

Appendix to the Minutes of the Standards Committee held on 5th August 2008

**PROCEDURE FOR ASSESSMENT OF ALLEGATIONS OF
BREACH OF THE CODE OF CONDUCT FOR MEMBERS**

Introduction

1. This procedure governs the assessment of allegations that a member of the Council has breached the Code of Conduct for Members ('the Code').
2. The member against whom an allegation is made will be referred to in this procedure as the Member.
3. The person making the allegation of a breach of the Code will be referred to in this procedure as the Complainant.

Complaints

4. Anyone who considers a member of the Council has breached the Code may make a complaint to the Council's Standards Committee by writing to the Council's Monitoring Officer. The Complainant is advised to refer to the Council's website www.manchester.gov.uk for more information on the Standards Committee, how to make a complaint and the provisions of the Code. Complaints must be made in writing. If the complainant is unable to provide written details as a result of disability, assistance will be provided by Council officers.
5. When a written complaint is received by the Monitoring Officer and the Monitoring Officer considers it is an allegation that a Member may have breached the Code, the complaint will be referred to the Standards (Assessment) Sub Committee.
6. The Monitoring Officer will acknowledge receipt of the complaint to the Complainant and where appropriate notify the Member that a complaint has been made. In some cases notification of the Member will be withheld, in considering whether to withhold notification the Monitoring Officer will take into account whether notification would be against the public interest or would prejudice any future investigation.

The notification will include the following information:

- that a complaint has been made;

- the name of the complainant (unless the Complainant has requested confidentiality and the Standards (Assessment) Sub Committee has not yet considered whether to grant it);
- the relevant paragraphs of the Code that may have been breached;
- that a written summary of the allegation will be provided to the Member once the Standards (Assessment) Sub Committee has met to consider the complaint; and
- the date of the meeting of the Standards (Assessment) Sub Committee if known.

7. The Monitoring Officer will prepare a summary of the complaint for the Standards (Assessment) Sub Committee. The summary may include the following information:

- a summary of the allegation;
- the paragraphs of the Code that the complaint may relate to;
- any further information to assist the Standards (Assessment) Sub Committee with its decision which may include:
 - o obtaining a copy of the declaration of acceptance of office and undertaking to observe the Code;
 - o minutes of meetings;
 - o a copy of the Member's register of interests;
 - o information in the public domain e.g. Companies House or the Land Registry;
 - o Standards Board guidance on any of the issues raised by the allegation.

Council officers may contact the Complainant for clarification of their complaint however, pre-assessment enquiries will not be carried out in such a way as to amount to an investigation.

Assessment

8. An assessment flow chart is set out at Appendix 1. The Standards (Assessment) Sub Committee will aim to complete its assessment of written allegations that a Member may have breached the Code within 20 working days of receipt of the complaint by the Monitoring Officer.
9. Before assessing a complaint the Standards (Assessment) Sub Committee must be satisfied that the complaint meets the following initial test:

- it is a complaint against one or more named members of Manchester City Council;
- the named member was in office and the Code was in force at the time of the alleged misconduct; and
- the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

10. If the complaint does not satisfy the above test it cannot be investigated as a breach of the Code, and the complainant will be informed that no further action will be taken in respect of the complaint.

If a complaint meets the initial test the Standards (Assessment) Sub Committee will assess the complaint in accordance with the assessment criteria.

11. Having assessed the complaint the Standards (Assessment) Sub Committee must reach one of the following decisions:

- to refer the complaint to the Monitoring Officer for investigation;
- to refer the complaint to the Monitoring Officer for other action;
- to refer the complaint to the Standards Board for England; or
- no action to be taken in respect of the complaint.

Referral to the Monitoring Officer for Investigation

12. Within five working days of the decision to refer a complaint to the Monitoring Officer for investigation, a summary of the complaint will be sent to the Complainant stating the allegation; that it has been referred to the Monitoring Officer for investigation; and where appropriate the name of the person conducting the investigation. The summary will also be sent to the member unless the Standards (Assessment) Sub Committee has decided that to do so would be against the public interest or would prejudice the investigation.

