assezsment Sub-Committee

Appendix 3

PRIVATE & CONFIDENTIAL - NOT FOR PUBLICATION

Investigation report into complaint made by Karlene Akindele (Grants Manager) against Councillor Brian Haley

Name of Investigator - Donavan Bean

Date of Report - June 2008

2

INTRODUCTION

- 1. This report concerns an investigation into a complaint made by Karlene Akindele (Grants Programme Manager) against Councillor Brian Haley under the Councill's Protocol for Member Officer Relations. Karlene Akindele (KA) alleged that she was on the receiving and of a verbal attack by Councillor Brian Haley during the course of a meeting on 5th March 2007. The meeting was attended by members of the African Caribbean Leadership Council (ACLC), as well as elected Members.
- 2. Ms Akindele, subsequently, submitted a further complaint against Clir Haley following the receipt of a letter from his solicitors, Curwens Solicitors, dated 26th October 2007. She alleged was the letter was threatening and intimidating and was the result of her making her initial complaint. This latter complaint was also considered as part of this investigation.
- There has been an attempt to resolve the initial complaint through mediation. This has, however, proved unsuccessful, and both parties have requested an independent investigation of the complaint due their dissatisfaction with how the original investigation was conducted and concluded.
- 4. This investigation is a reinvestigation of the initial complaint that had been previously investigated by Tim Dauncey (Interim Director of Corporate Services). In the light of some concerns expressed regarding the comprehensiveness of the investigation and the general dissatisfaction expressed by both parties with regard to the outcome, it was agreed that the matter would be revisited by a new independent investigator. The brief of the new investigator is to reinvestigate the compisint and any other issues pertaining to said complaint.
- 5. KA set out the details of the complaint in her complaint document, dated 27th March 2007, and her letter to Zena Brabazon, Head of Corporate Partnership, dated 8th November 2007. I have summarised the key elements of her complaint as follows:

Allegation 1 - that Clir Haley verbally abused Karlene Akindele during a meeting on 5 March 2007

Allegation 2 - that Clir Haley attempted to bully and harass Karlene Akindele by having his solicitors, Curwens, send her a threatening letter

Allegation 3 - that Karlene Akindele was victimised as the result of Cilr Haley orchestrating her being named at the ACLC's AGM

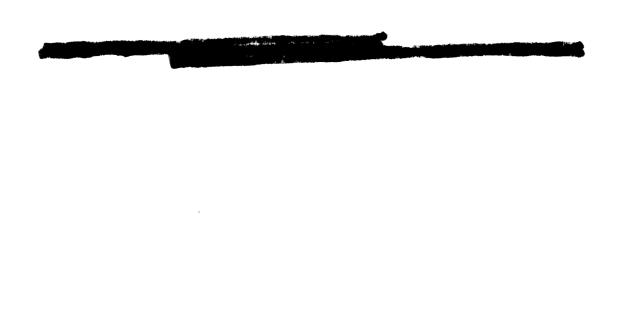
BACKGROUND TO THE COMPLAINTS

- 6. Karlene Akindele is the Manager of the grants programms of the Voluntary Sector team. In this capacity she performs the role of a Monitoring Officer in relation to the ALCL. Clir Haley is a member of the Council's Executive and a board member of the ALCL, acting as a representative of the Council.
- 7. Karlene submitted her initial complaint as the result of an incident which, allegedly, took place at a meeting between representatives of the Council and members of the ACLC on 5th March 2007. Councillor Lorna Reith, the Lead Member, had requested that the meeting take place in order to update the elected Members and the members of the ACLC about an officer initiated decision to withdraw the centre manager from the ACLC, seconded by the Council, and replace him with a new one. Cilr Reith was, unfortunately, unable to attend the meeting. The meeting was attended by Councillors J Patel, Brian Haley and Shelich Thompson.

Clir Thompson and Clir Haley attended the meeting in their capacity as Council appointees to the General Committee of the ACLC. Clir Patel had accompanied Clir Haley to the meeting because they were both scheduled to attend an unrelated meeting following the conclusion of this meeting.

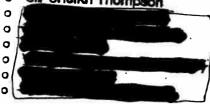
- 3: It became apparent during the course of the investigation that the decision to move the centre manager had been considered quite contentious and the members of the ACLC had felt that they had not been properly consulted about the decision. They in fact denied that they had been consulted by the officers, although KA had said that she had consulted the Chair of the ACLC and the officer felt that there was no need to consult the ACLC as this was a management decision, Clir Haley, who was appointed to the ACLC's board as a representative of the Couriol, is alleged to have forcefully raised his concerns about how the decision had been taken and how the meeting had been
- 9. The second complaint relates to KA's receipt of an allegedly "threatening" letter from solicitors acting on behalf of Cir Haley. At interview, Ms Akindele also referred to another incident which occurred at the ACLC's AGM meeting on 24 June 2007 where she alleged that she was targeted and inappropriately named at the meeting at the behast of Cir Haley in relation to a letter she had written clarifying the funding budget available to the ACLC. She regarded this iricident as an example of her being victimised by the Councillor. KA contended that Cir Haley's behaviour in relation to her complaints was in breach of the Council's Code of Conduct, the Protocol for Member Officer
- 10. The investigation started with the interview of Karlene Akindele on 27th March 2008.

 Councillor Haley was interviewed on 8th May. Both parties submitted names of witnesses. All the witnesses interviewed were considered to be material to the matters.



under investigation because they had either witnessed one or more of the alleged incidents or were involved in the matters which formed the basis of the complaints. A total of 9 witnesses were interviewed. 5 of these interviews were conducted over the telephone in order to expedite matters. The witness interviews were conducted between 23rd April and 29th May 2008. I was only unable to interview one witness; Est (ACLC); despite repeated attempts to establish contact. I do not consider that this proved detrimental with regard to the matters I investigated. The names of witnesses

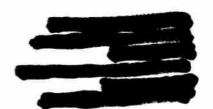
- Ciir Jayanti Patel 0
- Clir Loma Reith
- Cilr Sheikh Thompson



11: The investigation concluded on 1 June and was completed with the writing of this report. I have carefully weighed up what was said, considered the relevant documentation and drawn conclusions about whether any aspect of the complaints is upheld. I have relied on a number of documents which are detailed below. These documents are available on request.

