



STANDARDS COMMITTEE

Monday, 21st January, 2013

at 6.30 pm

Council Chamber, Hackney Town Hall, Mare
Street, London E8 1EA

Committee Membership:

Councillor Sophie Linden (Chair), Councillor Simche Steinberger, Councillor Geoff Taylor, Councillor Louisa Thomson, Councillor Patrick Vernon OBE and Councillor Jessica Webb (Vice-Chair)

Co-optees:

Julia Bennett, Elizabeth Coates-Thummel, George Gross, Adedoja Labinjo and Onagete Louison

Gifty Edila
Corporate Director
Legal, HR and Regulatory Services

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The press and public are welcome to attend this meeting

Date of next meeting – 18th April 2013

AGENDA

Monday, 21st January, 2013

ORDER OF BUSINESS

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Access and Information

Location

Hackney Town Hall is on Mare Street, bordered by Wilton Way and Reading Lane, almost directly opposite The Ocean.

Trains – Hackney Central Station (London Overground) – Turn right on leaving the station, turn right again at the traffic lights into Mare Street, walk 200 metres and look for the Hackney Town Hall, almost next to The Empire immediately after Wilton Way.

Buses 30, 48, 55, 106, 236, 254, 277, 394, D6 and W15.

Facilities

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall.

Induction loop facilities are available in Rooms 102 and the Council Chamber

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ADVICE TO MEMBERS ON DECLARING INTERESTS

Hackney Council's Code of Conduct applies to **all** Members of the Council, the Mayor and co-opted Members.

This note is intended to provide general guidance for Members on declaring interests. However, you may need to obtain specific advice on whether you have an interest in a particular matter. If you need advice, you can contact:

- The Corporate Director of Legal, HR and Regulatory Services;
- The Legal Adviser to the committee; or
- Governance Services.

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

1. Do you have a disclosable pecuniary interest in any matter on the agenda or which is being considered at the meeting?

You will have a disclosable pecuniary interest in a matter if it:

- relates to an interest that you have already registered in Parts A and C of the Register of Pecuniary Interests of you or your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner;
- relates to an interest that should be registered in Parts A and C of the Register of Pecuniary Interests of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner, but you have not yet done so; or
- affects your well-being or financial position or that of your spouse/civil partner, or anyone living with you as if they were your spouse/civil partner.

2. If you have a disclosable pecuniary interest in an item on the agenda you must:

- Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you (subject to the rules regarding sensitive interests).
- You must leave the room when the item in which you have an interest is being discussed. You cannot stay in the meeting room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision.
- If you have, however, obtained dispensation from the Monitoring Officer or Standards Committee you may remain in the room and participate in the meeting. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a pecuniary interest.

3. Do you have any other non-pecuniary interest on any matter on the agenda which is being considered at the meeting?

You will have 'other non-pecuniary interest' in a matter if:

- i. It relates to an external body that you have been appointed to as a Member or in another capacity; or
- ii. It relates to an organisation or individual which you have actively engaged in supporting.

4. If you have other non-pecuniary interest in an item on the agenda you must:

- i. Declare the existence and nature of the interest (in relation to the relevant agenda item) as soon as it becomes apparent to you.
- ii. You may remain in the room, participate in any discussion or vote provided that contractual, financial, consent, permission or licence matters are not under consideration relating to the item in which you have an interest.
- iii. If you have an interest in a contractual, financial, consent, permission or licence matter under consideration, you must leave the room unless you have obtained a dispensation from the Monitoring Officer or Standards Committee. You cannot stay in the room or public gallery whilst discussion of the item takes place and you cannot vote on the matter. In addition, you must not seek to improperly influence the decision. Where members of the public are allowed to make representations, or to give evidence or answer questions about the matter you may, with the permission of the meeting, speak on a matter then leave the room. Once you have finished making your representation, you must leave the room whilst the matter is being discussed.
- iv. If you have been granted dispensation, in accordance with the Council's dispensation procedure you may remain in the room. If dispensation has been granted it will stipulate the extent of your involvement, such as whether you can only be present to make representations, provide evidence or whether you are able to fully participate and vote on the matter in which you have a non pecuniary interest.

Further Information

Advice can be obtained from Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, on 020 8356 3265 or email Gifty.Edila@hackney.gov.uk



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MINUTES OF A MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 18TH OCTOBER, 2012

- Councillors Present:** Councillor Sophie Linden in the Chair
Cllr Simche Steinberger, Cllr Geoff Taylor,
Cllr Louisa Thomson and Cllr Patrick Vernon OBE
- Co optees Present:** Julia Bennett, George Gross and Elizabeth Coates Thummel
- Apologies:** Adedoja Labinjo, Onagete Louison and Councillor Jessica Webb
- Officers in Attendance:** Bruce Devile (Head of Business Analysis and Complaints), Kwabena Fosu-Mensah (Governance Services Officer), Gifty Edila (Corporate Director of Legal, HR and Regulatory Services), Graham Loveland (Assistant Director of Planning and Regulatory Services), Yinka Owa (Assistant Director Legal and Democratic Services) and Robert Walker (Governance Services Officer)
- Also in Attendance:** Councillor Benzion Papier and Councillor Vincent Stops

1 Apologies

- 1.1 Apologies for absence are listed above.

2 Declaration of Interests

- 2.1 Councillor Thomson declared an interest in the complaint to be heard under agenda item 3, as she lived near 91 Amhurst Park and had contact with the applicant on a previous application for planning permission.
- 2.2 Councillor Steinberger declared an interest in the complaint to be heard under agenda item 3, as he had supported the applicant and had organised the petition requesting that the planning application for 91 Amhurst Park be considered by a Planning Sub-Committee.

3 Standards Committee Hearing - Complaint Against Cllr Benzion Papier

- 3.1 A copy of the Standards Committee Hearing Procedure was circulated to all present. At the request of the Chair, all Members and officers present introduced themselves.
- 3.2 George Gross, raised a point of order and asked whether the complaint would be considered under the old Members' Code of Conduct or the new Code

which came into effect on 1st July 2012. Gifty Edila, the Corporate Director of Legal, HR and Regulatory Services, stated that the Committee would have to consider the complaint under the current Code of Conduct, despite the complaint being made under the old Code. Gifty Edila explained that the commencement order, for the relevant sections of the Localism Act 2011 concerning ethical governance, stated that any existing complaints made under the old ethical governance regime must be transferred and considered under any new regime. The alleged breach of the Code of Conduct must be proved under the new Code of Conduct.

Presentation of the Investigator's Report

- 3.3 Yinka Owa, the Investigating Officer and Assistant Director of Legal and Democratic Services, presented the Investigator's Report as attached at Appendix 1 of the report. As detailed within Appendix 1 of the report, Yinka Owa gave an overview of the complaint by Councillor Stops alleging that Councillor Papier had breached the Members' Code of Conduct by failing to declare an interest and remove himself from the meeting during consideration of an application for 91 Amhurst Park at a Planning Sub-Committee on 10th January 2012.
- 3.4 Yinka Owa explained that she had interviewed Councillor Stops and other officers relevant to the alleged breach of the Code of Conduct however, she had been unable to make contact with Councillor Papier and interview him as part of the investigation. Further to the information contained in the report, Yinka Owa explained that following the adjournment of the hearing at the Standards (Hearing) Committee on 18th July 2012, she had made further efforts to contact Councillor Papier and had sent him a letter and email on 4th October 2012, as well as leaving messages on his landline and mobile. Messages were left on his landline and mobile telephones again on 8th October 2012. On 16th October 2012, Councillor Papier answered a call from Yinka Owa on his mobile but the call was put down by him as soon as Yinka Owa introduced herself. Yinka Owa called back but there was no answer and a message was left.
- 3.5 Yinka Owa read out the findings of her investigation as set out in paragraph 16 of Appendix 1 and advised that Councillor Papier, by failing to declare an interest and leave the meeting room during consideration of the application for 91 Amhurst Park at the Planning Sub-Committee meeting on 10th January 2012, may have breached paragraphs 2.1 and 5 of Part 1 of the Members' Code of Conduct, and paragraph 11.3 of Part 2 of the Members' Code of Conduct. Yinka Owa also found that Councillor Papier may have breached paragraphs 1.1, 6.1, 6.4 and 10.1 of the Planning Code of Practice. Both Codes were attached at appendices A and B of the Investigator's Report.
- 3.6 The Chair clarified whether the Investigator had found any potential breaches of the Members' Code of Conduct with regard to Councillor Papier's conduct towards officers. Yinka Owa stated that all witnesses had advised that Councillor Papier had not been abusive or rude and as such she did not believe that he had breached the Code in this regard.

