



Standards Committee

| | |
|---------------|---------------------------------------|
| Date: | Monday, 16 April 2012 |
| Time: | 4.00 pm |
| Venue: | Committee Room 1 - Wallasey Town Hall |

Contact Officer: Mark Delap
Tel: 0151 691 8500
e-mail: markdelap@wirral.gov.uk
Website: <http://www.wirral.gov.uk>

SUPPLEMENTARY AGENDA

3. STANDARDS COMPLAINTS - MONITORING (Pages 1 - 12)

Updated Information

**4. REPORT OF THE STANDARDS WORKING GROUP - PROPOSED
NEW STANDARDS REGIME (Pages 13 - 82)**

This page is intentionally left blank

Summary of Complaints made under Council Members' Code of Conduct

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|--------------------|-------------------|---|-------------------|---|------------------------|---|---------------|------------------|
| SfE 2008/01 | May 2008 | Failed to treat others with respect Bringing office into disrepute | 10 July 2008 | Referred for Investigation | 20 March 2009 | 30 March 2009 | 16 July 2009 | Completed |
| SfE 2008/02 | 15 August 2008 | Failed to treat others with respect Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage | 10 September 2008 | Referred for Investigation (Weightmans) | 30 April 2009 | 7 August 2009 No Further Action | | Completed |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|---------------------------|-------------------|--|------------------|--|------------------------|---|---------------|------------------|
| SfE 2009/01 | 3 February 2009 | Conflict of interest Failure to declare Personal and Prejudicial interest | 25 February 2009 | No Further Action | | | | Completed |
| SfE 2009/02/03 | 7 April 2009 | Failure to declare Personal and Prejudicial interest | 29 April 2009 | Referred for Investigation Complainant failed to co-operate, so investigation was delayed | 16 February 2010 | 24 February 2010 IAP decided Steps Other than an Investigation (Training Required) | | Completed |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|-----------------------|---|--------------------|--|------------------------|--|------------------------------|------------------|
| SfE 2009/04 | 14 July 2009 | Failed to treat others with respect Bringing office into disrepute | 28 August 2009 | Referred for Investigation | 10 February 2010 | 25 March 2009 Referred for a Final Hearing | 2 and 22 November 2010 | Completed |
| SfE 2009/05 | 4 November 2009 | Conflict of interest Failure to declare Personal and Prejudicial interests Failed to treat others with respect | 25 January 2010 | Referred for Investigation Draft report prepared. | | | | |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|-------------------|--|-------------------------------------|---|------------------------|--|---------------|------------------|
| SfE 2009/06 | 21 December 2009 | Failed to treat others with respect | 25 January 2010 | Referred for investigation – 25 January 2010 External investigator appointed | | Scheduled for 3 October 2011. Rescheduled to 10 October 2011 (Member stuck in traffic) No Further Action | | Completed |
| SfE 2010/01 | 5 January 2010 | Breached a confidence Failed to treat others with respect | 25 January 2010 8 April 2010 | Deferred for further information No Further Action | | 29 July 2010 Standards Review Panel No Further Action | | Completed |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|-------------------|---|-----------------|----------------------------|------------------------|---|--------------------------------------|------------------|
| SfE 2010/02 | 6 January 2010 | Failed to treat others with respect Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage | 25 January 2010 | Referral for Investigation | 17 September 2010 | | 20 December 2010 – No Further Action | Completed |
| SfE 2010/03 | 6 January 2010 | Failure to declare Personal and Prejudicial interest | 25 January 2010 | No Further Action | | | | Completed |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|---|--|--------------|---|------------------------|---|---------------|---|
| SfE 2010/04 | 9 February 2010 | Conflict of Interest | 8 April 2010 | Deferred for further information | | | | Standards for England determined No Further Action |
| | 26 February 2010 – superseded previous complaint form | Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage | 3 March 2011 | Initial Referral to Standards for England for consideration | | | | |
| | | | 8 June 2011 | Referred back to Standards for England for consideration | | | | |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|-------------------|--|---------------------------------------|--|------------------------|--|---|------------------|
| SfE 2010/05 | 30 March 2010 | Failed to treat others with respect Bringing office into disrepute | 29 July 2010 | Referred for Investigation | 11 February 2011 | 3 March 2011 Arrangements are in the process of being made for a hearing. 21 November 2011 | 21 November 2011-adjourned 24 January 2012 - No Further Action | Completed |
| SfE 2010/06 | 6 January 2010 | Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage | 8 October 2010 31 January 2011 | Decision deferred No Further Action | | | Review Panel 23 March 2011 – No Further Action | Completed |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|---|-------------------|---|-----------------|---|------------------------|---|---------------|------------------|
| SfE 2010/07 | 30 September 2010 | Failed to treat others with respect Bringing office into disrepute | 20 January 2011 | No Further Action | | | | Completed |
| SfE 2011/01 | 10 February 2011 | | 3 March 2011 | Referred for Investigation – Investigator Appointed | 3 April 2012 | To be arranged. | | |
| SfE 2011/02 linked to 2011/01 above | 11 February 2011 | | 3 March 2011 | Referred for Investigation – Investigator Appointed | 3 April 2012 | To be arranged. | | |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|--------------------|-------------------|---|----------------|---|------------------------|---|---------------|------------------|
| SfE 2011/03 | 4 May 2011 | Failed to treat others with respect Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage | 25 August 2011 | Referred for investigation on 26 August 2011. | | | | |
| SfE 2011/04 | 5 August 2011 | Failed to treat others with respect Bringing office into disrepute | 22 August 2011 | No Further Action | | | | Completed |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|-------------------|---|--|---|------------------------|---|---------------|------------------|
| SfE 2011/05 | 5 September 2011 | Used the Council's resources to communicate with Lib/Dem Councillors in matters of a party political nature | 10 October 2011 | Write to the complainant to inform that guidance on the use of the Council's resources was circulated to Members post 18 May 2011 so no further action is required. | | 24 January 2012 No Further Action. | | Completed. |
| SfE 2012/01 | 24 January 2012 | Conflict of interests | 28 February 2012 21 March 2012 28 March 2012 | Postponed Postponed Referred to Monitoring Officer for alternative action. | | | | |