DOCUMENTS

- Members Code of Conduct
- Protocol on Member/ Officers Relations
- o Karlene Akindele's Complaint against Councillor Haley, dated 27th March 2007 Report of the investigation into Complaint by Karlene Akindele against Clir Haley prepared Tim Dauncey Interim Director of Corporate Resources, dated 8th June
- email to Tim Dauncey, dated 23rd July 2007 0
- o Curwens sollcitor's letter to Karlene Akindele, dated 28 October 2007
- John Suddaby's email to ita O'Donovan, dated 31 October 2007
- Karlene Akindele's letter to Zena Brubazon, dated 8th November 2007
- John Suddaby's email to Zena Brabazon, dated 15 November 2007
- Badhams law solicitor's letter to Stuart Young, dated 12 December 2007
- Notes of ACLC's AGM on 24 June 2007
- Notes of Witness interviews
- Transcript of Karlene Akindele's interview held on 27 March 2008
- Notes of Councillor Brian Haley's Interview held on 9 May 2008





FINDINGS

- 12. During the course of my investigation, I undertook to determine whether there was any basis for KA's allegations concerning Cilr Haley's elleged behaviour and/or conduct and, if so, whether such behaviour could be regarded as urreasonable or inappropriate.
- 13.I investigated the complaints thoroughly and impartially in accordance with the Council's policies. The conclusions, I have reached, together with any relevant commentary and key evidence on which I have based those findings are set out in this cection of the report.
- 14. There was some confusion about precisely what was actually said and whether certain incidents actually took place with a number of witnesses providing differing accounts of the incidents. However, given that over a year has passed since the initial incident took place, some of the individual recollections of details of the events are likely to be a little meaningful observations.

30. I have, therefore, partially upheld this allegation.

Allegation 2 - that Clir Haley attempted to bully and harass Karlene Akindele by having his solicitors issue her with a threatening letter

- 31. This aspect of the complaint relates to KA's allegation that she received a threatening letter from Clir Haley's solicitor which she considered to be an attempt to victimise her because of her complaint against him. In her letter to Zena Brebazon, Head of Corporate Services, she stated that the letter amounted to herassment and bullying. At off...to stop the complaint."
- 32. Curwens solicitor's letter to KA, dated 26 October 2007, stated that they considered that her complaint against Clir Haley amounted to a personal attack on his professional reputation and that she had made defamatory allegations against him. They also alluded to holding KA personally liable for any claim for financial compensation.
- 33. Clir Haley stated at interview that he had instructed his solicitors to take this action because he felt that he couldn't have KA making allegations against him and then not wanting to resolve the matter. He felt that he had to protect his reputation and that he was defending himself rather than builtying KA by taking this course of action.
- 34. It is a matter for Clir Haley to determine whether he needs to seek a remedy outside the Council procedure to address any concerns he had in relation to the complaint made against him. However, there is no evidence to substantiate his counter allegation that she was a disgruntled officer pursuing a vendatta against him. I found no evidence that KA's complaint was either malicious or vexatious so there were no grounds for Clir Haley to allega otherwise.
- 35. Whilst I appreciate that Clir Haley may have sought to bring matters to a head, the issuing of this letter by his solicitors has, in my view, proved to be counter productive. KA has, to all intents and purposes, lodged a legitimate complaint using the Council's procedures. Clir Haley, on the other hand, has chosen to attempt to force KA withdraw her complaint by threatening legal action against her. I conclude that this was, possibly, not the wiskest course of action on his part. It is highly likely that any person receiving a letter of this kind would feel threatened, intimidated and, possibly, builled.
- 36.1 have, therefore, upheld this allegation.

of 1

Lab.	NOT FOR FUE	SEIGATION	Page 119	
				Page 1
_	Prince	Raymond		
	From:	Young Stuart		_
u	Sent:	24 December 2008 16:52	-	
Π	To:	Prince Raymond		
IJ	Subject:	Member complaint Akinde	nia	
	Facall mea	.Al		
	Clir Hayley	said to me that his position	ndation in the report and asked if he he	M A manua.
	raised.	d to apologise and that he of this before offering his a se this might be seen as a	endation in the report and asked if he has remained the same as it had been at it wished that to be the end of the matter apology. He did not wish to apologise if an admission on his part in relation to the	ie mediation. This was that he He would therefore want some the matter was going to be
)	. Management an		4.5	Sense of the leaned
-6	be an end to short adjourn	the matter. Ms Aldindele wi	them that Clir Hayley was prepared to r as accompanied to the meeting by Gen the approach was not acceptable. The r	neke an apology is the
PRATE V	There was to	was improved that t	ne accompanied to the meeting by Genthe approach was not acceptable. The interest contact between the cont	and McGrath of Unison. After a
Ħ	matter.	the best of my knowledge,	no direct contact between Clir Hayley :	and a soon thereafter.
0	You ask what	Cir Haviev's ness.		ind Ms Aldndele on this
(3	changed since	the earlier mediation atten	Rided to mean. Wy interpretation was the property of facet.	et his position has and
a	In the manufacture of	re to me to be a statement	ended to mean. My interpretation was the part of that time no complaint was brought fact.	ght about his position. His
	Marana III	etricetm eaw notinesmi est sei	Derrohad bur	
	across as some	what cold,	e sense to Ms Akindele, although I acc	rady established position on
П	I trust that this it	of use & I am available in	the New Year if you wish to speak with	was some
		·	with	me,
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Page 1 of 1