Submission from Councillor Papier

- 3.7 Councillor Papier explained that he had been contacted by the applicant for 91 Amhurst Park who alleged that the Council was not having regard to new evidence they were being asked to submit with regard to a planning application.

The applicant believed that officers of the Council had already made a decision to refuse the application but were continuing to ask for additional information. Councillor Papier stated that he was neither in favour nor against the application and went on to explain issues of trying to obtain the officer report recommending refusal under delegated authority. Councillor Papier also disapproved of the tone of language used against him in the Investigator's Report and witness statements, stating that he did not, for example, barge into the Chief Executive's office.

- 3.8 Following a point of order raised by George Gross, Councillor Papier was asked by the Chair to address paragraphs 14, 15 and 16 of the Investigator's Report attached at Appendix 1, and to indicate whether or not he agreed with the factual findings of the investigation. Councillor Papier went through the paragraphs individually and outlined whether he agreed or disagreed with the summary of the facts. Councillor Papier disagreed with the following paragraphs –
- a) 15.1 – Councillor Papier stated he had attended a meeting between the applicant for 91 Amhurst Park and the Planning Service but it was false to say that he supported the application. He could not recall saying that the applicant had been treated unfairly.
 - b) 15.3 – Councillor Papier stated he was trying to access the officer report for decision of the application for 91 Amhurst Park under delegated authority however, he was not trying to gain access to the Planning Sub-Committee report.
 - c) 16.1 – Councillor Papier disagreed that his involvement with the application was close and that it could be argued his involvement was more than what was reasonably expected from a Ward Member.
 - d) 16.1(i) – Councillor Papier stated it was the objective of the applicant to find a way that the school could continue to operate on the site however, this was not his objective.
 - e) 16.1(ii) – Again, Councillor Papier stated he disagreed with the statement that he had alleged that the Council was treating the applicant unfairly.
 - f) 16.1(iii) – Again, Councillor Papier stated he was trying to obtain the officer report for the planning application.
 - g) 16.1(ix) – Councillor Papier stated that he disagreed with the view that just because another Member declared an interest and withdrew from proceedings relating to 91 Amhurst Park at the Planning Sub-Committee on 10th January, on the grounds that he had signed the petition for the application, a reasonable person aware of the facts would think he should have also withdrawn given that he had also signed the petition.
 - h) 16.1(x) – Councillor Papier stated that it was false to say his prior involvement might give the impression that he approached the application with a closed mind.

- i) 16.1(xi) – Councillor Papier stated that it was false to say that a member of the public with knowledge of the relevant facts would reasonably regard his involvement as likely to prejudice his judgement of the public interest in reaching a decision.
 - j) 16.3 – Councillor Papier stated that he did not believe he had breached the Members’ Code of Conduct and Planning Code of Practice through failing to declare an interest at the Planning Sub-Committee on 10th January 2012.
- 3.9 Councillor Taylor sought clarification on paragraph 16.1(xii), where it stated that there was no record that Councillor Papier sought advice from the Corporate Director of Legal, HR and Regulatory Services. Councillor Papier agreed with the statement that he had not sought advice.
- 3.10 George Gross asked, although Councillor Papier had stated he was neither in favour nor against the application, whether he thought he was supporting the applicant. Councillor Papier responded that he did not believe he was supporting the applicant in his actions.
- 3.11 Councillor Vernon commented that it was important that Members followed correct procedures when dealing with officers and trying to gain access to files. He questioned Councillor Papier’s motivation in trying to obtain officer reports. Councillor Papier responded that there was a major allegation by the applicant for 91 Amhurst Park that the Council was being one-sided in determining the application. Councillor Papier did not believe there was any legal basis to prevent the officer report being released to him.

Witnesses

- 3.12 The Chair asked all Members of the Committee and Councillor Papier whether they wished to question any of the officers who were witnesses in the matter and who were waiting outside of the meeting room. The Committee stated that it wished to question Graham Loveland, the Assistant Director of Planning and Regulatory Services. Councillor Papier advised that he was happy for all other witnesses to be released.

At this juncture Graham Loveland entered the meeting. All other witnesses were released.

Questions put to Graham Loveland, Assistant Director of Planning and Regulatory Services

- 3.13 The Chair explained to Graham Loveland that the Committee had been through the facts and it appeared as though the main question for the Committee was to resolve whether a member of the public with knowledge of the relevant facts would reasonably regard Councillor Papier’s involvement with the planning application for 91 Amhurst Park to be such that was likely to prejudice his judgement.
- 3.14 The Chair referred to paragraph 8.7 of Appendix 1 and asked why Graham Loveland warned Councillor Papier that his involvement with the applicant for 91 Amhurst Park may give the impression that he was too close to the application and give the impression that he may not be able to approach the application with an open-mind. Graham Loveland stated that he gave this warning as a result of Councillor Papier trying to obtain reports and his

attendance at the meeting between the Planning Service and the applicant. In response to a question from George Gross, Graham Loveland stated that he still agreed with his statement, detailed on page 116 of the agenda, that it was difficult for him to say Councillor Papier was overtly supporting the application and that it could be argued that Councillor Papier was present as it was a matter of community interest.

Questions put to Councillor Stops, Chair of Planning Sub-Committee

- 3.15 Councillor Stops was then asked questions by the Committee. Councillor Stops explained that he only became aware of Councillor Papier's involvement with the planning application for 91 Amhurst Park at a call-over meeting before the Planning Sub-Committee meeting on 10th January 2012. At the call-over meeting he queried what he described as a strange story in Hackney Gazette suggesting that the application had already been refused but was being presented to a Planning Sub-Committee. Councillor Stops was then informed by officers of Councillor Papier's attendance at a meeting between the applicant and Planning Service.
- 3.16 Councillor Stops felt that Councillor Papier had involved himself in the application more than any other Member of the Planning Sub-Committee would do. He also explained to the Committee that at the start of each Sub-Committee he reminded Members that they should be aware of any interest they may have and should remove themselves from the room if necessary.

Consideration of the complaint by the Committee

- 3.17 It was commented during the discussions by some Members and co-optees that it was not for the Committee to determine Councillor Papier's intent or whether or not he was in favour or against the planning application for 91 Amhurst Park.
- 3.18 Councillor Steinberger clarified for the benefit of the Committee that he was the Member who organised the petition to request that the application be determined by a Planning Sub-Committee and not by officers. Councillor Papier had not organised the petition. Councillor Steinberger also suggested that it was important for the Committee to note that he believed Councillor Sharer, who had absented himself during the consideration of the application for 91 Amhurst Park, had a track record of declaring an interest and removing himself from proceedings concerning any planning application submitted by the Jewish community.
- 3.19 Following a question, Gifty Edila explained that she could not disclose the nature of her discussions with Councillor Sharer regarding whether he should declare an interest or not in the application for 91 Amhurst Park.
- 3.20 In response to questions from Members of the Committee, Gifty Edila explained that the purpose of the Members' Code of Conduct was to protect decisions of the Council and to protect Councillors from any allegation. Gifty Edila stated that, given the quasi-judicial nature of planning matters, the Code and its supporting guidance and training provided to Members was clear that if a Member chose to be involved in a planning application then they should play no part in the judging of that application. A comparison was made with a court of law where a judge would not hear an application in which they may have had any prior involvement.

- 3.21 Gifty Edila advised the Committee in response to a further question that there had been an error in the report and that Councillor Papier had attended training on the Code of Conduct.

At this juncture Councillor Thomson left the meeting.