| Ref | Date of Complaint | Nature of Complaint | IAP Date | Outcome of IAP | Final Report Completed | Consideration Hearing of Final Report (Outcome) | Final Hearing | Current Position |
|------------------------|------------------------|---|---------------------|--|------------------------|---|---------------|------------------|
| SfE 2012/02 | 18 February 2012 | Failed to treat others with respect Bullied another person Intimidated or attempted to intimidated another person | 28 February 2012 | Referred to Monitoring Officer for alternative action. | | | | |

This page is intentionally left blank

WIRRAL COUNCIL

STANDARDS COMMITTEE

16 APRIL 2012

| | |
|-------------------------|--|
| SUBJECT: | New Members' Code of Conduct and Arrangements for dealing with Standards Complaints |
| WARD/S AFFECTED: | All |
| REPORT OF: | Director of Law, HR and Asset Management |

1.0 EXECUTIVE SUMMARY

1.1 This report seeks the approval of the Standards Committee in relation to:

- (i) changes to the Article 9 (Terms of Reference of the Standards Committee (and its Panels)) of the Council's Constitution set out at Appendix 1;
- (ii) the draft Members' Code of Conduct set out at Appendix 2;
- (iii) the draft Protocol: Arrangements for Investigating and Making Decisions in relation to allegations made under the Members' Code of Conduct set out Appendix 3;
- (iv) the draft Complaint Form to be used in relation to complaints relating to the Members' Code of Conduct set out at Appendix 4; and
- (v) authorising the Monitoring Officer to make arrangement to enable the Council to appoint 'Independent Persons' to support the effective administration of standards complaints and decisions, in accordance with the requirements of the Localism Act 2011.

1.2 Subject to the approval of the Standards Committee, the proposed changes to Standards Committee's Terms of Reference and the draft Members' Code of Conduct require the approval of Council.