Prince Raymond

Subject:

FW: Complaint

Importance: High

Sensitivity: Confidential

From: Akindele Karlene Sent: 23 April 2009 13:54 To: Prince Raymond Subject: RE: Complaint Importance: High Sensitivity: Confidential

Hi Raymond

No, I don't agree with what Councillor Haley said. Clir. Haley's solicitor at the time told my solicitor, Mark Dyson, from Badhams Law (appointed by the Council) that Clir. Haley withdraw legal action against me because when his solicitor advised him that he couldn't receive Legal Aid for 'defamation of character' Clir. Haley could not afford to pay the fees from his own pocket. I don't have this in writing, but Mark would have written to the closing matter I don't know if he would have mentioned that in the letter, I wasn't privy to it.

Therefore as I understand it, it is lack of financial affordability on Clir. Haloy's part and not because of the mediation.

Karlene

Karlene P. Akindele
Grants Programme Manager
Corporate Voluntary Sector TeamHarringer Council, Chief Esseutive Servicer,
Alexandra House, 3rd Floor
10 Station Road, Wood Green
London N22 7TR
Telephone: 020 8489 6930

Prince Raymond

Subject: FW: Query Sensitivity: Confidential

From: Sent: 05 May 2009 12:53 To: Prince Raymond Subject: RE: Query Sensitivity: Confidential

Raymond

I can confirm that Bedhams were not appointed until after the letter was received from Curwens who were acting on behalf of Citr Haley.

Following receipt of the letter dated 25th October from Curwins witch was addressed to the Chief Executive, I advised insurers and Badhams were appointed on the 5th November 2007.

Following their appointment, Mark Dyson from Badhams discussed the allegations with both Stuart Young and Karlene.

I have spoken with Mark and he confirms that he spoke with Curwens on the 21st November and they advised that they had spoken with their client to discuss the cost of bringing a claim and that he was reluctant to continue because he would have to fund the case and what he really wanted was an independent investigation. As an investigation then took place no further was heard on the claim and our file was closed.

(61)

Prince Raymond

From:

Clir Haley Brian

Sent:

02 June 2009 11:37

To:

Prince Raymond

Subject:

Submission to Final Report

Importance: High

Dear Mr Prince.

Please consider this as an additional submission to be included in your final report.

I have kept my response to one allegation in which you found in favour of Ms Akindele namely, the instruction of my solicitors on this matter. Having discussed this with my Solicitors at the time, I did instruct Solicitors to write the letter. However, it was never my intention that the letter be construed as a form of bullying. Rather an attempt to bring the matter to an end and defend my own position.

At every point I have tried to resolve this situation amicably. However, at each turn this has been used by Ms Akindele as cause for a further complaint. I would like to point out that my solicitors did advise rine of the cost that would be incurred and that this was not a factor in my withdrawing from legal action as stated in the email from Ms Akindele sent on the 23rd April 09, as I was already incurring legal costs for advice and the writing of the letter.

in an email of 5th May 2009 says 'what he really wants is an independent investigation. As this investigation then took place no further was heard and the case was closed'. As you can see from this comment from the Councils legal advisor, the comments made by my Solicitor, and the reassurance I received from the then leader of the council and chief whip that the matter would be fully investigated and to show a willingness on my part to resolve this issue as quickly as possible the legal proceedings were stopped. I did not intend this letter to intimidate or bully Ms Akindels in any way.

Yours sincerely

Clir Brian Haley

02/06/2009

(62)

Page 123

APPENDIX 4 - INVESTIGATING OFFICER'S ORIGINAL ATTACHMENTS -

PART FIVE - CODES AND PROTOCOLS Section A- Member Code of Conduct PUBLIC

Part Five, Section A Members' Code of Conduct

THE GENERAL PRINCIPLES

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by Leadership, and by example, and should act in a way that secures or preserves public confidence.

EXPLANATORY NOTE

Listed above are the general principles, as specified by the Secretary of State, which are to govern the conduct of Members and co-opted members of relevant authorities in England and police authorities in Wales, in accordance with section 49(1) of the Local Government Act 2000. The general principles are expected to govern only the official conduct of Members and co-opted members, apart from the second and eighth, which have effect on all occasions.

Members are required to give the authority a written undertaking that in performing their functions they will observe the Code of Conduct adopted by the London Borough of Haringey as set out below. This is based on the general principles above but contains more detailed mandatory requirements. A person who becomes a Member or co-opted Member of the Council may not act in that office until he/she has given the authority this written undertaking.

The monitoring officer of the authority must establish and maintain a register of interests of the Members and co-opted members of the authority under section 81 of the Local Government Act 2000. Members and co-opted members must register all their financial and other interests as specified in the Code and do so before participating in any business of the authority related to those interests. The register of interests will be available for inspection by the public at all reasonable hours.

LONDON BOROUGH OF HARINGEY CONSTITUTION Part five - A, Page 2
Last updated 10 May 2007 (15)

SCHEDULE THE MODEL CODE OF CONDUCT

Part 1 General provisions

introduction and interpretation

- 1. -(1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code-

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member. (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

- 2. -(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time,

LONDON BOROUGH OF HARINGEY CONSTITUTION Last updated 10 May 2007 Part five - A, Page 3

12

where that conduct constitutes a criminal offence for which you have been convicted.

- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

- 3. -(1) You must treat others with respect.
- (2) You must not-
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant.
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

LONDON BOROUGH OF HARINGEY CONSTITUTION Part five - A, Page 4
Last updated 10 May 2007

Page 127

PART FIVE - CODES AND PROTOCOLS Section A- Member Code of Conduct

4. You must not-

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- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is-
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. 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.
- 7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

- (a) your authority's chief finance officer; or
- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 Interests

Personal interests

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8. -(1) You have a personal interest in any business of your authority where either-

- (a) it relates to or is likely to affect—
 - (i) 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 your authority;
 - (ii) any body-
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;

- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

LONDON BOROUGH OF HARINGEY CONSTITUTION Part five - A, Page 6
Last updated 10 May 2007

(19)

11

- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority's area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) in sub-paragraph (1)(b), a relevant person is-
 - (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

LONDON BOROUGH OF HARINGEY CONSTITUTION Part five - A, Page 7
Last updated 10 May 2007 (20)

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9. —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

- 10. —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—

LONDON BOROUGH OF HARINGEY CONSTITUTION Last updated 10 May 2007

Part five - A, Page 8

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny

- 11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a
 - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation 12. —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority-

LONDON BOROUGH OF HARINGEY CONSTITUTION Last updated 10 May 2007

Part five - A, Page 9

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PART FIVE - CODES AND PROTOCOLS Section A- Member Code of Conduct

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3 Registration of Members' Interests

Registration of members' interests

- 13. -(1) Subject to paragraph 14, you must, within 28 days of-
 - (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that

LONDON BOROUGH OF HARINGEY CONSTITUTION Part five - A, Page 10 Last updated 10 May 2007

(23)

PART FIVE - CODES AND PROTOCOLS Section A- Member Code of Conduct

interest, or, as the case may be, a change to that interest under paragraph 13.

- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation

Page 144 Page 134

PART FIVE - CODES AND PROTOCOLS Section A- Member Code of Conduct

Written	Undertaking

I,, being a member/co-opted member (delete as appropriate) of the London Borough of Haringey Council, undertake to observe the code as to the conduct which is expected of Members/co-opted members (delete as appropriate) of the London Borough of Haringey Council.
SignedDate
This undertaking was made and signed before me
SignedDate

Proper officer of the authority

	PART FIVE - CODES AND PR Section A- Member Code o	ROTOCOLS		
0	DECLARATION OF ACCEPT			
0	A ACCEPT	ANCE OF OFFICE		
Control of the contro	[(1)] having been elected Haringey declare that I take faithfully fulfil the duties of ability	to the office of [(e that office upon n if it according to the	(2)] of the London Borough of myself, and will duly and e best of my judgement and	
C ·	I undertake to observe the members of the London Bor	codo se to the		
	Signed	Date		
	This declaration was made a	nd signed before m	e,	
) E	Signed	Data		
	Proper officer of the counci	Date I.		
A	(1) Insert the name of the pen	SON making the dec	James .	
	(2) Insert "member" or "Mayor"		taration.	
	mayor	as appropriate.		
,				
	LONDON RODOUGU OT W			
	LONDON BOROUGH OF HARINGEY Last updated 10 May 2007	Y CONSTITUTION (26)	Part five - A, Page 13	

THE 2003 CASE REVIEW

STANDARDS BOARD FOR ENGLAND

ir Case Review

Paragraph 1

Q&A paragraph 2

Q10 What does the Code mean by 'treat others with respect'?

Although the interpretation of unlawful discrimination under paragraph 2(a) of the Code is relatively narrow in scope, this is counter-balanced by the extremely broad terms in which paragraph 2(b) is drafted. Failure to treat others with respect could cover almost any example of unfair, unreasonable or demeaning behaviour directed by one person against another.

Bullying is an important example of the type of behaviour that could fall within the scope of paragraph 2(b). The Standards Board for England's view is that bullying of officers and other members is a serious issue. The Standards Board for England and the Ethical Standards Officers are very keen to do everything they can to stamp it out.

Another significant area of concern is the way in which members treat the public. Whilst it is acknowledged that some members of the public can make unreasonable demands on members, members should, as far as possible, treat the public courteously and with consideration (see case example 2).

Q11 What kinds of conduct are not covered by 2(b).

The apparent breadth of paragraph 2(b) has led to misunderstanding on the part of some members and officers. Paragraph 2(b) is not intended to stand in the way of lively debate in local authorities. Such discussion is a crucial part of the democratic process. Differences of opinion, and the defence of those opinions, through members' arguments and public debate are an essential part of the cut-and-thrust of politics.

A very clear line has to be drawn between the Code's requirement of respect for others (including members of the authority with opposing views) and the freedom to disagree with the views and opinions of others. In a democracy, members of public bodies should

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Q&A paragraph 2

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be able to publicly express disagreement with each other. A rule-ofthumb is expressed in this comparison: 'You're talking drivel' is likely
to be an acceptable expression of disagreement; calling someone a
'bloody bitch', on the other hand, is far more likely to constitute a
failure to comply with paragraph 2(b). On reflection we can see that
the first comment is aimed at the articulation of an idea or argument.
The second is simed at the person and their personal characteristics.

Whilst The Standards Board for England and the Ethical Standards Officers are determined to take a firm line on bullying of officers, this does not mean that members cannot express disagreement with officers. This disagreement might, in the appropriate context, manifest itself in the criticism of the way in which an officer or officers handled particular matters. In the everyday running of a local authority, it is inevitable that members may have disagreements with officers from time to time. It is only where members' conduct is unfair, unreasonable or demeaning that paragraph 2(b) will be relevant.

Paragraph 2(b) only applies to activities undertaken in an official capacity. Paragraph 2(b) will not apply to a member's private life. It is not intended to police conversations at the pub or altercations over the garden fence (see case example 3).

Q12 Shall said of hendylour world Aparticollise one impartiality of nuise in conservation or in mental of the authority?