- 3.22 Julia Bennett asked why Councillor Papier did not respond to any of the messages from the Investigating Officer, as referred to in paragraph 5.5 of Appendix 1. Councillor Papier stated that he was very busy and that he disagreed with the Council spending money on processes that were already decided. Some Members and co-optees commented on this fact and stated that they found it disappointing that the complaint had taken this long to resolve and that Councillor Papier had not engaged with the Investigator.
- 3.23 Elizabeth Coates-Thummel came back to the issue of Councillor Papier's involvement in the application and asked how he thought he had not been supporting the applicant. Councillor Papier explained that his goal was to determine whether or not the Council was being one-sided on the application, it was not to support the applicant or the school.
- 3.24 The Chair asked the Committee whether there were any further points which they would like to discuss.
- 3.25 Elizabeth Coates-Thummel asked Members of the Committee whether they would sit on a Planning Sub-Committee to hear an application which they had in anyway been involved with. Councillor Steinberger responded that he was not a Member of the Planning Sub-Committee but argued that there were incentives for him to work to try and ensure that planning applications from the Jewish community were not unfairly treated by the Council. Councillor Taylor explained that he separated his different roles as a Member, whether that be a Member of a committee or a community advocate or member of an outside body, and always erred on the side of caution to avoid bringing himself or the Council into disrepute. Councillor Vernon explained that if he ever received an allegation that an application was being dealt with unfairly then it should be referred to a senior officer of the Council.
- 3.26 Following a query regarding the requisition to hear the application at the Planning Sub-Committee, Gifty Edila advised the Committee that the planning procedures specifically addresses the signing of a petition to enable an application to be heard by Planning Sub-Committee. Therefore Members actions in signing a petition and then hearing the application is not a Code of Conduct matter.

Closing submissions

- 3.27 The Chair asked the Investigating Officer and Councillor Papier whether they had any closing submissions. Yinka Owa stated she did not have anything further to add to her submission. Councillor Papier re-iterated that he did not barge into the Chief Executive's office. The Chair explained that the Committee noted Councillor Papier's comments regarding the tone of the Investigator's Report and witness statements however, advised that the Committee would be basing its decisions on facts rather than the tone.

Decision

- 3.28 The Chair then asked the Committee for its decision on whether the Members' Code of Conduct and Planning Code of Practice had been breached. With the exception of Councillor Steinberger, all Members and co-optees present expressed their agreement with the recommendation contained in paragraph 17 of the Investigator's Report that there had been a breach of the Code of Conduct by Cllr Papier.
- 3.29 **RESOLVED** that Councillor Benzion Paper had breached paragraph 11.3 of the Members' Code of Conduct and paragraph 1 of the Planning Code of Practice by failing to declare an interest in the planning application for 91 Amhurst Park at the Planning Sub-Committee meeting on 10th January 2012.

For: 3 Elected Members

Against: 1 Elected Member

Note – co-opted Members did not vote on the decision as they do not have voting rights. Councillor Steinberger asked for it to be noted that he voted against the resolution.

Further action

- 3.30 The Committee then discussed what action should be taken following the Committee's finding that Councillor Papier had breached the Code of Conduct. The Chair suggested that Councillor Papier should be censured by the Committee and that the Committee recommend that: the findings of the Committee be reported to the Conservative Group Whip; further training be provided to Councillor Papier on the Code of Conduct; and a report be submitted to Council highlighting the seriousness of the breach. The Chair suggested that any future finding of a breach of the Code of Conduct by the Standards Committee should be reported to Council for information.
- 3.31 With the exception of Councillor Steinberger, all Members and co-optees of the Committee expressed support of the Chair's suggestion regarding what further action should be taken following the finding of a breach of the Members' Code of Conduct and Planning Code of Practice. It was suggested by some of the co-optees that the report to Council should reflect that Councillor Papier was relatively new Councillor at the time the breach occurred and that the recommended training should include wider information on the role of a councillor.
- 3.32 **RESOLVED** that Councillor Papier had breached the Members' Code of Conduct and the Planning Code of Practice, the Standards (Hearing) Committee censured Cllr Papier in that he was wrong in failing to declare an interest and further agreed to recommend that:–
- i) The Whip of the Conservative Group be notified of the decision of the Standards (Hearing) Committee.
 - ii) The Monitoring Officer be asked to arrange further training for Councillor Papier on the Members' Code of Conduct and also on the role of a Councillor.

- iii) A report be submitted to Council informing Members' of the decision of the Standards (Hearing) Committee. The report will take into account that Councillor Papier was a relatively new Member on the date on which the breach occurred.

The Chair will recommend that any complaints made under the Members' Code of Conduct in the future, which is upheld, shall be reported to Full Council.

For: 3 Members
Against: 1 Member

Note – co-opted Members did not vote on the decision as they do not have voting rights. Councillor Steinberger asked for it to be recorded that he voted against this resolution.

Reasons for decision

- 3.33 The Standards (Hearing) Committee believed that a member of the public with knowledge of the relevant facts would reasonably regard Councillor Papier's involvement with the planning application for 91 Amhurst Park to be such as is likely to prejudice his judgement of the public interest in reaching a decision on the application.
- 3.34 Councillor Papier stated at the meeting that he was neither in favour nor against the planning application. The Standards (Hearing) Committee found that Councillor Papier's signing of the petition, requesting that the application be determined by the Planning Sub-Committee and not by the Assistant Director for Planning under delegated authority, did not amount to any bias or prejudice. However, the Standards (Hearing) Committee believed that Councillor Papier's efforts to assist the applicant in obtaining officer reports and attending a meeting between the applicant and the Planning Service meant that he was closely involved in the application and was helping and supporting the applicant.
- 3.35 Councillor Papier's prior involvement with the planning application may also have given the impression to a member of the public that he had approached the application with a closed mind and may be biased in favour of the application.
- 3.36 Although Councillor Papier did not vote, as he was not present for the start of the discussion of the planning application for 91 Amhurst Park, he should have declared an interest and left the room during consideration of the item in accordance with the Members' Code of Conduct.
- 3.37 The Standards (Hearing) Committee was concerned that Councillor Papier, by failing to follow the Members' Code of Conduct and Planning Code of Practice, could have brought a decision of the Planning Sub-Committee into disrepute. The Standards (Hearing) Committee was also concerned that Councillor Papier failed to acknowledge his breaches of the Code of Conduct and Planning Code of Practice, and by his failure to respond to the investigation or engage in the complaint process.

4 Minutes of the Previous Meeting - 18th July 2012

- 4.1 **RESOLVED** that the minutes of the Standards Committee meeting held on 18th July 2012 be agreed as a true and accurate record of the proceedings.

5 Complaints Improvement Work and Complaints and Members' Enquiry Annual Report 2011/12

- 5.1 Bruce Deville, Head of Business Analysis, introduced the report which outlined the complaints improvement work and detailed information on the volume of complaints/enquiries, time taken to reply and the percentage of complaints that escalate to the next stage of the Council's procedure. The report also provided demographic information on who is contacting the Council to make a complaint, how they are contacting the Council, the issues most often complained about and customer satisfaction with how these complaints were handled.
- 5.2 Councillor Steinberger commented that he believed further improvements were required in dealing with Member enquiries and complaints. The Chair advised Councillor Steinberger that she was happy to meet with him and Bruce Deville to discuss any particular issues of concern that he may have.
- 5.3 The Chair stated that the level of customer satisfaction with complaint processes, as shown on page 152 of the agenda, was disappointing and queried how the data on customer satisfaction was gathered. Bruce Deville agreed that the level of customer satisfaction was low and explained that every quarter a sample of 200 to 250 complainants were asked to fill out a customer satisfaction form. Bruce Deville stated that the training provided to Members of staff was focussed on improving satisfaction by encouraging staff to engage with the complainant at the first instance and focus on resolution. It was stated that customer satisfaction with complaint processes was unlikely to ever be high, however it was thought that customer satisfaction levels of at least 40% could be achieved.
- 5.4 Julia Bennett queried whether there was any benchmarking data available. Bruce Deville explained that the Council had approached other London boroughs and private companies but had not found any organisation who, if they did collect such data, was willing to share the information.
- 5.5 In response to a question from Councillor Taylor regarding the low evaluation of the training on complaints by Hackney Homes staff, as shown on page 133 of the agenda, Bruce Deville advised that the evaluation survey had been brought to the attention of senior managers in Hackney Homes.
- 5.6 Following a question from Councillor Vernon, Bruce Deville explained that work would be ongoing to improve complaint handling across the Council and Hackney Homes but cited that some Council services were demonstrating good practice, such as Waste Management services.
- 5.7 **RESOLVED** that the complaints improvement work and complaints and enquiries annual report 2011/12 be noted.