2.0 BACKGROUND AND KEY ISSUES

2.1 The Localism Bill was published on 13 December 2010 and received Royal Assent on 15 November 2011. As reported to this Committee in January 2011, the Localism Bill, as it was then, sought to devolve greater power and freedoms to councils and neighbourhoods, establish powerful new rights for communities, revolutionise the planning system, and give communities control over housing decisions. The reform covers four broad areas:

- Strengthening local democracy;
- Community empowerment;
- Reform of the planning system; and
- Social housing reform.

2.2 The Coalition Agreement 'Our Programme for Government' included the commitment to "abolish the Standards Board regime". The Government has stated that it considers

the Standards regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a Council Member and regulated by a central quango, is inconsistent with the principles of localism and that the regime can be a vehicle for vexatious or politically motivated complaints.

- 2.3 On the 15 November 2011, the Localism Bill received Royal Assent and became the Localism Act 2011 ("the Localism Act"). The relevant provisions relating to standards matters are set out in Chapter 7 and Schedule 4 of the Localism Act.
- 2.4 Standards for England was abolished on 31 March 2012. The current 'standards regime' remains in force until 30 June 2012. Accordingly, the new standards regime as detailed within the Appendices (subject to approval) needs to take effect as from 1 July 2012.
- 2.5 Appendix 5 is an Explanatory Note detailing the key implications of the Localism Act 2011 on the Standards Regime. The Note was previously provided to the Standards Committee at its meeting on 26 January 2012; however it has been updated.
- 2.6 The Standards Committee at its meeting on 26 January 2012 resolved:
 - (1) *the Explanatory Note and Counsel's Advice set out at Appendices 1, 2 and 4 to the report be noted*
 - (2) *a Standards Committee Working Group be established in accordance with the Terms of Reference set out at Appendix 3 to this report but to also include the use and review of the existing Members' Code of Conduct and written arrangements as the basis of any proposed changes (if required);*
 - (3) *the Membership of the Working Group at (2) above comprise of Councillors C Blakeley, W Davies, L Rowlands, J Salter and P Williams and Mr K Harrison; and*
 - (4) *the Director of Law, HR and Asset Management be requested to update the Members' Code of Conduct in accordance with the decision at (2) above as a starting point for the development of a new framework for the Standards regime.*
- 2.7 The Standards Committee Working Group met on 1 and 28 March. The initial meeting enabled a discussion to take place in relation to the difficulties experienced and concerns of Members in relation to the current standards regime. The Working Group provided a steer on key areas for revision. The minutes of the Standards Committee Working Group meeting on 1 March are set out at Appendix 6.
- 2.8 The Working Group specifically identified the need to ensure that a more open, transparent, efficient and cost effective standards regime was introduced. It also needed to be capable of adapting to change and sufficiently flexible so as to allow 'common sense' to prevail without undermining the standards regime and the duty upon the Council to promote and maintain high standards of conduct.
- 2.9 The Standards Committee Working Group on 28 March reviewed the initial drafts of the new draft Members' Code of Conduct; draft Terms of Reference for the Standards Committee; and draft Protocol for dealing with complaints against Members/Co-opted Members (all of which are set out in the Appendices). The drafts attached incorporate the Working Group's amendments and comments.

Draft Members' Code of Conduct (Appendix 2)

- 2.10 With regards the draft Members' Code of Conduct, the Association of Council Secretaries and Solicitors (ACSeS) draft model code was used as the basis of the new Code of Conduct. This draft model code is being used by many neighbouring local authorities.
- 2.11 The Standards Committee is asked to note that the LGA, on 10 April, circulated its own draft code of conduct to assist local authorities decide what new code (if any) they wished to adopt. The LGA draft code was unfortunately received after the last meeting of the Working Group; it is therefore set out at Appendix 6 for consideration by the Standards Committee.
- 2.12 Subject to Council approval, the Council is required, under the Act, to publicise the adoption of the new Members' Code of Conduct within the Borough. If approved, in May 2012, the Code will be advertised in at least one local newspaper and will be publicised on the Council's website.

