



Haringey Council

APPENDIX 1

Briefing for:	Constitution Review Working Group	Item number:	
Title:	Review of Procedures for Complaints against Members in the Member/Officer Protocol		
Lead Officer:	John Suddaby, Head of Legal Services and Monitoring Officer		
Date:	11 November 2010		
Purpose:	To consider proposed changes to the Protocol on Member/Officer Relations (Part 5, Section B of the Council's Constitution), as set out in Appendix 2 to this briefing, which clarify the relationship between the various procedures available for making complaints against Members, and to recommend these changes to the full Council for adoption.		
Recommendations:	That the Constitution Review Working Group recommends the next full Council meeting to adopt the changes to the Protocol on Member/Officer Relations, set out in Appendix 2 to this briefing, as amendments to the Council's Constitution at Part 5, Section B.		

1. Briefing on the Procedures for Complaints Against Members in the Protocol for Member/Officer Relations - Background

- 1.1 This matter arises from the hearing of a complaint against a Member by a Standards Determination Hearing Panel and the recommendations made by the Panel to the Council (attached as Appendix 1 to that report and this briefing).
- 1.2 As can be seen in Appendix 1, the Panel was concerned about possible confusion in the minds of complainants about the procedures available under: (1) the statutory Members' Code of Conduct, and (2) the non-statutory Protocol for Member/Officer Relations ("the Member/Officer Protocol"). The Panel recommended that the Member/Officer Protocol be reviewed to ensure greater transparency and clarity and to achieve a better interface with the Members' Code of Conduct.

1.3 The Panel also asked for the independent monitoring of complaints under the Member/Officer Protocol which could be achieved by reports to the Standards Committee.

2. Report to the Standards Committee

2.1 A report was submitted to the Standards Committee on 10 June (attached to this briefing). The report explained the main features of the recommended changes to the Member/Officer Protocol at paragraphs 8.1. A substantially re-drafted version of the Protocol was attached to the Standards Committee report as Appendix 2 (see paragraph 3.3 below).

2.2 The main changes recommended were:

- (i) Introduction of a “mediation” process in the less serious cases if both parties agree.
- (ii) Distinguishing the statutory procedure under the Members Code of Conduct from the non-statutory internal investigation.
- (iii) Recognising that complainants have the right to start under one procedure and to change to another but stating that only one procedure will be followed at any one time.
- (iv) Stating the expectation that complainants will seek advice from their Service Head and the Monitoring Officer before changing from one procedure to another.
- (v) Making provision for the Monitoring Officer to reject clearly abusive complaints under the non-statutory procedures. Complaints under the statutory Members Code of Conduct can only be rejected by the Assessment Sub-Committee.
- (vi) Making provision for maintaining confidentiality under the non-statutory procedures.
- (vii) Empowering the Standards Committee to monitor the outcomes of complaints under the non-statutory procedures.

2.3 One issue that had caused particular concern to the Standards Determination Hearing Panel was the length of time taken to resolve the complaint in that case. This complaint had started with an internal investigation and had then continued as a complaint under the Members' Code of Conduct. While the difficulties in that case were somewhat exceptional, there remains the fact that it would not be possible, or necessarily desirable, to force complainants to opt for one procedure initially and to exclude their right to change to another procedure later should the first process prove unsuitable or unsuccessful. The best means available to avoid delay and confusion is to encourage complainants to seek advice from the Monitoring Officer both at the outset and subsequently before the complainant opts for any change in the procedure to be followed.

3. Views of the Standards Committee

- 3.1 The Standards Committee meeting on 10 June expressed the view that there should be a fuller description of the "internal investigation" procedure in paragraph 9.16 of the Member/Officer Protocol. The Committee wished the Service Head, on receiving the complaint, to consult the Head of Human Resources and the Monitoring Officer about the arrangements for the investigation. It should be made clear that the person appointed to investigate could be an officer from within the complainant's Service/Directorate or from outside it. The Committee considered that there should be an indicative time limit of 6 months for completing an investigation although circumstances would sometimes make this impossible.
- 3.2 There were also concerns about the lack of clarity in paragraph 9.18 of the Protocol which deals with the involvement of party groups and party Leaders in the complaints process. It would only be those complaints falling under the Members' Code of Conduct that could be referred to an Assessment Sub-Committee. This referral could be made, after advice from the Monitoring Officer, either by the party Leader or by the complainant or by both together.
- 3.3 The text that was proposed by the Standards Committee in paragraphs 9.16 and 9.18 of the Protocol is shown in Capital letters in Appendix 2 to this briefing. The text that is in lower case, underlined and in italics shows the other proposed additions to the Protocol approved by the Standards Committee. The text that is shown struck through represents proposed deletions from the current Protocol. The text in ordinary type (i.e. not underlined nor in italics nor struck through) is the wording of the current Protocol that will remain. Appendix 2 as now drafted was approved by the Chair of the Standards Committee after its meeting.

4. Comments of the Head of Legal Services

- 4.1 The legal implications are contained in the body of this briefing and in the attached report to the Standards Committee.

5. Comments of the Chief Financial Officer

- 5.1 There are no specific financial implications.

6. Recommendations

- 6.1 That the Constitution Review Working Group recommends the next full Council meeting to adopt the changes to the Protocol on Member/Officer Relations, set out in Appendix 2 to this briefing, as amendments to the Council's Constitution at Part 5, Section B.

7. Appendices

- 7.1 Report to the Standards Committee meeting on 10 June 2010 entitled "Review of Procedures for Complaints against Members in the Member/Officer Protocol".
- 7.2 Appendix 1 to that report - Recommendation to Council from the Standards Determination Hearing Panel.
- 7.3 Appendix 2 to that report (as amended) - Proposed Amendments to the Protocol on Member/Officer Relations (Part 5, Section B of the Council's Constitution).