6 Revision to the Members' Code of Conduct - Gifts and Hospitality

- 6.1 Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, introduced the report which proposed a revision to the Members' Code of Conduct, adopted by Council on 27th June 2012, to require that Members and co-opted members declare on their register of interests form and disclose at meetings any gift or hospitality they receive with an estimated value of at least £25.
- 6.2 Gifty Edila explained that previously Members were legally required to declare the receipt of gifts or hospitality. The Localism Act 2011 removed the legal requirement on Members to declare receipt of any gifts or hospitality. The Code of Conduct and register of interest form, which took effect in July 2012, did not therefore make provision for gifts or hospitality to be declared. Feedback had been received from Members however, that they would like the Code and register of interests form amended to include the declaration of gifts and hospitality.
- 6.3 George Gross welcomed Members raising the issue themselves and endorsed the report.
- 6.4 In response to a question from Councillor Steinberger, Gifty Edila explained that Members would only have to declare gifts and hospitality received in their capacity as a councillor and stated that guidance was attached at Appendix 1 of the report.
- 6.5 **RESOLVED** that:
- i) the Committee recommends that Council amends the Members' Code of Conduct to insert a new paragraph at 11.4 requiring Members and voting co-opted members to disclose on their register of interests form and declare at meetings any gift or hospitality received with a value of at least £25;
 - ii) the Committee approves the guidance for Members on disclosing gifts and hospitality, attached at Appendix 1 of the report.

7 Revised Guidance for Members Serving on Outside Bodies

- 7.1 Gifty Edila, Corporate Director of Legal, HR and Regulatory Services, introduced the report which proposed revised guidance for Members who are appointed or nominated by Council to serve on outside bodies following the introduction of the Localism Act 2011.
- 7.2 Councillor Taylor explained that from his experience the Council was reluctant to send Members information which was relevant to their role on the outside body as it did not want to be seen to be mandating Members on how they should vote at the external meetings. Councillor Taylor suggested wording be inserted in the guidance to state that the Council may send information to Members relevant to their role on an outside body, for example reports from the Children and Young People Scrutiny Commission to school governors, however it was up to Members to use the information as they saw fit and that the Council

in such circumstances was not seeking to mandate how Members were voting on outside bodies.

- 7.3 Gifty Edila explained that she was surprised to hear from Councillor Taylor that some parts of the Council were reluctant to share information with Members on outside bodies. Gifty Edila stated, in response to the example given by Councillor Taylor regarding school governing bodies, that scrutiny in particular had the power to review outside bodies and undertake reviews on community issues which may affect outside bodies, and advised that scrutiny commissions or any part of the Council should feel comfortable sharing any of their reports with the outside bodies. Gifty Edila confirmed that scrutiny can share its review reports and recommendations about a school or education with school governing bodies. Councillor Taylor explained that, given Gifty Edila's advice, he believed there was no need to amend the guidance.
- 7.4 **RESOLVED** that the revised guidance set out in Appendix 1 to the report be agreed.

8 Any other business which in the opinion of the Chair is urgent

8.1 Expression of Gratitude

The Chair advised the Committee that Kwabena Fosu-Mensah was leaving the Council following his return from retirement to assist Governance Services. The Chair thanked Kwabena Fosu-Mensah for his service to the Council and, in particular to the Standards Committee, and wished him well in his future endeavours.

Duration of the meeting: 6.30 - 9.00 pm

Contact:

Kwabena Fosu-Mensah and Robert Walker, Governance Services

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PROTOCOL FOR MEMBER/OFFICER RELATIONS – OVERVIEW OF CURRENT ARRANGEMENTS	
STANDARDS COMMITTEE 21 st January 2013	CLASSIFICATION: Open
WARD(S) AFFECTED: All	
GIFTY EDILA CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES	

1. CORPORATE DIRECTOR’S INTRODUCTION

1.1 At the Standards Committee held on 18 July 2012, the Committee requested a report on the implementation and practical application of the Protocol for Member-Officer Relations attached as Appendix 1 of this report and in particular whether there had been any issues referred from either side and if so how are they being dealt with. This report provides an overview of the current arrangements as a response to that request.

2. RECOMMENDATIONS

2.1 **Standards Committee is asked to note the contents of the Report.**

3. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

3.1 There are no financial implications arising from the report.

4. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

The protocol for Member/Officer relations governs the relationship between officers, the Mayor and Members of the Council.

The Code of Conduct for Members in part 5.1 of the Constitution, the Code of Conduct for officers and the Protocol for Member/Officer Relations in part 5.2 of the Constitution should be read in conjunction with the other Codes and protocols that have been adopted by the Council as supplementary guidance for Members and Officers. Although these Codes and protocols do not form part of the Codes of Conduct, Members, voting Co-optees and Officers are required to comply with their provisions to ensure high standards in the way that they undertake their duties and to ensure a smooth working relationship between Officers and Members.

5 BACKGROUND/REPORT

- 5.1 The Members' Code of Conduct as contained in the Council's Constitution sets out the expectation that elected Members and voting co-optees shall maintain high standards of conduct. While the staff Code of Conduct sets out the expectation and the requirements of the conduct of Council staff. Although produced at different times, both of these documents recognise that positive working relationships between Members and Officers are essential to the effective operation of the local authority. They require Members and Officers to foster mutual respect, courtesy and trust in their working relationship and for both to carry out their responsibilities in an atmosphere of cooperation, openness and honesty.
- 5.2 Members have a legitimate expectation of being able to engage with Council Officers, in order to take forward constituent and other enquiries as part of their role as a ward councillor. In addition where Members hold additional portfolios which include giving policy direction to the strategic objectives the Council and the services it provides, they will also expect to be able to engage with council staff as and when necessary.
- 5.3 In doing so Members need to respect the management structures of the council and neither appear to or by omission, undermine an employee's legitimate relationship with their line manager.
- 5.4 It is expected that in the first instance such requests would be made through the Head of Service/Corporate Director.
- 5.5 Consequentially, Officers also have a legitimate expectation of being able to perform their duties as directed by their line manager to agreed outcomes as part of the established performance management structures. The code specially forbids them from lobbying members in relation to their personal/professional circumstances or in relation to their services.

- 5.6 Members' input into and observation on local service delivery is always valued as part of their role as effective Councillors, but they should always have regard to the professional advice they receive from council officers as to how their political objectives can be achieved within the context of the council's agreed budget and policy framework.
- 5.7 Members are expected to act appropriately in what they do, act fairly and proportionately in exercising any decision making powers, and in accordance with the Members' Code of Conduct.
- 5.8 Councillors must be seen to be unbiased and fair in the conduct of their duties and in the decisions that they take.
- 5.9 In April 2011 Hackney Council introduced a new Code of Conduct for its staff. The Code stresses that each employee is expected to behave in a professional manner and offer the highest standards of service, carrying out their duties in a way that promotes and maintains public confidence and trust in the work of the Council.
- 5.10 A strong and positive working relationship with elected Members is key to achieving this, and the Officer Code provides a framework and helps employees understand the 'ground rules' that must be observed when interacting with members and indeed senior officers.
- 5.11 The Code forms part of the contract of employment of all staff and is printed on the Council's intranet. It also forms part of the induction process for new staff. The code sets out the seven key principles of working at Hackney and in doing so provides advice on political neutrality, working in a political environment and working with Members.
- 5.12 These key principles are
- **Serving the public**
Work with the highest standards of customer service.
 - **Political neutrality**
Support the work of the Council regardless of your personal or political views.
 - **Honesty and integrity**
Make all decisions fairly, consistently and based on merit.
 - **Respect others**
Treat everyone with respect and promote equality.