Referral to the Monitoring Officer for Other Action

13. Within five working days of the complaint being referred to the Monitoring Officer for other action, the Monitoring Officer will write to the Complainant and Member explaining the implications of the decision; outlining what action is being proposed and

why; what the Sub Committee hopes to achieve; and, where appropriate, requesting that the parties confirm in writing that they will co-operate with the proposed action.

“Other action” may include requiring the Member to apologise, attend training or engage in a process of conciliation.

Referral to the Standards Board for England

14. Within five working days of the decision to refer a complaint to the Standards Board for England for investigation by an ethical standards officer, a summary of the complaint will be sent to the Complainant stating the allegation and that it has been referred to the Standards Board for England. The summary will also be sent to the member unless the Standards (Assessment) Sub Committee has decided that to do so would be against the public interest or would prejudice any future investigation.

The complaint will be referred to the Standards Board for England stating which paragraphs of the Code the allegations may relate to and reasons why it cannot be dealt with locally. The Standards Board for England will decide whether to investigate, take no action or refer the case back to the Standards Committee. If the Standards Board for England refers the complaint back, the Standards (Assessment) Sub Committee must again take an assessment decision as above.

Decision to Take No Action

15. Within five working days of the decision to take no action, written notice of the decision together with reasons for it, will be sent to the Complainant and the Member. The Complainant will be advised of their right to ask for a review of the decision and informed how to do this.

Review

16. A review flow chart is set out at Appendix 3. If the Standards (Assessment) Sub Committee’s decision is to take no action the Complainant has a right to request a review of the decision. A request for review must be made within 30 working days of receipt of the decision. The request should be in writing; should include reasons for the request and be sent to the

Monitoring Officer. The Monitoring Officer will acknowledge receipt of the request and notify the Member that a request for review has been made.

17. The Standards (Review) Sub Committee must carry out its review within 3 months of receiving the request but will aim to complete reviews within 20 working days of receipt of the request. The complaint will be reviewed using the Council's assessment criteria.
18. If further information in support of a complaint is made available which changes the nature of the complaint or gives rise to a potential new complaint, the Standards (Review) Sub Committee will consider whether it is more appropriate to refer the complaint to the Standards (Assessment) Sub Committee to be assessed as a new complaint. In these circumstances the Standards (Review) Sub Committee will make a formal decision that the review request will not be granted.
19. Having reviewed the complaint the Standards (Review) Sub- Committee must reach one of the following decisions:
 - to refer the complaint to the Monitoring Officer for investigation;
 - to refer the complaint to the Monitoring Officer for other action;
 - to refer the complaint to the Standards Board for England; or
 - no action to be taken in respect of the complaint.

Where the decision is to refer the complaint to the Monitoring Officer for investigation or other action, or to refer the complaint to the Standards Board for England, the procedures set out above in relation to the assessment decision will apply following which the Council's relevant procedure (Procedure for Local Investigation of Allegations of Misconduct of Council Members; Procedure for Local Determination of Allegations of Misconduct of Council Members following an Investigation by the Monitoring Officer or Procedure for Local Determination of Allegations of Misconduct of Council Members following an Investigation by an Ethical Standards Officer) will apply. Where the decision is that no action be taken, written notice of the decision together with reasons for it, will be sent to the Complainant and the Member within five working days of the decision being made. There is no right to request a review.

Access to Documents and Meetings of the Standards (Assessment) and Standards (Review) Sub-Committees

20. Meetings of the Standards (Assessment) and Standards (Review) Sub-Committees shall be held in private and the committee papers will not be published.

