



**ISLINGTON**

**DRAFT**

**PROCEDURE FOR INITIAL  
ASSESSMENT OF COMPLAINTS**

**June 2008**

## **1. Introduction and Summary**

- 1.1 This note sets out the procedure which will be followed where any written allegation that a Member has breached the authority's Code of Conduct (a "complaint") is received by the Monitoring Officer. No departure will be made from this procedure unless and until the Monitoring Officer has first notified the Standards Committee Chair of the proposed variation to the procedure and the reasons for that variation.
- 1.2 Where such a complaint is received the Monitoring Officer will refer the complaint for assessment to the Initial Assessment Sub-Committee of the Standards Committee in accordance with this procedure to determine whether the allegation should be referred for investigation or some other action or no action should be taken concerning it.
- 1.3 Where it is determined that the allegation should be referred for local investigation, the Council's Procedure for Local Investigations of Allegations of Misconduct against Members of the Council will apply. In the circumstances set out in that procedure the complaint may later be referred back to the Initial Assessment Sub-Committee to be reconsidered.
- 1.4 Where it is determined that no action shall be taken in respect of the complaint, a review of that decision may be requested in accordance with this procedure.
- 1.5 This procedure has been prepared having had regard to the relevant guidance issued by the Standards Board for England.

## **2. Pre Assessment Steps**

### **Acknowledgement to Complainant**

- 2.1 As soon as reasonably practical after a complaint is received the Monitoring officer shall write to the complainant to acknowledge receipt of it.
- 2.2 Where a complaint addressed to the Monitoring Officer is not clearly about a member's conduct, the Monitoring Officer may refer the complainant to any alternative processes through which the complainant's concerns may be addressed, for example, the Council's ordinary complaints procedure.
- 2.3 The Monitoring Officer need not refer a complaint which is in his/her opinion a repetition of a previous complaint from the same complainant with no significant new information and shall inform the complainant accordingly.
- 2.4 Where a complaint is made orally the Monitoring Officer shall explain to the complainant that only written complaints will be considered by the Initial Assessment Sub-Committee and shall where appropriate provide assistance to the complainant in transcribing their complaint.

### **Notification to the Member**

- 2.5 At the same time as acknowledging receipt of the complaint the Monitoring Officer shall normally notify in writing the Member against whom the complaint is made:
  - i. that the complaint has been;

- ii. the identity of the person making the allegation (unless the complainant has requested that this be kept confidential);
  - iii. of the section(s) of the Code of Conduct which appear to be relevant to the complaint and why;
  - iv. that a written summary will be provided following the initial assessment by the sub-committee.
  - v. the date of the initial assessment meeting, if known.
- 2.6 The Monitoring Officer shall not notify the Member of receipt of the allegation where s/he is of the opinion, following consultation with the Chair of the Standards Committee, that the Initial Assessment Sub-Committee may wish to postpone provision of the written summary under paragraph 6 of this procedure.

### **Anonymous Complaints**

- 2.6 The Monitoring Officer will not normally refer a complaint made anonymously to the Initial Assessment Sub-Committee but shall have a discretion to do so where the complaint includes photographic or documentary evidence indicating a possible serious breach of the code.

### **Informal Resolution of Complaints**

- 2.8 Where the Monitoring Officer is of the opinion that there is the potential for informal resolution of the complaint, s/he may approach the Member against whom the allegation has been made and ask whether s/he is prepared to acknowledge that his/her conduct was inappropriate, and whether s/he would be prepared to offer an apology or undertake other appropriate remedial action.
- 2.9 With the consent of the member concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Initial Assessment Sub-Committee as required, and at the same time report the response of the member concerned and of the complainant, so the Sub-Committee can take this into account when considering whether the matter merits investigation.