- **Accountability**

Act responsibly, lawfully and ensure value for money.

- **Representing the Council**

Always bring credit to the Council and only speak publicly with permission.

- **Management and leadership**

Always set a good example and be open and fair.

5.13 The employee code stresses that in carrying out their work the Council's staff must be politically neutral, unbiased in the performance of their duties and respect the function and office of Members, regardless of the Party they represent.

5.14 It makes it clear that Officers are employed to serve the democratically elected Council as a whole and must not allow their own personal or political views to interfere with their working with Members. They must also at all times behave with respect and dignity towards all other persons.

5.15 In those circumstances where a Member feels that an individual has not acted appropriately or whose performance is not considered satisfactory, it is expected that the matter be raised with the individual's line manager/Corporate Director to be dealt with in accordance with the Council's agreed procedures for dealing with such matters.

5.16 Similarly if an Officer feels that a Member is not acting appropriately this will be referred to, in the first instance, their line manager and depending on the issue to the Corporate Director for possible referral to the Monitoring Officer in accordance with the Council's agreed procedures for dealing with such matters and as set out in the Councillor code of Conduct.

5.17 As requested by the Committee, the AD for HR & OD has reviewed the case work log and found that no formal complaints have been raised in relation to Officer/Members working arrangements. Given the level of interaction between Officers and Members this is considered a positive indication of the strength of the current working arrangements.

Gifty Edila

Corporate Director of Legal, HR and Regulatory Services

LIST OF APPENDICES

Appendix 1 – Protocol for Member/Officer Relations

BACKGROUND PAPERS

No documents which require listing were used in the preparation of this report.

Report Author	Name: Caroline Anderson AD HR & OD Telephone: 020 8356 3110 Email: Caroline.Anderson@Hackney.gov.uk
Comments of the Corporate Director of Finance and Resources	Name: Jackie Moylan Telephone: 020 8356 3032 Email: Jackie.Moylan@Hackney.gov.uk
Comments of the Corporate Director of Legal, HR and Regulatory Services	Name: Alice Prince Senior Corporate Solicitor Telephone: 020 8356 6584 Email: Alice.Prince@Hackney.gov.uk

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Protocol for Member/Officer Relations

1.0 Introduction

- 1.1 The Council is determined to provide excellent local government for the people of Hackney. It has produced this protocol for member/officer relations in order to promote the highest standards in public life and harmonious working relationships.
- 1.2 Partnership, based on mutual trust and respect between politicians and paid officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all the role and obligations of members and the separate role and duties of officers. This protocol sets out these roles, obligations and duties and also the ground rules for all to observe. The standards in the protocol are binding and apply equally to elected members, voting and non-voting co-opted members and to officers where there is a joint responsibility.
- 1.3 The protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:
- The Local Government Act 2000
 - The Council's Constitution
 - The Members' Code of Conduct
 - The Corporate Protocol for Members' Enquiries
 - Guidance from Communities and Local Government;
 - Localism Act 2011
- 1.4 The protocol is designed to supplement and offer local interpretation of these documents. The protocol refers extensively to members' relationships with officers and other staff directly in the service of the Council. The principles of the protocol also apply to members' dealings with other people not directly employed by the Council but who are in an employment based relationship with the authority (such as staff employed under local management in schools, and consultants employed on a longer-term basis by the Council).
- 1.5 The principles underlying this protocol are as follows:
- 1.5.1 There shall be mutual courtesy and respect between members and officers with regard to their respective roles.
- 1.5.2 Members and officers shall each carry out their respective duties in the best interests of the Council.
- 1.5.3 This protocol applies to all dealings between members and officers and not only formal meetings.

2.0 General Obligations of Members

- 2.1 Members must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and voting Co-opted members are bound in law by the Code of Conduct, but non-voting Co-opted Members are also expected to comply with the provisions of the Code of Conduct.
- 2.2 The Code of Conduct places certain general obligations that members must observe and which have a bearing upon member/officer relations:
- 2.2.1 Members must not, in their official capacity or any other circumstance, conduct themselves in a manner which could be reasonably regarded as bringing their office or the Council into disrepute.
 - 2.2.2 Members must promote equality by not discriminating unlawfully against any other person, treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.
 - 2.2.3 Members must not disclose information given to them in confidence by anyone or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law.
 - 2.2.4 Member must not prevent another person from gaining access to information to which they are entitled by law.
 - 2.2.5 Members must not see their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
 - 2.2.6 Members must use any Council facilities provided for them in their role as member strictly for that purpose and no other. For example, members must not use rooms in the town hall or any of the Council's paper, computers, photocopiers, or printers for any personal, business-related or party-political matter, nor on behalf of any community groups of which they are a member.
 - 2.2.7 Member services officers are provided to assist Councillors only in their role as Council members. Members should not ask them to assist with any person, business or party political matter. This is so even when the person being contacted is a constituent, or an officer or a Councillor. Member services officers will refer inappropriate requests for assistance to their service head.

- 2.2.8 Members are under an obligation to disclose personal interests and in accordance with the Code of Conduct. Members must register financial and other interests as well as gifts and hospitality as set out in the Code of Conduct.
- 2.2.9 Members must observe the Council's policy on Smoking and Tobacco which is that smoking shall not be permitted in or around Council buildings and that all employees and service users have the right to work in, or receive services in an environment which is free from tobacco smoke.
- 2.3 Members have a duty to act reasonably and when taking part in the Council's decision making processes, members must:
- take into consideration every thing they regard as relevant, or which they are advised is relevant;
 - disregard anything which they consider is not relevant, or which they are advised is not relevant;
 - follow the correct procedure.
- 2.4 Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Hackney. In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another that the law requires him or her to act solely in the interest of the person she or he represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other. So, for example, a guardian, a trustee or an executor are all people with fiduciary duties.
- 3.0 Relationship between Members and Officers**
- 3.1 The relationship between officers and members should be characterised by mutual respect which is essential to good local government.
- 3.2 Any close personal or family relationships (e.g. parent/child; spouse/partner) between officers and members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others. Members must also declare any such relationship with an officer which might be seen as influencing their work as a member to their party whip.
- 3.3 Members must not sit on a Council body or assume a Cabinet role responsible for any employee to whom they are married, the partner or otherwise closely related.

- 3.4 Generally, a close relationship between a member and a senior officer of second tier and above (and in some cases, other senior staff) is incompatible with the high standards of public life promoted by the Council and should be avoided or discouraged. The relationship may put the member, or the officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists. In these situations a member could not be expected to remain in office, whilst the officer remained employed by the Council.
- 3.5 Close personal familiarity between individual members and officers can damage professional relationships and prove embarrassing to other members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct.
- 3.6 Officers and members should address each other formally at meetings of Full Council, Cabinet, Committee, Sub-committee, Commissions and other formal meetings that officers attend that are open to the public.
- 3.7 Officers should dress formally when attending all meetings. Officers should refer to members of the office they hold: Mayor, Speaker, Chair, Vice-chair, or Councillor. Members should avoid excessive informality and should refer to officers either by their title or by their full name.
- 3.8 The same degree of formality is not necessary at any social events that members attend with officers. Nevertheless, members and officers attending an event by virtue of their role with the Council should avoid close personal familiarity or any action which would embarrass others or damage your relationship with staff or members. Socialising between members and officers other than in an official capacity should be avoided.

4.0 The Role of Members

4.1 Members:

- 4.1.1 Develop and set policies that will then be implemented by officers.
- 4.1.2 Monitor how those policies are being implemented.