Legal Requirements

- 2.13 The Localism Act 2011 ('the Act') states that :
- a. the Council "must promote and maintain high standards conduct by Member and Co-opted Members" of the Council (section 27(1) of the Act);
 - b. The Council must adopt a code dealing with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity. (section 27(2) of the Act);
 - c. the Council to have in place arrangements under which:
 - (i) allegations that the Members' Code of Conduct has been breached can be *investigated*; and
 - (ii) *decisions* can be made in relation to those allegations.(section 28(6) of the Act).
 - d. The arrangements referred to at (c) above, must include provision for the appointment by the Council of at least one 'Independent person'. (section 28(8) of the Act).
 - e. Members and Co-opted Members of the Council have a legal obligation to notify the Council's Monitoring Officer of any "disclosable pecuniary interest" for the purposes of inclusion within the register of Interests.
- 2.14 Further details of the legal requirements and framework are set out in the updated Explanatory Note at Appendix 5.

Standards Committee and its' Panels (Appendix 1)

- 2.15 Under the proposed new arrangements, the Council will retain a Standards Committee; however the Committee will have two sub-committees: a 'Standards Panel' and a 'Standards Appeal Panel'. The revised Terms of Reference for the Standards Committee and its Panels are set out at Appendix 1.

- 2.16 The Standards Committee must now be politically balanced and will not include any Independent Members. Under the Localism Act 2012, the ‘Independent Member’ has been replaced by the ‘Independent Person’ who does not sit on the Standards Committee (or any of its Panels). The Council must appoint at least one ‘Independent Person’. Unfortunately, the definition in the Act of ‘Independent Person’ prevents the current Independent Members being appointed to this role.
- 2.17 There is an obligation under the Act, which imposes a positive obligation to seek the views of the ‘Independent Person’ before a decision is made in relation to a complaint that is being investigated. The views of the ‘Independent Person’ may also be sought where a complaint is not being investigated but relates to a Member’s behaviour. The new arrangements, as detailed in the Protocol, address this issue.
- 2.18 With regards the Panels, they will consist of three Members (one member from each political groups) and will be made up of Members of the Standards Committee unless other Members are nominated by party spokespersons to sit on the Panels. Where such a nomination is made the Members nominated will only be allowed to sit on the Panels providing they have undertaken all requisite standards training. The respective roles of the Panels are explained in more detail below.

New Arrangements (Appendix 3)

- 2.19 The full details of the arrangements for dealing with investigating and making decisions in relation to standards complaints are set out in the “Protocol: Arrangements for Investigating and Making Decisions in relation to allegations made under the Members’ Code of Conduct” (set out at Appendix 3). The Protocol does not require Council approval; however will be approved and reviewed periodically by the Standards Committee.

2.20 A summary of the key features of the new arrangements are set out below:

- a. Any action/steps taken, discretion exercised and/or decisions made pursuant to the Protocol, must promote the following:
 - a. Fairness to all parties and in proceedings;
 - b. Accountability;
 - c. Transparency of decision making;
 - d. Efficiency; and
 - e. Value for money.

- b. *Notification of a Complaint*

Where a valid complaint has been received:

The Member against whom a complaint is made (‘Subject Member’) will be promptly provided details of the complainant and the complaint (unless there is good reason why such information should be withheld).

- c. *Preliminary Assessment and Evaluation*

Monitoring Officer will assess and evaluate every complaint to determine whether it:

- (i) can be dealt with by local resolution;

If the complaint is considered suitable for local resolution then this course of action will be pursued.

- (ii) is frivolous and/or vexatious;

If this is the view of the Monitoring Officer, the complaint will not be progressed.

- (iii) can be dealt with by adopting another approach that is considered more effective and/or efficient;

This enables alternative options to be considered and pursued, thereby enabling the new regime to be adaptable to change and flexible so as to allow 'common sense' to prevail.

- (iv) is appropriate to be referred for investigation.

This option ensures that more serious matters are dealt with appropriately.

