

Haringey Council

Agenda item:

Standards Committee

on

10 June 2010

Report Title: Review of the Procedures for Complaints against Members

Report of: Monitoring Officer

Wards(s) affected: All

Report for: Non Key Decision and Recommendation to the CRWG and the full Council


1. Purpose

1.1 To propose amendments to the Procedures for Complaints against Members as contained within the Protocol for Member/Officer Relations in the Council's Constitution.

2. Recommendations

2.1 Members of the Standards Committee are requested to:

- (i) note and approve the proposed amendments to the Protocol for Member/Officer Relations (Part 5, Section B of the Council's Constitution) as they apply to the Procedures for Complaints against Members, and
- (ii) recommend the proposed amendments to the Constitution Review Working Group for consideration and approval and for further recommendation on to the full Council for adoption.

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3. Local Government (Access to Information) Act 1985

3.1 (i) The Council's Constitution and (ii) the report on "Determination Hearings" considered by the Standards Committee on 14 January 2010.

4. Financial Implications

4.1 There are no specific financial implications.

5. Legal Implications

5.1 The legal implications are set out in the body of this report.

6. Equalities and Community Cohesion Implications

6.1 There are no specific equalities or community cohesion implications.

7. Background

7.1 On 2 December 2009 the Standards Determination Hearing Panel, which had just considered a complaint against a Member (case SC 02/89) involving the intimidation of an officer, expressed its concerns about the different procedures for handling complaints against Members and the consequent delays.

7.2 In that case, the matter had initially been raised under the non-statutory procedure in the Protocol for Member/Officer Relations ("Member/Officer Protocol") and only later did the complainant pursue it as a complaint under the statutory Members' Code of Conduct. This may have caused confusion in the mind of the complainant and may have contributed to the fact that there were three separate investigations and a delay of more than two and a half years in resolving the matter.

7.3 In addition the Standards Determination Hearing Panel noted that complaints under the Member/Officer Protocol did not come within the remit of the Standards Committee and, indeed, the Committee was not usually made aware of them. The Panel observed that consequently there was no independent monitoring of complaints under the Member/Officer Protocol.

7.4 The Hearing Panel concluded by recommending to the Council "that the current Member/Officer Protocol.....be reviewed with particular reference to the issue of officer complaints against Councillors to ensure a transparent and clear direction and an appropriate interface with the Members' Code of Conduct complaints process". The Hearing Panel's full comments, as minuted, are attached to this report as Appendix 1.

8. Proposals

8.1 Consideration has been given to paragraphs 9.14 to 9.18 in the sub-section of the Member/Officer Protocol which is headed "Formal Complaints about Members". This sub-section has been substantially re-drafted as shown in Appendix 2 to this report. The proposed amendments would make the following changes:

- (i) provision is made in revised paragraph 9.16 for two non-statutory procedures outside the Members' Code of Conduct. These are first a "process of mediation" if both parties to the complaint agree, and second an internal investigation by the employee's Service Head or their nominee. The introduction of a mediation process, which employees would be encouraged to use in less serious cases, should lead to a quicker and easier resolution of many complaints.
- (ii) at revised paragraph 9.17 there is reference to the fact that a complaint might amount to a breach of the Members' Code of Conduct. Provision is made for seeking advice on this issue from the Monitoring Officer. While the right of a complainant to refer any complaint to a Standards Assessment Sub-Committee is expressly stated, there is also encouragement to refer less serious complaints to non-statutory mediation or internal investigation.
- (iii) at the end of revised paragraph 9.16 the right of a complainant to discontinue a complaint under one of the procedures and to start again under another procedure is recognised but there is an expectation that complainants will seek advice on procedure from their Service Head and the Monitoring Officer.
- (iv) at the end of revised paragraph 9.15, provision is made for the Monitoring Officer to reject a complaint because it is vexatious, plainly ill-founded or repetitive. This power to reject only applies to complaints not made under the Members' Code of Conduct. Obviously this power, which is not subject to appeal, would only be exercised where a complaint was clearly abusive. Care would be taken to ensure that complainants with potentially legitimate grievances were not prejudiced because they had genuine difficulties such as a lack of language skills. It is also recognised that employees have statutory rights in relation to their employment in external Tribunals.
- (v) at revised paragraph 9.19 more detailed provision is made for maintaining confidentiality in the course of the non-statutory procedures.
- (vi) finally, at revised paragraph 9.20, provision is made for regularly reporting the outcome of complaints under the non-statutory procedures to the Standards Committee for monitoring and so that the Committee can consider issuing guidance on ethical governance to the Council in the light of cases.

8.2 While the revised procedures do not entirely remove the possibility of delay in complex or difficult cases, it is reasonable to expect that the increased involvement of the Monitoring Officer in advising on procedural aspects of complaints will improve the overall efficiency and speed in handling complaints against Members.

8.3 Since amendments to the Member/Officer Protocol affect the Council's Constitution, the changes must be considered and approved by the Constitution Review Working Group before they are recommended on to the full Council for adoption.

9. Use of Appendices

Appendix 1 Recommendation to Council of the Hearing Panel after case (SC02/89)

Appendix 2 Amended text of the Member/Officer Protocol.