- 4.1.3 Where their office allows them to do so, provide guidance to officers on how those policies are to be implemented, either if members wish to do so or if officers ask for guidance.
- 4.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 4.1.5 Recognise the statutory roles of the Chief Executive as Head of Paid Service, the Corporate Director of Finance and Resources as Section 151 Officer and the Corporate Director of Legal, HR and Regulatory Services as Monitoring Officer, the Corporate Director of Children and Young People's Services as Director of Children's Services and the Corporate Director of Health and Community Services as Director of Adult Social Services.
- 4.1.6 Consult with the communities they represent on the development of policy, particularly Best Value Reviews, the Best Value Performance Plan, Community Planning and other local initiatives.
- 4.1.7 Consult with the Monitoring Officer and the Chief Finance Officer about vires, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.8 Respect officers' political impartiality
- 4.1.9 Promote the highest standards of conduct and ethics.
- 4.2 Members must not:
 - 4.2.1 Insist that any officer take any action, or not take action that the officer considers unlawful or illegal; is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

5.0 The Role Officers

- 5.1 Officers:
 - 5.1.1 Implement the policies set by members.
 - 5.1.2 Will ask for guidance on implementation of the policies set by members if they are unclear about any aspect of those policies.

- 5.1.3 Give such professional advice to members as may be required of them from time to time, recognising the different needs for advice members may have in their different capacities of ward member, cabinet member or scrutiny member.
- 5.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.
- 5.1.5 Must remember that he or she is employed by the London Borough of Hackney as a whole and not by any particular part of the Council.
- 5.1.6 Are under a duty to help all Councillors/Co-opted members and all parts of the Council equally.
- 5.1.7 Must take all relevant matters into account when formulating advice to members.
- 5.2 Officers must not:
 - 5.2.1 Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
 - 5.2.2 Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.
- 6.0 Relationship between the Speaker, the Mayor, Cabinet Members and Officers**
- 6.1 The Speaker, the Mayor and Cabinet members shall be bound by the same provisions set out in paragraph 4 regardless of the capacity in which they are acting.
- 7.0 Relationship between the Chair and Members of Scrutiny Commissions and Officers**
- 7.1 The Chair and members of the Council's Scrutiny Commissions and related bodies shall:
 - 7.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for the decision or the Monitoring Officer and other appropriate officers where they consider a decision of the Mayor or the Cabinet might be contrary to the policy framework.

- 7.1.2 When considering calling officers to give evidence they shall liaise with the relevant Director of Chief Officer as to the most appropriate officer to attend.
- 7.1.3 When asking officers to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be asked questions relating to political views.
- 7.1.4 Where they consider it appropriate, ask officers to explain and justify advice given to executive members prior to decisions being undertaken and justify decisions they themselves have taken under the Council's Constitution, and their response to consultations under the Scheme of Delegations.
- 7.1.5 Not question officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a personal or disciplinary nature.
- 7.1.6 At all times respect the political impartiality of the officers.
- 7.2 Officers shall:
 - 7.2.1 Maintain political impartiality at all times when commenting on the Cabinet's/Council's policies and actions.
 - 7.2.2 Be prepared to explain and justify advice given to members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.
 - 7.2.3 Ensure that appropriate officers appear before the relevant panel.
- 8.0 Relationship between the Chair and Members of Scrutiny Commissions and Officers**
- 8.1 This shall apply to all the Council's Committees, including Planning Sub-Committee, Standards Committee, the Regulatory Committees and Ward Forums.
- 8.2 The Chair and members of those Council bodies shall:
 - 8.2.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
 - 8.2.2 Give officers the opportunity to present any report and give any advice they wish to present or give.

9.0 Officer Relationships with Party Groups and Party Whips

9.1 When dealing with the various party groups:

9.1.1 Any request for information to a political group or member will be treated with strict confidence by the officers concerned and will not be accessible to any other political group. Factual information will, if requested, be available to all political groups.

9.1.2 Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's committees or panels and maintain political impartiality at all times.

9.2 When acting in party groups, and dealing with officers, members shall:

9.2.1 Recognise that attendance at Party Group meetings by officers is not compulsory but officers may properly be called upon to support and contribute to such deliberations by Party Groups either by attendance or by preparing documentation for discussion by a group, subject to the availability of resources.

9.2.2 Recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will not be actioned by officers.

9.2.3 Ensure they do not do anything that may compromise officer impartiality.

9.2.4 Ensure that confidential matters are not divulged to non-councillors.

10.0 Members in their Ward Role

10.1 When acting in their ward role, members:

10.1.1 Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time.

10.1.2 Recognise the officers' right to suggest that senior officers, the Cabinet, Council, or a committee/commission need to authorise additional work requested by individual members.

11.0 Complaints about officers or services

11.1 Members have the right to criticise reports or the actions taken by officers, but they should always:

- avoid personal attacks on officers
- ensure that criticism is constructive and well-founded

11.2 Members should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority.

11.3 Complaints about officers or Council services should be made to the Director of the service where you feel the fault lies. Within three days, s/he will:

- acknowledge your complaint, and
- say if s/he intends to take action, or
- say how long s/he needs to investigate.

11.4 Members have a right to know if action has been taken to correct a matter, but they must not, either:

- influence the level of disciplinary action to be taken against an officer, nor
- insist (nor be seen to insist) that an employee is disciplined.

11.5 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.

11.6 If a member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chief Executive by the member concerned.

12.0 Member Access to Documents and Information

12.1 Save as provided below every member of the Cabinet, Overview and Scrutiny Board, Scrutiny Commissions, Committee and/or Sub-Committee of the Council as a right to inspect documents about the business of that Commission/Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution.

- 12.2 All Members can expect to have answers to the queries they raise on behalf of other constituents or about the policies and practices of the Council dealt with within the corporate time standards. The Corporate Protocol for Member's Enquiries sets out the procedure which each department will follow in responding to a member's request for information.
- 12.3 A Member who is not a member of a specific Commission/Committee, Sub-Committee or the Cabinet may have access to any document of that part of the Council if:
- the information sought is disclosable under the Freedom of Information Act, or
 - he or she satisfies the Council's Monitoring Officer, that he or she reasonably needs to see the documents to perform his or her duties; and
 - the document or papers or information do not contain 'confidential' or 'exempt information'.
- 12.4 All Groups are entitled to develop policies and plans and can expect officers to provide information on a confidential basis to their Group, providing that this is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt.
- 12.5 All requests for advice and information that cross directorate boundaries or involve multi-directorate activities should be directed through the Chief Executive.
- 12.6 Managers must decide how to meet requests and must be able to determine what resources, including which staff, are to be made available. This extends to deciding which officers should answer questions, particularly in open meetings.
- 12.7 However, when a member asks for information or advice the reply must not be copied to or subsequently made available to, other members without the permission of the requesting member. Where information or advice is given in writing to a number of members the document should make clear who has received it. In other words, a system of 'silent copies' should not be used.
- 12.8 Groups are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.
- 12.9 If there is a disagreement the Chief Executive will ensure that the request is referred to the relevant body for decision.

- 12.10 A member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter in which he or she has a personal or prejudicial interest; or where to do so would be in breach of the Data Protection Act 1998.

13.0 Press Releases

- 13.1 All Council press releases should be in accordance with the Council's agreed Media Guidelines.
- 13.2 Should be issued through the Council's Media/Public Relations Team.
- 13.3 Should be concerned with matters of policy.
- 13.4 Should not contain anything of a party political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

14.0 Correspondence

- 14.1 All correspondence written on behalf of the Council must be written on the relevant headed paper. When Members are writing in their capacity as a member they must make it clear whether they are writing on behalf of the Council or as the ward member.
- 14.2 Correspondence between individual Members and officers should be treated as confidential unless the Member or officer indicates otherwise. All correspondence should normally be open to the inspection of the public in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the data protection legislation.

15.0 Breach of the Protocol by a Member

- 15.1 Members are required to report any matter that they believe may be a breach of the Code of Conduct to the Standards Board for England. Members are requested to inform the Monitoring Officer of alleged breaches that they have reported to the Standards Board.