## **3 Report to the Initial Assessment Sub-Committee**

- 3.1 The Monitoring Officer shall prepare a report to the Initial Assessment sub-committee concerning the complaint setting out:
- i. a summary of the complaint;
  - ii. any information or additional documentation obtained to clarify the complaint in accordance with paragraph 3.2 of this procedure.
  - ii. the relevant provisions of the Code of Conduct;
  - iii. a list of key documents relevant to the matter if necessary;
- 3.2 The Monitoring Officer shall not carry out any investigation into the complaint prior to the initial assessment by the Sub-Committee, but may take the following steps as

appropriate in order to clarify the complaint received:

- i. obtain copies of relevant documents that are readily available, e.g. minutes of meetings or extracts the register of members' interests;
- ii speak to the complainant to obtain factual information to clarify their complaint;
- iii such other steps not amounting to investigation as the Monitoring Officer considers appropriate.

3.3 Where the complainant has requested that their identity be kept confidential, this request shall be brought to the attention of the Sub-Committee in the report. The Sub-Committee shall determine whether to accede to that request taking into account the following criteria:

- i any claim by the complainant that they would be at risk of physical harm, adverse consequences in their employment, inappropriate pressure or other personal disadvantage if their identity were revealed;
- ii the practicality of investigating the complaint without revealing the identity of the complainant;
- iii. any prejudicial impact on the Member.

If the Sub-Committee intends not to accede to the request it should consider whether it would be appropriate to ask the complainant whether they would prefer to withdraw the complaint.

#### **4 Initial Assessment Meeting**

4.1 A meeting of the Initial Assessment Sub-Committee to consider the complaint shall be held as soon as reasonably practicable and normally within 20 working days of receipt of the complaint. The Sub-Committee shall first consider whether the complaint relates to the conduct of a member of Islington Council at the time of the events in the complaint and whether if proved the conduct complained off would be a breach of the Members' Code of Conduct. The Sub-Committee shall then assess the complaint taking into account the assessment criteria at paragraph 5. The flowchart at Appendix 1 gives an overview of the process to be followed.

4.2 The Initial Assessment Sub-Committee shall make one of the following decisions:

- i That no further action shall be taken concerning the complaint, in which case paragraph 4.2 shall apply;
- ii To refer the complaint to the Monitoring Officer for investigation, in which case paragraph 4.3 shall apply. (Where the Sub-Committee is re-considering a complaint referred back to it under the Procedure for Local Investigation of Referred Complaints it may direct the Monitoring Officer that the complaint shall not be referred back a further time);
- iii To refer the complaint to the Monitoring Officer for other action in accordance with paragraph 7 of this procedure.
- iv To refer the complaint to the Standards Board for investigation, where the sub-committee considers it would not be appropriate to investigate the matter

locally, for example because of the seriousness of the complaint or the status of the members involved or because of a significant conflict of interest, in which case paragraph 4.4 shall apply;

- v To refer the complaint to the Monitoring Officer another authority of which the Member is a member, for example, where the Member is a member of both authorities but sub-committee considers it more appropriate for the Monitoring Officer other authority to deal with the complaint.
- 4.3 If the sub-committee decides that no further action shall be taken the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that decision to the complainant and (subject to paragraph 6 “Written Summary of the Complaint” below) to the Member with reasons for the decision and paragraph 8 “Review of Initial Assessment” shall apply to the complaint.
- 4.4 If the sub-committee decides to refer the complaint to the Monitoring Officer for investigation, the Council’s Procedure for Local Investigation of Allegations of Misconduct against Members of the Council shall apply. The Monitoring Officer shall, as soon as practicable after the sub-committee’s decision, appoint an investigating officer and send written notices of the sub-committee’s decision (subject to paragraph 6 below) in accordance with paragraphs 2.1 -2.6 of that procedure.
- 4.5 If the sub-committee decides to refer the complaint to the Standards Board or to another authority the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that decision to the complainant and (subject to paragraph 6 below) to the Member.
- 4.6 In the event that the complainant seeks to withdraw their complaint after it has been referred to the Initial Assessment Sub-Committee, the sub-committee shall consider whether to proceed with the initial assessment taking into account:
- i the public interest in some action being taken on the complaint;
  - ii the practicality of proceeding without the complainant’s co-operation;
  - iii any reason given, or identifiable, for the request to withdraw.