The Monitoring Officer when undertaking the assessment and evaluation of a complaint must take into account of (i) the views of the Independent Person; (ii) the public interest, (iii) the comments of all three Political Group Leaders;(iii) any guidance provided by Standards Committee; and (iv) promote (a) above.

d. *Obligation to Co-operate with Investigations*

Where an investigation is undertaken, the Subject Member will be required to co-operate with the investigation and make him/herself available for interview within 21 days of the investigator's request for interview. Where there is an unjustifiable delay caused by the Subject Member, the Monitoring Officer can direct that the investigation progresses without any input from the Subject Member.

e. *No breach found by Investigator*

Where the Investigator concludes that the Members' Code of Conduct has not been breached, no further action will be taken in relation to the complaint. Unless otherwise requested by Subject Member, the Monitoring Officer shall arrange for a Council media statement to be published on the Council's website in relation to the complaint and the findings/outcome of the investigation.

f. *Standards Panel*

Where the Investigator has concluded that there has been a breach of the Members' Code of Conduct, the matter will be considered by the Standards Panel within 20 working days. The Panel may decide to agree with the findings and conclusions of the Investigator; or reach an alternative decision

(such as decide there has been no breach and decide that no further action be taken).

All relevant parties shall be entitled to attend the meeting of the Standards Panel. The Panel will afford all relevant parties the opportunity to make representations in support of their respective positions. Whilst the parties will not be entitled to cross-examine each other, they will be entitled to challenge and rebut any evidence adduced or representations made by the other. (This applies equally to the Standards Appeal Panel).

g. Appeal Rights

If either the Complainant or Subject Member(s) is dissatisfied with the decision of the Standards Panel, he/she may seek permission to appeal to the Standards Appeal Panel against the decision. Any request seeking permission to appeal must be made to the Monitoring Officer in writing within 21 days of receipt of the Standards Panel decision notice.

A request seeking permission to appeal will only be valid and accepted providing:

- (i) it confirms the procedural, legal and/or evidential issues relied upon in support of the request; and
- (ii) the Monitoring Officer is satisfied, having considered the views of the Independent Person, that (a) significant and/or important procedural, legal and/or material evidential issue has been raised; and/or (b) it is considered reasonable and equitable in the circumstances that the request for appeal be permitted.

h. Standards Appeal Panel

The Standards Appeal Panel will consider, within 20 working days, any appeal that is allowed by the Monitoring Officer. The Panel may decide to agree with the findings and conclusions of the Investigator; or reach an alternative decision.

There is no further right of appeal in relation to a standards complaint.

i. Confidentiality

The Subject Member will be provided with the name of the complainant and a summary of the complaint promptly unless the Monitoring Officer believes to do so would:

- (i) put the complainant at risk of bullying, harassment or intimidation;
- (ii) put other witnesses at risk of bullying, harassment or intimidation;
- (iii) prejudice any investigation;
- (iv) prejudice any other action from being taken;

- (v) not be in the public interest; and/or
- (vi) not be consistent with guidance provided by the Standards Committee or Secretary of State.

or, a request for confidentiality has been made by the complainant and the Monitoring Officer determines that the request should be approved.

Unless otherwise permitted under the Protocol or required by legislation, a Standards Complaint (and all associated information, documents, information) shall not be disclosed in the public domain until such time that the Monitoring Officer, or Standards Committee, or the Standards Panel or the Standards Review Panel, consider it appropriate (if at all) to disclose them in the public domain.

This approach will help ensure that standards complaints can be dealt with fairly, promptly and effectively; and without any potential investigation or Panel hearing being undermined or prejudiced.

The Council's Access to Information Rules shall apply to meetings of the Standards Panel and Standards Appeal Panel.

Sanctions

- 2.21 One area of particular focus by the Working Group was the sanctions that would be available under the new standards regime. Under the Act, where a Member or Co-opted Member of the Council has been found to have breached the Members' Code of Conduct (whether or not the finding is made following an investigation), the Council **may** have regard to the failure in deciding (a) whether to take action in relation to the Member or Co-opted Member, and (b) what action to take.
- 2.22 The 2011 Act does **not** prescribe the range of 'actions' that the Council can take; but does envisage that some action **can** be taken against a Member or Co-opted Member who fails to comply with the Members' Code of Conduct.
- 2.23 The Working Group recognised that in the absence of the range of sanctions available under the current regime, it was imperative that all Members, particularly senior political figures within the respective political groups, understood their obligations to lead, support and actively promote high standards of conduct.
- 2.24 Accordingly, the Working Group considered the following sanctions should be available to either the Standards Panel or Standards Appeal Panel where they have determined that the Members' Code of Conduct has been breached:
 - (i) instruct the Monitoring Officer to write a formal warning letter to the Member reminding him/her of the need to comply with the Members' Code of Conduct; and/or
 - (ii) require the Member(s) to apologise to the complainant (whether verbally or in writing) for breaching the Members' Code of Conduct. Should the Member in question fail or refuse to do so promptly, the Monitoring Officer shall report this fact to the Member's Political Group Leader*; and/or