- 15.2 Officers are required to report any matter they believe may be a breach of the Code of Conduct to the Monitoring Officer. The Monitoring Officer may refer the complaint to the Standards Board for England if there is evidence that there has been a breach of the Code of Conduct and the Monitoring officer considers it appropriate to do so.
- 15.3 Co-opted Members of any Council Committee or Sub-Committee are required to report any matter they believe may be a breach of this or other Council protocols or a breach of the Code of Conduct by a non-voting co-opted member to the Monitoring Officer.
- 15.4 Where there has been an alleged breach of the protocol the Monitoring Officer will arrange for the matter to be investigated and may refer the complaint to the Standards Committee to be determined under local procedures. A summary of all alleged breaches will be reported to the Standards Committee once each quarter.
- 15.5 The Monitoring Officer, in conjunction with the Chief Executive, may refer the alleged breach to the relevant party whip and leader where appropriate.
- 16.0 Breach of the Protocol by an Officer**
- 16.1 Complaints of an alleged breach should be raised with the relevant service director and/or the Chief Executive. The provisions of section 11 of this protocol will then apply.
- 17.0 Further Advice**
- 17.1 Advice on the application of this protocol should be sought from either the Chief Executive or the Monitoring Officer.



WHISTLE-BLOWING PROGRESS REPORT	
STANDARDS COMMITTEE 21ST JANUARY 2013	CLASSIFICATION: OPEN If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED ALL	
IAN WILLIAMS CORPORATE DIRECTOR FINANCE AND RESOURCES	

1. INTRODUCTION BY CABINET MEMBER FOR FINANCE & RESOURCES

- 1.1 This report summarises the details of all whistle-blowing cases received by London Borough of Hackney since April 2010. A total of 16 new reports have been received since that date.
- 1.2 The Council’s whistle-blowing service is managed by the external provider Expolink, who operate a 24 hour, 7 day a week reporting service. This facility is advertised throughout Council buildings on staff notice boards as well as on the intranet. Details are also provided to all new recruits as part of their induction process.

2. SUMMARY

- 2.1 In keeping with previous years the level of whistle-blowing referrals remains a relatively low percentage of overall referrals to Audit & Anti-fraud’s Investigations Team. Nevertheless, whistle-blowing is an important

component in the Council's reporting arrangements because it provides those who might otherwise be reluctant to do so with a process in which to raise their concerns.

- 2.2 In reality, a considerable number of referrals to Audit and Anti Fraud could fit the criteria for whistle-blowing but in general, managers and staff tend to refer matters of concern under the requirements of the Council's Financial Procedure Rule 4.12 which states;

"Corporate Directors shall refer all issues of potential financial irregularity initially to the ADAAF who will perform a risk assessment after considering the initial available evidence"

- 2.3 For clarity any member of staff referring irregularities to the Audit and Anti-Fraud could expect to be afforded the same protection as if they were claiming to be a whistle-blower.

3. RECOMMENDATIONS

- 3.1 That the Standards Committee note the contents of this report.**

4. RELATED DECISIONS

- 4.1 This is a regular update report.

5. FINANCIAL CONSIDERATIONS

- 5.1 There are no financial implications arising from this report.

6. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR & REGULATORY SERVICES

- 6.1 The Standards Committees is responsible for promoting and maintaining high standards of conduct, to this end, it is a function of the Committee to monitor the progress of corporate complaints procedures.

- 6.2 The law on whistleblowing is contained in the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998. Whistleblowers have a right not to be dismissed or suffer any detriment as a result of making a protected disclosure. To be protected, the whistleblower must make a disclosure of information and reasonably believe that the information tends to show that one or more of the following has occurred or is likely to occur: -

- (i) a criminal offence;
- (ii) breach of any legal obligation;
- (iii) a miscarriage of justice;
- (iv) danger to the health and safety of any individual;
- (v) damage to the environment; or
- (vi) the deliberate concealment of information about any of the above.

6.3 The whistle-blower is protected if the disclosure is made in any one of the prescribed ways laid down by law one of which is to the employer. A whistle-blowing policy is therefore recognised as essential to encourage and facilitate this.

6.4 The Standards Committee will be concerned to satisfy itself: -

- (i) that matters raised under the whistle-blowing procedures are being properly dealt with and within reasonable timescales;
- (ii) that persons using the procedures are not in any way subject to reprisals for raising matters;
- (iii) that where complaints are substantiated that prompt and effective action is taken including the application of the Council's disciplinary procedures and any others of relevance;
- (iv) that where financial and other irregularities are uncovered that a prompt and robust review of systems and processes takes place to mitigate the risk or opportunities or re-occurrence;
- (v) that any compliance lessons for the Council from the reported cases are being captured, disseminated and implemented.

7. BACKGROUND

7.1 Whistle-blowing occurs when an employee reports a genuine concern that is in the public interest to be resolved. The Council encourages issues of concern to be raised, providing this is done in good faith (i.e. not maliciously). There is a legal framework in place to support those who blow the whistle to help to ensure that they do not suffer a detriment from doing so. The following are some of the things that concerns may be raised about: -

- Fraud and corruption within or against the Council;
- A danger in the workplace;
- Deliberate neglect of people in care;
- Dumping damaging material in the environment.

These are wide-ranging areas of concern, and the expertise to deal effectively with them lies with different Council departments.

7.2 Anyone who works for the Council, or who has recently worked for the Council, can 'blow the whistle'. Whilst protection afforded to whistle-blowing only covers issues where there is a degree of public interest in reality many reports received relate to disgruntled staff and often do not result in the allegation being upheld.

7.3 The Whistle-blowing Policy does not usually extend to members of the public or service users because the confidentiality and protection from reprisal issues either do not extend to these groups, or they operate in a very different way to how they affect staff. The Council has a complaints system through which the public and service users can report their concerns. The public are also able to report concerns about fraud against the Council through the

Housing Benefit fraud hotline, the Blue Badge parking hotline, or by reporting concerns directly to Audit & Anti-Fraud.

7.4 It should be noted that Hackney Homes have introduced whistle-blowing policies in line with Hackney's own policy.

7.5 There are no implications for the equalities policies of the Council as the whistle-blowing policy is accessible to all staff and partners across the Council.

8. REFERRALS FOR THE PERIOD APRIL 2010 TO NOVEMBER 2012

8.1 Whistle-blowing activity concerning fraud against the Council is reported as part of the annual Fraud and Irregularity report. All whistle-blowing activity was last reported to Members in April 2009. The following table summarises activity in recent years: -

	2010/11	2011/12	2012/13 to date
Fraud & Corruption referrals	5	2	3
Other referrals	2	0	5
Total referrals	7	2	8

8.2 Concerns that have been reported under the category 'Other referrals' during this reporting period include health and safety concerns, HR issues and racism.

8.3 Of the 17 whistle-blowing referrals received in this reporting period four concerned the same issue, and remain under investigation. One other case is also still being investigated. Another referral was reported to Hackney in error as it concerned an issue in another borough. The outcomes for the remaining 11 cases are: -

- Employee dismissed
- Procedural issues were identified and reported
- 9 No further action

8.4 Two separate fraud investigations that have arisen from whistle-blower referrals remain on-going. These referrals account for a comparatively small percentage of the investigations that are carried out by the Audit Investigation Team.

	2010/11	2011/12	2012/13 to date
Whistle-blower referrals	5	2	3
Total investigations	331	369	484

NB. Whistle-blowing referrals normally relate to staff whereas the total investigations covered by the service includes other investigations (e.g. tenancy, blue badge) that do not normally relate to staff. HB investigations are also excluded from these figures.

8.5 Whistle-blowing referrals investigated by Audit & Anti-Fraud are dealt with under normal investigative procedures and outcomes regularly include recommendations on appropriate disciplinary action, advice on measures to be taken to address system weaknesses, and referrals to internal audit for follow-up action wherever more significant problems are identified. If concerns are more appropriately dealt with by another Service (e.g. Human Resources) a referral is made.

8.6 In relation to the legal comments contained in this report, it should be noted that every effort is made to protect the identity of the whistle-blower in order to guard against the possibility of reprisals. It is not always possible to do so but it is clear in both the policy and the Code of Conduct for employees that, any failure to act on employee’s concerns, victimisation or attempts to prevent an employee from speaking out will be regarded as a serious disciplinary offence.