Confidentiality

21. Except in exceptional circumstances, the identity of the Complainant will be disclosed to the Member. A request from a Complainant to preserve anonymity shall be considered by the Standards (Assessment) Sub-Committee when it assesses the complaint. The sub-committee shall only consider granting anonymity to the Complainant where one of the following grounds applies:
- the Complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed; or
 - the Complainant suffers from a serious medical condition and there are medical risks associated with the disclosure of their identity. Medical evidence will be required in respect of this ground.

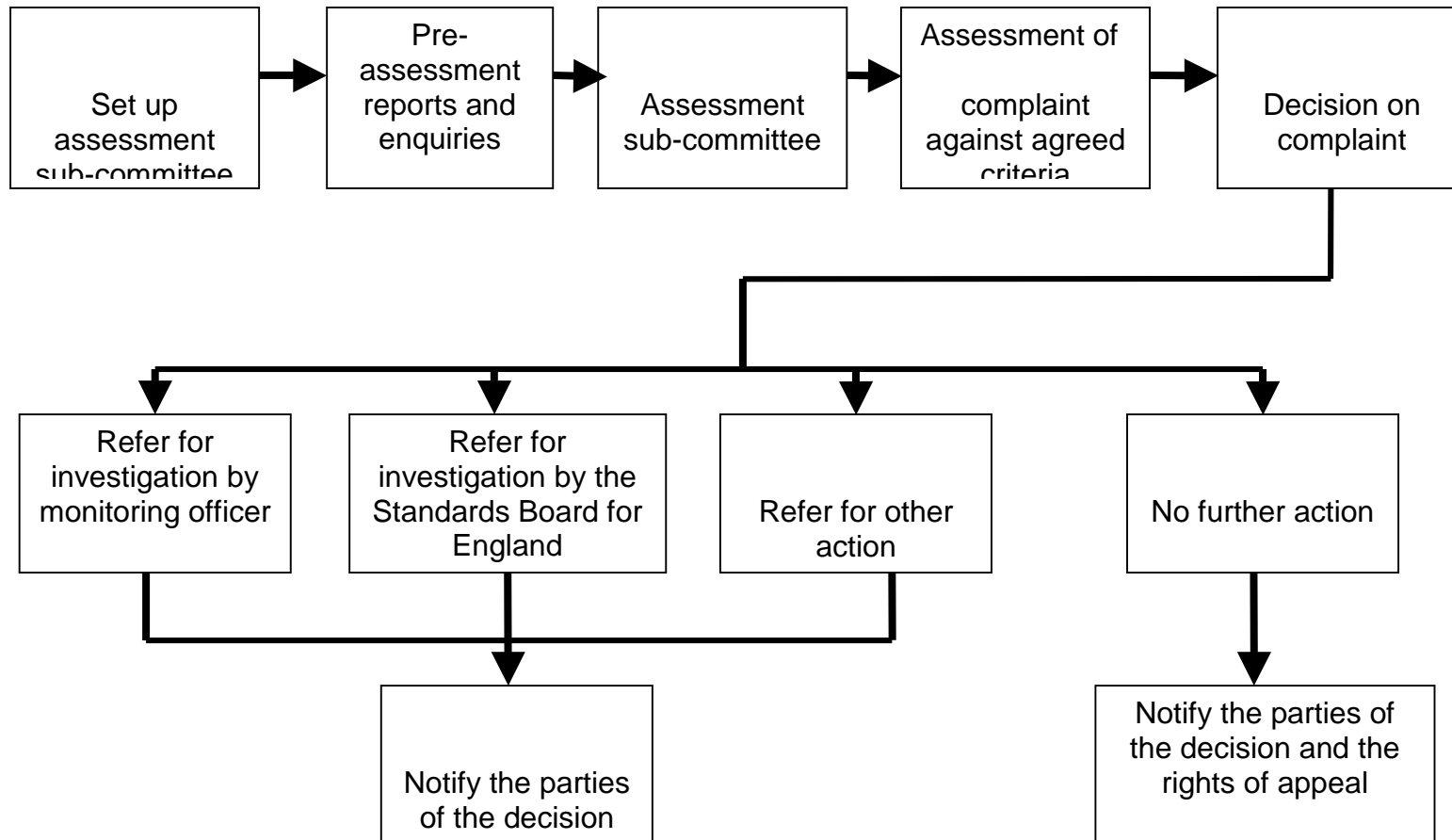
In each of the above cases the sub-committee may only grant a request if they consider that a fair investigation can still be conducted. If the sub-committee declines a request for anonymity the Complainant shall be given the option of withdrawing the complaint as an alternative to the disclosure of information.