Paragraph 2(c) is directed at any activity that seeks to put pressure on officers to carry out their duties in a way that is biased or partisan. This may include direct or indirect coercion to favour a particular person, group or organisation, whether commercial, political or voluntary, contrary to officers' obligations to act independently and in the public interest. The Standards Board for England and its Ethical Standards

Paragrapa

THE 2006 CASE REVIEW

Bullying

41

Ethical standards officers now also have the power to direct monitoring officers to take action to tackle some member related issues within authorities. Some of these cases may also be more appropriate for investigation and determination by local authorities, which may recommend mediation or other measures to address problems between members and officers.

Proving bullying has occurred

In 2003 the Standards Board for England adopted a lower threshold for referring complaints about bullying for investigation, both in response to concerns from stakeholders about bullying and to demonstrate how seriously we view the issue.

However, it is only possible to investigate such complaints if there is clear evidence that bullying may have occurred. It is helpful if a complainant alleging bullying can provide a detailed record of the incidents. It is also useful if they can provide information on the context in which the incidents occurred. This is because it can be difficult to prove breaches of the Code of Conduct based on general complaints such as "the councillor is always undermining me through her comments", or "the member has repeatedly intimidated and denigrated me", without specific examples that can be objectively assessed.

The test for whether conduct is regarded as bullying is likely to be whether a neutral third party, a 'reasonable member of the public', would regard conduct as bullying if they had all of the relevant facts. The Adjudication Panel has used a similar approach in determining whether or not members have failed to treat others with respect.

4buse of power

The Shorter Oxford English Dictionary defines bullying as to:

"...persecute, intimidate, oppress (physically or morally) by threats of superior force".

Members are in a position of power and authority, so there is clearly a risk that they could abuse their position to "persecute, intimidate, [or] oppress" others, using "threats of superior force".

Chapter





Paragraph 3

Paragraph 3(2)(b)

(b) You must not buily any person.

Note: this is a new paragraph of the Code of Conduct which reflects the concerns of the Standards Board for England and of its ethical standards officers with the recurring problem of bullying of officers by some members. However, its scope is not just limited to the bullying of officers.

Q20: What is meant by 'bullying' in this section of the Code of Conduct?

The Standards Board defines bullying as offensive, intimidating, malicious, insulting or humiliating behaviour by an individual or group of individuals, based on abuse or mlsuse of power or authority, which attempts to undermine an individual or a group. It can have an impact on a council's effective use of resources and provision of services. Officers who are subject to bullying are frequently away from their posts, sometimes for extended periods, on sickness or stress-related leave.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, or when the behaviour by both the complainant and member contributed equally to the breakdown in relations.

Q21: Who decides whether someone has been bullled?

Ultimately a standards committee, the Adjudication Panel for England or the courts will decide. They are likely to use an objective test. If an officer, member or member of the public thinks that a member has bullied them, the conduct will be looked at through the eyes of a notional reasonable member of the public who looks at the conduct objectively.

Equally, while members may not consider their conduct has constituted bullying, it is likely to be seen as such if a notional reasonable member of the public who looks at the conduct objectively would regard it as bullying.

Q22: Can members criticise officers?

Yes. In some cases, officers have been known to reject reasonable criticism appropriately made and describe it as bullying. The government did not intend the Code of Conduct to constrain members: involvement in local governance, including the role of members to challenge performance. Members are able to question and probe poor officer performance provided it is done in an appropriate way. In the everyday running of a local authority, it is inevitable that members may have disagreements with officers from time to time.



Paragraph 5

For example, councillors using their position to secure a secret personal profit.

- Similarly, situations where a member defies important and well-established rules of the authority for private gain.
- which directly and significantly undermines the authority's reputation as a good employer or responsible service provider. For example, they are convicted for sexual offences against children when running a private care nome providing services to the council.

Q43: What is "disrepute"?

In general terms, disrepute can be defined as a lack of good reputation or respectability.

In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:

- Reducing the public's confidence in that member being able to fulfil their role; or
- Adversely affecting the reputation of members generally, in being able to fulfil ineir role.

Conduct by a member which could reasonably be regarded as reducing public confidence in the authority being able to fulfil its functions and duties will bring the authority into disrepute.

Under the Code, a criminal conviction in appropriate circumstances can have the same effects (see Q9 on page 15).

Q44: What is the significance of the words "could reasonably be regarded"?

An officer carrying out an investigation about someone allegedly breaking the Code of Conduct does not need to prove that a member's actions have actually diminished public confidence, or harmed the reputation of an authority, in order to show a failure to comply. The test is whether or not a member's conduct "could reasonably be regarded" as having these effects.

This test is objective and does not rely on any one individual's perception. There will often be a range of opinions that a reasonable person could have towards the conduct in question. Members will have failed to comply with the Code if their conduct "could reasonably be regarded" by an objective observer as bringing their office or authority into disrepute.

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THE CASE REVIEW 55

Here are two new case examples that relate to paragraph 5 of the Code of Conduct.

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The Adjudication Panel for England considered case APE 0383 under the 2001 Code. In this case, a councillor was given information in a private briefing to councillors. The briefing was about the council's proposals to buy land and relocate its offices to another town.

The information was made public swiftly after this. The councillor did not agree with the proposals, and secretly bought the land to prevent the council considering it as an option for its future operations. The link to his office was clearly made.

Together with the lack of openness, these actions diminished public confidence in his ability to discharge his office as a councillor. He had therefore conducted himself in a manner which would reasonably be regarded as bringing his office or authority into disrepute. He had also failed to register the exchange of contracts in the land within 28 days. However, the Tribunal decided that he had not improperly sought to secure an advantage or disadvantage. This is discussed further in the cases given under paragraph 6 on page 8.

Ex impie 2

The Adjudication Panel for England decided that a member had brought his office or authority into disrepute in the case APE 0387, under the 2001 Code.

In this case, the member had issued threats to another member immediately before a planning decision was taken. The threats concerned the deselection of the councillor and were coupled with offensive language. These threats were overheard.