- (iii) report the Panel's decision to a public meeting of the Standards Committee for reference/consideration; and/or
- (iv) recommend to the Member's Political Group Leader* that disciplinary action should be taken against the Member in question and/or that he/she be removed from all (or some) outside bodies to which the Member has been appointed; and/or
- (v) instruct the Monitoring Officer to arrange training for the Member in question who shall be required to attend. Should the Member fail to attend the training arranged, the Monitoring Officer shall report this fact to the Member's Political Group Leader*.

* In the event that the Member in question is the Political Group Leader, the recommendation shall be referred to the relevant Deputy Political Group Leader; in the event that the Members in question are both the Political Group Leader and Deputy Political Group Leader, the recommendation shall be referred to the next most relevant senior Political Group Official/Spokesperson.

2.25 The timescales within which actions need to be taken are detailed with the Protocol.

Independent Member

2.26 The Council will need to appoint at least one 'Independent Person', to comply with the Act. It is proposed however that at least three such persons be appointed as this will help mitigate against any conflicts of interest, illness and other circumstances that may arise which prevents an 'Independent Person' being able to deal with a complaint.

2.27 The Committee is therefore asked to authorise the Monitoring Officer make the necessary arrangements to appoint at least three 'Independent Persons'. The Committee is further recommended to agree that the appointment arrangements, criteria and process be determined by the Monitoring Officer in consultation with the all three political party spokespersons. Under the Act, any vacancy for the appointment of an 'Independent Person' must (i) be advertised; (ii) require the submission of an application to fill the vacancy; and (iii) be approved by the majority of the Members of the Council.

2.28 The Council may pay an allowance or expenses to any appointed Independent Person. The Act expressly states that by doing so, this does not mean that the person appointed ceases to be independent. At this time, it is proposed that the reasonable and valid expenses incurred by a person when undertaking the role of 'Independent Person' be met by the Council.

Register of Interests

2.29 Under the Act the Monitoring Officer must establish and maintain a 'Register of Interests'.

2.30 The Monitoring Officer shall write to all Members requesting that they review and update their respective interests for inclusion on the Register of Interests, which will be established and maintained through the Council's Modern.Gov System.

Dispensations

2.31 All requests for dispensations seeking to relieve a Member or Co-opted Member from either (a) participating, or participating further, in any discussion of the matter at the meeting, or (b) participating in any vote, or further vote, taken on the matter at the

meeting, must be made to the Monitoring Officer who shall refer all such requests to the Standards Committee for determination. The remit of the Standards Committee, which is detailed in the draft Terms of Reference, addresses this issue.

Consultation

- 2.32 Unfortunately, due to the Act receiving Royal Assent much later than expected, it has not been possible to seek the views and opinions of all Members in relation to the proposed new standards regime as outlined in this report and the appendices.
- 2.33 The Working Group however was clear that it was important that Members took 'ownership' of the Council's duty to promote and maintain high standards of conduct.
- 2.34 Accordingly, it is proposed that a comprehensive consultation exercise with Members be undertaken between 1 July 2012 and October 2012 which affords them the opportunity to consider and comment upon the new Members' Code of Conduct and arrangements for dealing with and determining standards complaints. The consultation responses will be referred to and considered by the Standards Committee (along with any other suggested improvements) and changes/amendments would be made as considered appropriate by the Standards Committee/Council (as applicable).