9. FUTURE DEVELOPMENTS

9.1 The whistle-blowing procedure will be revised and updated prior to being communicated to all employees to promote our reporting arrangements.

IAN WILLIAMS
Corporate Director of Finance and Resources

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REVIEW OF REGISTER OF MEMBERS' AND CO-OPTEE'S INTERESTS	
STANDARDS COMMITTEE 21st JANUARY 2013	CLASSIFICATION: OPEN If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED ALL WARDS	
GIFTY EDILA CORPORATE DIRECTOR LEGAL, HR AND REGULATORY SERVICES	

1 INTRODUCTION

- 1.1 The Localism Act 2011 requires the Council to adopt a Code of Conduct for its elected Members and voting co-opted Members.
- 1.2 Section 30 of the Localism Act 2011 provides that a Member or co-optee on taking office must notify the Council's Monitoring Officer of any disclosable pecuniary interest which they have at the time.
- 1.3 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 details the pecuniary interest that Members and co-optees are required to declare such as employment, sponsorship, contracts or land ownership or use.

2. RECOMMENDATION

2.1 The Standards Committee is asked to note the report.

3. REVIEW OF THE REGISTER

3.1 Between July and August 2012 the Monitoring Officer assisted Members to register their interests.

3.2 All of the 57 Members and the Mayor have all completed their forms as required under the Localism Act 2011.

3.3 A total of 16 out of 18 co-opted members have completed their forms.

4. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

4.1 This report sets out the details of the review undertaken of the Register of Members and Co-optees interests and does not contain any potential financial implications.

5. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

5.1 The Monitoring Officer is responsible for retaining the Register which is available for public inspection on the website and in hard copy form.

5.2 Members are also required to declare all gifts and hospitality received, to the Monitoring Officer within 28 days of receipt of such gift or hospitality.

Gifty Edila
Corporate Director
Legal, HR and Regulatory Services

Background Papers used:

The Localism Act 2011

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UPDATE ON TRAINING ON MEMBERS' CODE OF CONDUCT	
STANDARDS COMMITTEE 21st JANUARY 2013	CLASSIFICATION: OPEN If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED ALL WARDS	
GIFTY EDILA CORPORATE DIRECTOR LEGAL, HR AND REGULATORY SERVICES	

1 INTRODUCTION

- 1.1 The Council has developed a Members' Code of Conduct as required by statute.
- 1.2 All elected Members on their election to office must sign a declaration confirming that they will abide by the Code.
- 1.3 The Localism Act 2011 requires Councils to have a Register of Interest and Members must declare pecuniary and other interests at meetings.
- 1.4 The Localism Act completely changed the ethical framework and it is important that all elected Members and co-opted members have a sound knowledge of the requirements of the new Code of Conduct and new proposals within the Localism Act 2011.

1.5 Council Officers who work with Members and co-optees are also required to have an understanding of the implications of the Localism Act 2011 and of the Members Code of Conduct to be able to give Members effective support.

2. RECOMMENDATION

2.1 The Standards Committee is asked to note training events provided to Officers, Members and Co-optees.

3. TRAINING PROVIDED

3.1 Members training carried out to date are:

- 16th July 2012
- 23rd July 2012
- 29th October 2012
- a further date is scheduled for January 2013

3.2 Officers training carried out to date:

- 29th August 2012
- 6th September 2012

3.3 Guidance was sent to Members on:

- 29th June 2012

3.4 Guidance was sent to Officers on:

- 31st June 2012

4. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

4.1 This report provides an update on the Members Code of Conduct training events. The costs pertaining to these events have been met from existing Governance Services budgets. If the need for additional resources is subsequently identified this would similarly need to be funded from within existing budgets.

5. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

5.1 The Localism Act 2011 changed the framework for ethical governance. The training provides relevant information to officers and Members on the new arrangements.

Gifty Edila
Corporate Director
Legal, HR and Regulatory Services

Background Papers used:

The Localism Act 2011

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REQUEST FOR DISPENSATION	
STANDARDS COMMITTEE 21st JANUARY 2013	CLASSIFICATION: Open
WARD(S) AFFECTED Dalston and neighbouring wards	
GIFTY EDILA CORPORATE DIRECTOR LEGAL, HR AND REGULATORY SERVICES	

1. CORPORATE DIRECTOR'S INTRODUCTION

- 1.1 This report is presented on behalf of Councillors Sophie Linden and Emma Plouviez seeking a dispensation to enable them to support the work on developing a Special Policy Area ("SPA") for Dalston which could impact on neighbouring wards.
- 1.2 Cllr Linden is Cabinet Member with responsibility for the Licensing Service in Legal, HR and Regulatory Services Directorate.
- 1.3 Cllr Plouviez is Chair of Licensing Committee.

2. RECOMMENDATION

The Standards Committee is asked to:

2.1 **Consider and grant a dispensation to Cllr Sophie Linden on grounds of paragraph 5.1 (v) of this report, until 31 May 2014 to participate in the work for developing a SPA for Dalston.**

2.2 **Consider and grant a dispensation to Cllr Emma Plouviez on grounds of paragraph 5.1 (v) of this report, until 31 May 2014 to participate in the work for developing a SPA for Dalston**

3. REASONS FOR DECISION

3.1 The work on developing a SPA for Dalston could extend to other neighbouring wards in terms of impact. Both Councillors live in neighbouring wards so to avoid any conflict of interests occurring, they are at this stage seeking a dispensation to enable them to continue supporting the work on the SPA.

4. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

4.1 This report reviews the request to grant dispensation to Cllr Plouviez and Cllr Linden to develop a SPA for Dalston. There are no financial implications resulting from this request.

4.2 The financial impact of the SPA will be managed within the Council's Licensing budget.

5. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

5.1 Section 33 of the Localism Act 2011 empowers local authorities to receive requests for granting of dispensation. There are five grounds on which such dispensation may be considered as follows:

- (i) without dispensation the number of persons prohibited, for reasons of having a pecuniary interest, from participating in a particular business would be so great a proportion of the meeting as to impede the transaction of the business.
- (ii) considers that without the dispensation the representation of different political groups on the body transacting the business would be upset as to alter the likely outcome of any vote relating to the business.
- (iii) considers that granting the dispensation is in the interests of persons living in the authority's area.
- (iv) if it is an authority operating executive arrangements under the Local Government Act 2000, considers that without dispensation each member of the authority's executive would be prohibited from

participating in any particular business to be transacted, or

(v) considers that it is otherwise appropriate to grant a dispensation.

5.2 A dispensation, if granted, would be time limited and may not exceed four years.

5.3 The Members seeking dispensation may consider and vote on their own application if they sit on the determining committee, as provided by Section 33(4) or the Act.

6. BACKGROUND

6.1 Concerns have been raised in the borough about the growing concentration of licensed premises in the Dalston area. In addressing these issues, the Council's aim is to balance the interests of the night time economy and residents' right to enjoy their community, and minimise any negative impact arising.

6.2 Dalston has seen a large number of new licences granted in the last three years compared to other areas. The applications for premises licence shows a bias towards activities taking place after midnight with 29 such licences in place out of 45.

6.3 In the dense areas where there are night time economy activities such as sale of alcohol, entertainment and sale of late night refreshment, serious nuisance problems occur.

6.4 To address these problems consideration is given to developing a Special Policy Area strategy to better manage the business activities in the area.

6.5 The Living in Hackney Scrutiny Commission is also looking at this issue.

6.6 Cllr Linden is the Cabinet Member with responsibility for the Licensing Service. Cllr Plouviez is the Chair of Licensing Committee. They are both responsible for the development of the SPA.

6.7 Both Cllrs Linden and Plouviez have properties in a neighbouring ward, Stoke Newington. As the work in Dalston SPA progresses, their concern is the impact this could have in the Stoke Newington area and on their own properties. For that reason and as a precautionary measure, they are seeking a dispensation.

6.8 The dispensation sought is on the grounds of paragraph 5.1 (v) of this report in that they may be deemed to have a pecuniary interest in the matter though the Dalston SPA will have indirect impact on their properties.

BACKGROUND PAPERS

None

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