Anonymous Complaints

22. Anonymous complaints will not be considered further unless the Complainant provides independent evidence, capable of verification, which discloses an exceptionally serious or significant matter.

Appendix 1

ASSESSMENT FLOWCHART



APPENDIX 2

Assessment Criteria

- How serious is the allegation, is it serious enough to merit an investigation?
- Has there been a breach of trust?
- Has there been financial impropriety?
- Is the complaint malicious, vexatious or influenced by political motivation or retaliation?
- Is the complaint relatively minor, trivial or not sufficiently serious?
- Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so is it necessary to refer the complaint to the Monitoring Officer of that other authority?
- Is the complaint the same or substantially similar to a complaint which has already been investigated and which has been resolved and dealt with?
- Has the complaint already been the subject of an investigation or other action by other regulatory authorities?
- Have you taken into account the time that has passed since the alleged conduct occurred and the submission of the complaint? If a period of 12 months has elapsed between the incident(s) complained of and the complaint the matter will not ordinarily be considered further unless there are good reasons for the delay.
- Has the complainant expressed any view as to the outcome of the complaint?
- Is the associated expenditure of an investigation disproportionate to the benefit to the public's confidence in local democracy in any outcome of the complaint? Underpinning its consideration at every stage will be an assessment of the public interest in investigating a complaint taking into account the cost and time involved.
- Is there wider relevance of the allegation e.g. does the allegation raise issues of serious public concern?
- In the circumstances, is an alternative course of action more appropriate than an investigation e.g. training or mediation?

- It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it, short of investigation?
- Does the complaint concern acts carried out in the member's private life; when they are not carrying out the work of the authority; or have they misused their position as a member?
- Does it appear that the complaint is really about dissatisfaction with a Council decision?
- Is there sufficient and adequate information currently available to support a decision to refer the matter for investigation? If the complaint does not contain sufficient detail to determine whether the matter should be referred for investigation the complainant may be advised that no further action will be taken unless such additional information as is considered to be necessary is provided to the Monitoring Officer.
- Should the complaint be referred to the Standards Board for England ("SBE") to be investigated by an ethical standards officer. The SBE take into account the following matters when deciding which referrals to accept:
 - Does the standards committee believe that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for them to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's cabinet or standards committee?
 - Does the standards committee believe that the status of the complainant or complainants would make it difficult for the standards committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or standards committee, the chief executive, the monitoring officer or other senior officer?
 - Does the standards committee believe that there is a potential conflict of interest of so many members of the standards committee that it could not properly monitor the investigation?
 - Does the standards committee believe that there is a potential conflict of interest of the monitoring officer or other officers and that suitable alternative arrangements cannot be put in place to address the conflict?
 - Is the case so serious or complex, or involving so many members, that it cannot be handled locally?
 - Will the complaint require substantial amounts of evidence beyond that available from the authority's documents, its members or officers?
 - Is there substantial governance dysfunction in the authority or its standards committee?

- Does the complaint relate to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority?
- Does the complaint raise significant or unresolved legal issues on which a national ruling would be helpful?
- Might the public perceive the authority to have an interest in the outcome of a case? For example if the authority could be liable to be judicially reviewed if the complaint is upheld.
- Are there exceptional circumstances which would prevent the authority or its standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation?

APPENDIX 3

REVIEW FLOWCHART