## **5 Assessment Criteria**

- 5.1 In deciding what, if any, action should be taken in respect of the complaint the Initial Assessment Sub-Committee shall consider the following criteria:
- i whether sufficient information has been provided to enable the sub-committee to make a decision as to whether the complaint should be referred;
  - ii whether the complaint has already been the subject of an investigation or other action relating the code or investigation by other regulatory authorities;
  - iii when the alleged breach occurred;
  - iv whether the complaint appears malicious or politically motivated;
  - v the seriousness of the alleged breach of the Code;

## **6 Written Summary of the Complaint**

- 6.1 The Initial Assessment Sub-Committee shall when carrying out the initial assessment of a complaint agree a written summary of the complaint which shall be provided to the Member with the Sub-Committee's assessment decision.
- 6.2 A copy of the written summary shall not be provided to the Member if the Sub-committee determines, taking into account the advice of the Monitoring Officer (or an Ethical Standards Officer of the Standards Board (an "ESO")), that to do so would be contrary to the public interest or would prejudice investigation of the complaint.
- 6.3 Where the written summary of the complaint is withheld in accordance with 6.2 above, the Initial Assessment Sub-Committee may give such details of the complaint as it considers will not be contrary to the public interest and will not prejudice the investigation.
- 6.4 The written summary of the complaint shall in any event be given to the Member as soon as the Monitoring Officer or an ESO advises the Initial Assessment Sub-Committee that to do so would not be contrary to the public interest and will not prejudice the investigation, and before the Standards Committee considers a report or recommendations from the Monitoring Officer or an ESO concerning the complaint.

## **7 Referral to the Monitoring Officer for Other Action**

- 7.1 The Initial Assessment Sub-Committee may, after consultation with the Monitoring Officer, refer the complaint to the Monitoring Officer with a direction to take steps other than investigation, which may be:
- i to arrange for the Member to attend training;
  - ii to arrange for conciliation to take place between the Member and the complainant;
  - iii such other steps as appear appropriate to the sub-committee.
- 7.2 Before making a decision to refer for other steps the Standards Committee may direct the Monitoring Officer to write to the Member and, if appropriate the Complainant, to seek their confirmation that they will co-operate with the steps proposed.
- 7.3 Where the sub-committee decides to refer the complaint in accordance with this paragraph the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that decision to the complainant and to the Member.
- 7.4 The Monitoring Officer shall within 3 months of the direction, or as soon as reasonably practicable thereafter, report back to the sub-committee giving details of the action taken or proposed to be taken to comply with the direction.
- 7.5 If the sub committee is not satisfied with the action or proposed action it shall give a further direction to the Monitoring Officer. If it is satisfied then it shall resolve accordingly and the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that decision to the complainant and to the Member.

## **8 Review of Initial Assessment**

- 8.1 If the Initial Assessment Sub-Committee decides that no action should be taken in respect of the Complainant, the Complainant shall have a period of 30 days beginning with the date of the Notice under paragraph 4.2 to request in writing that the decision be reviewed.
- 8.2 If a review is requested, the Review Sub-Committee shall meet to carry out the review, normally within 20 days beginning with the date on which the request for a review is received and in any event within 3 months of that date.
- 8.3 No member of the Initial Assessment Sub-Committee who was present for the meeting which made the decision that is to be reviewed may sit as a member of the Review Sub-Committee.
- 8.3 In carrying out the review paragraphs 4 and 5 shall apply to the Review Sub-Committee.
- 8.4 In the event that the Review Committee determines that no further action shall be taken concerning the complaint, the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that decision to the complainant and (subject to paragraph 6 "Written Summary of the Complaint" above) to the Member with reasons for the decision. No further review may be requested in respect of the complaint.
- 8.5 If it appears to the Review Committee that the review request reveals further information amounting to a potential new complaint, it may refer that potential new complaint to the Initial Assessment Sub-Committee to be assessed.

### Local Filter Pilot Complaint Handling Chart

Sixth Annual Assembly of Standards Committees 15-16 October 2007, ICC, Birmingham