The Tribunal did not find these threats improper in the context of political life, and accepted that future careers could be affected by the way a member voted.

However, the Tribunal did find that the comments were disreputable. This was especially so when there was a planning orotocol which had been adopted by the council, although not incorporated in the council's code of conduct. The threats and actions of the member constituted a failure to follow that guidance and a breach of that protocol, and so were sufficient to be disreputable.

Page 152 Page 142

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Page 153

NOT FOR PUBLICATION

Page 143

By virtue of paragraph(s) 1, 2, 5, 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

APPENDIX 5 PRE-HERRING PROCESS DOCUMENTS - EXEMPT

Page 154 Page 144

Legal Services NOT FOR PUBLICATION

9th Floor, Alexandra House, 10 Station Road, Wood Green, London N22 7TR

DX 156930, Wood Green 5 Tel: 020 8489 5936 Fax: 020 8489 3835

www.haringey.gov.uk

Haringey Council

Head of Legal Services John Suddaby

Your ref:

10 August 2009 Cate:

LEG/TAM/17818 Our reit

020 8489 5936 Direct

dial:

Email: Terence.Mitchison@haringey.gov.uk

Dear Clir Haley,

COMPLAINT BY MS. KARLENE AKINDELE - MEMBERS' CODE OF CONDUCT REF. SC2/089 - HEARING ON 29 & 30 SEPTEMBER 2009

As promised, I am writing to you about the hearing fixed for Tuesday 29th and Wednesday 30th September to commence at 18.00 on 29th in Committee Room 2 at the Civic Centre.

There are several issues that need be resolved well before the hearing itself in order to ensure that everything runs fairly and properly on the day. To facilitate this, I am attaching the following documents:

- Procedure for hearing allegations of breach of the Code of Conduct; (1)
- Form A your chance to respond to the investigation report stating where, if (2) at all, you disagree with the findings;
- Form B your chance to ask for extra evidence to be admitted beyond that (3) contained in, or appended to, the investigation report;
- Form C your chance to set out any representations you may wish to be (4) considered if you are found to have breached the Code of Conduct;
- Form D Questionnaire about arrangements for the hearing, for example, (5) your representation, your witnesses and any possible evidence to be heard in private;
- Form E details of the witness evidence you want to call; and (6)
- For ease of reference, I am also attaching the investigation report and its appendices which have already been sent to you.

I appreciate that this is a considerable amount of material to digest and it may be that not all of it turns out to be relevant to this hearing. But it is in your own interests, as well being necessary for the smooth running of the hearing, that you read all the attachments as soon as you can and let me have your responses to Forms A to E by Friday 28 August.







Page 155

NOT FOR PUBLICATION

Page 145

As you will see from the Hearing Procedure, there are essentially three stages to a hearing. The Panel will:

- (a) Reach its "findings of fact" after hearing all the evidence in dispute,
- (b) Decide whether you did, or did not, breach the Code, and
- (c) (if you are found to have breached it) Decide what penalty, if any, to impose.

The Sub-Committee can also make general recommendations to the Council on Members' Conduct matters, as a result of lessons learnt from the hearing.

The Hearing Procedure tries to ensure fairness between the two "parties" i.e. you, as the Member subject to the complaint, and the "investigator". The "investigator" is either the officer who conducted the investigation and completed the investigation report, or their representative. Both parties can make representations, put in documents, call witnesses and question the witnesses of the other party. The Chair and members of the Sub-Committee will also be able to ask questions of the parties and their witnesses. This is all subject to rulings by the Sub-Committee, or its Chair, to maintain fairness, prevent surprises and avoid irrelevance or repetition.

The purpose of Form A is to narrow down the issues of fact in dispute between the parties. The investigator's case is already set out in the investigation report and its appendices. So you are now being asked to indicate where you disagree with the findings of fact in that report and, where you do disagree, to explain the reason(s) why as clearly as you can. If you do not identify these areas of disagreement before the hearing and by the deadline given, the Sub-Committee may prevent you from doing so at the hearing and may refuse to allow you to call evidence to support your case in respect of factual disputes not previously identified.

Form B is linked to Form A. it gives you the opportunity to indicate in advance any extra evidence you may want to call in addition to that contained in the investigation report and its appendices. You will usually want to do this because you disagree with some aspect of the investigation report. This extra evidence could be additional documents or witnesses not already interviewed by the investigator who, you consider, could give relevant evidence helpful to your case. As explained above, you must return Form B before the deadline or you may be prevented from calling or introducing any extra evidence at the hearing itself.

Form C is your opportunity to set out in writing in advance any representations or factors that you think the Sub-Committee should take into account if they have to consider imposing a penalty on you for a breach of the Code. Of course, this is only relevant if the Sub-Committee does find that you breached the Code. Providing your representations in advance does not, in any way, prejudice your arguments that you did not breach the Code.

Form D seeks information to help with practical arrangements for the hearing. Please note that questions 9 and 10 ask you to identify in advance any aspects of the hearing, whether witness evidence, documents or representations, that you would wish to be heard confidentially in private session. There is a general presumption that the public interest favours hearing the complaint in public so as to demonstrate transparency. Therefore, there would need to be a good reason to justify hearing any evidence etc. in private. These reasons should be notified in advance so that they can be carefully considered and proper legal advice obtained before the hearing.







Page 156 Page 146

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Form E asks you to provide details of all witnesses you propose to call to give oral evidence at the hearing. You are required to give an outline of the evidence you expect from each witness. This is to allow the Sub-Committee and its advisor to decide how many witnesses should reasonably be allowed to deal with the issues in dispute at the hearing and to plan timing for the hearing process.