3.0 RELEVANT RISKS

- 3.1 The Council is required to comply with the provisions of the Act with regards the arrangements for dealing with standards matters. Should it fail to do so, the Council exposes itself to risk of challenge and reputational harm.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The Working Group considered and debated various issues and options with regards the arrangements for dealing with standards matters.
- 4.2 The Committee is invited to considered the draft Code of Conduct proposed by the LGA (as set out at Appendix 6).

5.0 CONSULTATION

- 5.1 The consultation undertaken has been through the Standards Committee Working Group which is a cross-party working group.
- 5.2 Further consultation will be undertaken as outlined in the report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are no such implications arising.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 7.1 The proposed changes and arrangements to deal with standards matters are considered to be more effective and efficient in dealing with standards complaints/matters. Accordingly, it is anticipated that the level of resources and time spent on dealing with standards matters will reduce. However, the resource implications are (and have always been) predominantly affected and determined by the conduct and behaviour of Members.

8.0 LEGAL IMPLICATIONS

8.1 The legal implications have been set out in the report.

9.0 EQUALITIES IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact review is attached.

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010-0>

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no such implications arising.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no such implications arising.

12.0 RECOMMENDATION/S

12.1 That the Standards Committee:

- (i) Recommends to Council for approval:
 - a. the changes to Article 9 (Terms of Reference of the Standards Committee (and its Panels)) (as set out at Appendix 1) to take effect from 1 July 2012; and that the Council's Constitution be amended accordingly;
 - b. the draft Members' Code of Conduct (as set out at Appendix 2) to take effect from 1 July 2012; and that the Council's Constitution be amended accordingly.
- (ii) approves the draft "Protocol: Arrangements for Investigating and Making Decisions in relation to allegations made under the Members' Code of Conduct" (set out Appendix 3) to take effect from 1 July 2012;
- (iii) approves the draft Complaint Form (set out at Appendix 4) and its use as from 1 July 2012; and
- (iv) authorises the Monitoring Officer to undertake, in consultation with the three political party spokespersons, such steps necessary to enable the Council to appoint 'Independent Persons' to support the effective administration of standards complaints and decisions, in accordance with the requirements of the Localism Act 2011.
- (v) authorises the Monitoring Officer to undertake, in consultation with the three political party spokespersons, a consultation exercise with all Members of the Council (and any other persons/bodies considered appropriate) with regards (i), (ii) and (iii) above.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 The Council is required to comply with the provisions of the Localism Act 2011 and the recommendations enable this to be achieved.

REPORT AUTHOR: **Surjit Tour**
Head of Legal & Member Services
telephone: 0151 691 8569
email: surjittour@wirral.gov.uk

APPENDICES

Appendix 1 - Draft Article 9 – Terms of Reference of the Standards Committee and its Panels

Appendix 2 - Draft Members’ Code of Conduct

Appendix 3 - Draft Protocol: Arrangements for Investigating and Making Decisions in relation to allegations made under the Members’ Code of Conduct

Appendix 4 – Draft Complaint Form

Appendix 5 – Updated Explanatory Note: Localism Act and the Standards Regime

Appendix 6 – Minutes of the Standards Committee Working Group

Appendix 7 - LGA Draft Code of Conduct

REFERENCE MATERIAL

ACSeS Website and circulars
Guidance on the Localism Act 2011

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|----------------------------|------------------------|
| Standards Committee | 26 January 2012 |

This page is intentionally left blank

Article 9 - The Standards Committee

9.1 Standards Committee

The Council meeting will establish a Standards Committee.

9.2 Composition

(a) Membership

The Standards Committee will be composed of:

- nine Members, not more than one of whom is a member of the Executive (other than the Leader) and
- three persons who are not Members or officers of the Council (independent persons).

(b) Independent persons

Independent members will not be entitled to vote at meetings.

(c) Chairing the Committee

The committee chairperson shall be determined by the Standards Committee at its first meeting in the Municipal Year.