If you have any concerns or comments about the contents of this letter or its attachments, then please let me know as soon as possible. It is particularly important that you tell me as soon as possible if you are likely to have any difficulty with the 28 August deadline for returning your responses to Forms A to E.

This letter and its attachments are being sent to your Council email address and in hard copy to your support officer at River Park House.

Yours sincerely,

Terence Mitchison For Monitoring Officer







Mitchison Terence

From:

Mitchison Terence

Sent:

27 October 2009 12:20

To:

Cllr Haley Brian

Cc:

Suddaby John

Subject:

Complaint by K Akindele - Hearing Panel on 2 December 09

Attachments: Procedure letter 100809.doc; Procedure for Hearing 09.doc; Form A.doc; Form B.doc; Form C.doc; Form D.doc; Form E.doc; report of Invetigating officer.pdf; App A Part 1.pdf;

App A Part 2.pdf

Dear Cllr Haley,

As you know, the Hearing of this complaint has been re-scheduled for Wednesday 2 December 2009 starting at 10.00 a.m. in the Civic Centre. The Hearing Panel will comprise Clirs Santry and Williams and three independent Standards Committee members: Ms Carol Sykes, Mr Roger Lovegrove and Ms Annabel Loyd. One of the independent members will be chosen as Chair of the Panel.

I have been asked by the Monitoring Officer to assist him with arrangements for the hearing. John Suddaby himself will attend on 2 December to advise the Hearing Panel on law and procedure. The investigating officer, Raymond Prince, will attend to present his report and make submissions to support his findings.

As you will recall, I sent you a letter on 10 August asking for your responses to the investigating officer's report and your responses in relation to other matters affecting the Hearing. I have attached this letter again but please ignore the dates for the hearing etc which are now changed. I have also attached Forms A, B, C, D and E which are the official forms for stating details relating to your case. May I ask for your responses on these 5 forms by close of business on 10 November i.e. 2 weeks from today. In addition the investigating officer's report and its appendices are attached again for ease of reference.

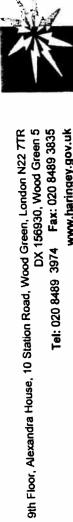
It is important that we receive your responses in good time so that the investigating officer can consider them and make any further comments in advance of the dispatch of the agenda pack for the Hearing Panel.

If you are likely to need longer than 10 November for your replies could you please let me know as soon as possible.

Yours sincerely,

Terence Mitchison for Monitoring Officer 8489 5936





www.haringey.gov.uk

Haringey Committee

Head of Legal Services John Suddaby

FORM A

FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons Subject meriber's response to the evidence set out in the investigation report and your suggested atternative. Please add extra "boxes" or ask for a longer form if needed.

Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read
7.2.2	"in such strident terms". I did not intend the Solicitor's letter to raise doubts in her mind about whether to pursue.	I instructed Sciicitors to write to Ms Akindele but not to dissuade her from pursuing her complaint as she saw fit.
Appendix A Page 31 – Form 2	I did not state that I would only issue an apology if Ms Akindele promised not to take this matter further.	I said that I would write a letter if it were to mark the end of this whole issue.

7.2.3

3 (1) of the Code

7.2.6

3 (2) (b) Bullying

.

3 (2) (c) Intimidation

7.2.7A

7.2.7



DX 156930, Wood Green 5 Fax: 020 8489 3835 www.haringey.gov.uk Tel: 020 8489 3974

9th Floor, Alexandra House, 10 Station Road, Wood Green, London N22 7TR

Head of Legal Services John Suddaby

FORM B

FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Other evidence relevant to the complaint

Please set out below, using tne numbered paragraphs, any additional evidence you feel is relevant to the complaint made about you. This would be evidence in documents or from witnesses in addition to that contained in the Investigation Report and its Appendices. Please add extra "boxes" or ask for a longer form if needed

Details of the evidence Paragraph number Telephone Attendance Note dated 21/11/07 (please see attached).

l instructed Solicitors to write to Ms Akindele but not to dissuade her from pursuing her complaint as she saw fit.

I said that I would write a letter if it were to mark the end of this whole issue.

Page 151

because in law bullying and intimidation must be a I was advised by my Solicitor that the letter would sustained attack on an individual over a period of not be considered as bullying or intimidation

point, I wrote a letter of apology to Ms. Akindele dated 8th September 2009. They informed me that Having taken advice from two barristers on this the advice I was given could be seen as detrimental.

Legal Services

9th Floor, Alexandra House, 10 Station Road, Wood Green, London N22 7TR

DX 156930, Wood Green 5 Tel: 020 8489 3974 Fax: 020 8489 3835 www.haringey.gov.uk



Head of Legal Services John Suddaby Haringey Council

FORM D

FOR STANDARDS COMMITTEE/SUB COMMITTEE **HEARINGS**

Please double click in the relevant box to enter 'x'.

1	Are you planning to attend the standards committee hearing on the proposed date in the accompanying letter? If 'No' please explain why?	Yes No	Reason:
2	Are you going to present your own case?	Yes No	
3	If you are not presenting your own case, will a representative present it for you? If 'Yes' please state the name of your representative.	Yes ino	Mame:

Is your representative a practising solicitor or barrister? If 'Yes', please give their legal qualifications. Then go to Question 6. If 'No' please go to Question 5.	Yes No	
Does your representative have any connection with your case? If 'Yes', please give details.	Yes No	Details:
Are you going to call any witnesses? If 'Yes', please fill in Form E.	Yes	
Do you, your representative or your witnesses have any access difficulties? For example, is wheelchair access needed? If 'Yes', please give details.	Yes Mo	Details:
Do you, your representative or witnesses have any special needs? For example, is an interpreter needed? If 'Yes' please give details	Yes No	Details:
	a practising solicitor or barrister? If 'Yes', please give their legal qualifications. Then go to Question 6. If 'No' please go to Question 5. Does your representative have any connection with your case? If 'Yes', please give details. Are you going to call any witnesses? If 'Yes', please fill in Form E. Do you, your representative or your witnesses have any access difficulties? For example, is wheelchair access needed? If 'Yes', please give details. Do you, your representative or witnesses have any special needs? For example, is an interpreter needed? If 'Yes' please give	a practising solicitor or barrister? If 'Yes', please give their legal qualifications. Then go to Question 6. If 'No' please go to Question 5. Does your representative have any connection with your case? If 'Yes', please give details. Are you going to call any witnesses? If 'Yes', please fill in Form E. Do you, your representative or your witnesses have any access difficulties? For example, is wheelchair access needed? If 'Yes', please give details. Do you, your representative or witnesses have any special needs? No For example, is an interpreter needed? If 'Yes' please give



9	Do you want any part of the hearing to be held in private? If 'Yes', please explain precisely which part(s) and give reasons. Please note that the Committee/Sub Committee will have the final decision on what is heard in private or in public.	Yes No	Reasons:
10	Do you want any part of the relevant documents to be withheld from public inspection? If 'yes', please state precisely which documents and give reasons. Please note that the Committee/Sub-Committee will have the final decision on what is heard in private or in public.	Yes No	I wish all documents referring to the initial allegation to be withheld as they remain unproven.

Page 155

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Head of Legal Services John Suddaby Haringey College

FORM E

FOR STANDARDS COMMITTEE/SUB COMMITTEE **HEARINGS**

Details of proposed witnesses to be called. This means all the witnesses you wish to call whether or not interviewed by the Investigating Officer.

Please double click in the relevant box to enter 'x'. Please add extra "boxes" or ask for a longer form if needed.

of witness or witnesses	4	Na
or maness or writiesses	•	None
	2	
	-	
•	3	
ess 1		
Will the witness give evidence about the allegation?	Yes	Outline of evidence:
If 'Yes', please provide an outline of the evidence the witness will give.	No	
Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed? If 'Yes', please provide an outline of the evidence the witness will give.	Yes	Outline of evidence:
	Will the witness give evidence about the allegation? If 'Yes', please provide an outline of the evidence the witness will give. Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed? If 'Yes', please provide an outline of the	Will the witness give evidence about the allegation? If 'Yes', please provide an outline of the evidence the witness will give. Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed? If 'Yes', please provide an outline of the evidence the witness



TELEPHONE ATTENDANCE NOTE

Client	B Hayley - Defamation
A/c Number	Defamation matter
Date	21/11/07

AGC telephoning and attempting to speak with Mark Dyson at Badhams Law Solicitors. AGC being unable to speak with Mr Dyson and leaving voicemail message.

4.30 p.m.

AGC receiving a telephone call from Mr Mark Dyson of Badhams Law. Mr Dyson beginning by stating that, in his opinion, his Clients had a strong defence to any claim of defamation. AGC stating that he was not of the opinion, but given the remit of the report and how the investigation was carried out that his Client would necessarily have a defence of qualified privilege.

In any event, AGC stating that on a without prejudice basis his Client was looking for the correct procedure to be followed out, a thorough independent investigation be carried out, all witnesses who were in attendance at the original meeting being interviewed and all those involved in the investigation and all those who were served with the original report be notified of a further independent investigation and be provided with a copy of the report.

Mr Dyson pointing out that AGC's Client had not following the correct member's protocol and should have referred this to the Council in any event. AGC stating that his Client had lost faith in the Council when the report was disclosed clearly making personal references by the investigating officer. AGC stating that this in his opinion was not in accordance with the member's protocol.

Mr Dyson stating that although his Clients would not agree to the matter being investigated by a different London Borough (washing their dirty laundry in public), he could see the benefit of an independent investigator and would propose that the Council instruct a wholly independent investigator to carry out the investigation. AGC stating that he would recommend to his Client that he agree this without the matter necessarily going to an independent London Borough.

AGC stating to Mr Dyson that clearly if the parties could now agree to an independent assessor investigating the claim, providing an independent report, interviewing all witnesses and then disclosing a copy of the report to all parties who had sight of the earlier report, then AGC was of the opinion that his Client would accept this as an amicable solution.

Mr Dyson also stating that this is what his Clients would wish for and Mr Dyson stating that this is what he would recommend to his Client in any event. Mr Dyson stating that in his Client's (Miss Akindle's) opinion, the investigation report was not thorough enough and in fact his Client would in effect would like a more thorough investigation. AGC stating that it was quite clear that the parties had an agreement as to how matters should proceed. At this point, Mr Dyson interjecting and stating that if any proceedings were issued, his Client would vigorously defend the claim. AGC stating that it was quite clear that the parties could now reach an amicable solution to the claim, and recommending that Mr Dyson now write to his Clients in relation to the conversation he had had with AGC and AGC would do likewise.

AGC then asking Mr Dyson to drop him a letter confirming their conversation and AGC taking his Client's further instructions and recommending that this was the best way forward. AGC thanking Mr Dyson for his call and Mr Dyson thanking AGC for his assistance.

AGC

Page 168 Page 158

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Members' Room

5th Floor, River Park House, 225 High Road, Wood Green, London N22 8HQ

Tel: 020 8489 2774 Fax: 020 8881 5218



Cabinet Member for Environment and Conservation Councillor Brian Haley Haringey (Local Cabinet Member for Environment and Conservation Councillor Brian Haley

Your ref:

www.haringey.gov.uk

ilth September 2009 Date:

Our ref:

Direct dial: 020 8489 2241

Brian.haley@haringey.gov.uk

Dear Ms Akindele,

I am writing to say that I apologise for the upset that my letter may have caused you. I regret any feeling of discomfort you may have had in this regard.

Yours Sincerely

Clir Brian Haley