9.3 Role and Function

The Standards Committee will:-

- (a) promote and maintain high standards of conduct by Members, Co-Opted Members and church and parent governor representatives;
- (b) to advise and recommend to Council the adoption, revision or replacement of the Code(s)_of Conduct for Members, Co-Opted Members and Officers.
- (c) assist the Members and Co-Opted Members and church and parent governor representatives to observe the [Members' Code of Conduct](#);
- (d) monitor and review the complaints made under the Members Code of Conduct; including the operation of the [Members' Code of Conduct](#);
- (e) advise, train or arrange to train Members, Co-Opted Members and church and parent governor representatives on matters relating to the [Members' Code of Conduct](#);
- (f) establish, amend or revise arrangements under which allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members can be investigated (which shall include but not limited to developing and adopting procedures and protocols and authorising the Council's Monitoring Officer to make such changes to the arrangements as are

considered necessary for the effective and timely investigation of allegations.

- (g) establish, amend or revise arrangements under which decisions on allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Members' Code of Conduct can be made (which shall include but not limited to developing and adopting procedures and protocols and authorising the Council's Monitoring Officer to make such changes to the arrangements as are considered necessary for effective and timely decision making.
- (h) support the Monitoring Officer in the exercise of that Officer's ethical standards functions, in particular the duty to establish and maintain registers of interests for the Council.
- (j) in relation to Members or Co-Opted Members or church and/or parent governor representatives with pecuniary interests, putting in place arrangements to grant dispensations, in appropriate cases, from the restrictions on speaking and/or voting.
- (j) to exercise all other functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act 2011.
- (k) monitoring and reviewing as necessary the operation of whistle-blowing procedures;
- (l) considering reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its Members;
- (m) to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Council;
- (n) approve the payment of compensation involving sums in excess of £5,000 (or less, if considered appropriate) to settle complaints of maladministration.
- (o) establishing such sub-committees and/or panel as are required to discharge its role and the functions as set out in these Terms of Reference.

10.0 **Establishment of Panels**

- (a) The Standards Committee will establish a:
 - (i) Standards Panel; and a
 - (ii) Standards Appeals Panel

Terms of Reference of the Standards Panel

1. The Standards Panel will:
 - (a) Consider only those allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members that are specified in the arrangements established under paragraph 9.3(f) above.
 - (b) Consider and take into account the views of at least one independent person before making a decision on an allegation (falling within its remit) that the Members' Code of Conduct has been breached.
 - (b) The Standards Panel after consideration of a complaint may (pursuant to paragraph 9.3(g) above):-
 - (i) ask for additional information on the allegation before reaching a decision;
 - (ii) determine that no action should be taken in respect of the allegation(s) made;
 - (iii) determine that the Members' Code of Conduct has been proved to have been breached;
 - (c) Where the Standards Panel determines that the Members' Code of Conduct has been breached, it may:
 - (i) instruct the Monitoring Officer to write a formal warning letter to the Member reminding him/her of the need to comply with the Members' Code of Conduct; and/or
 - (ii) require the Member(s) to apologise to the complainant (whether verbally or in writing) for breaching the Members' Code of Conduct. Should the Member in question fail or refuse to do so promptly, the Monitoring Officer shall report this fact to the Member's Political Group Leader*; and/or
 - (iii) report the Panel's decision to a public meeting of the Standards Committee for reference/consideration; and/or
 - (iv) recommend to the Member's Political Group Leader* that disciplinary action should be taken against the Member in question and/or that he/she be removed from all (or some) outside bodies to which the Member has been appointed; and/or
 - (v) instruct the Monitoring Officer to arrange training for the Member in question who shall be required to attend. Should the Member fail to attend the training arranged, the Monitoring Officer shall report this fact to the Member's Political Group Leader*.

* In the event that the Member in question is the Political Group Leader, the recommendation shall be referred to the relevant Deputy Political Group Leader; in the event that the Members

in question are both the Political Group Leader and Deputy Political Group Leader, the recommendation shall be referred to the next most relevant senior Political Group Official/Spokesperson.

- (d) Where the Standards Panel determines that the Members' Code of Conduct has NOT been breached, it may:
 - (i) recommend, subject to the agreement of the Member against whom the allegation(s) has been made, that a Council media statement be issued upon the Council's website detailing the nature and outcome of the investigation into the allegations made and the decision of the Panel.
 - (ii) subject to the agreement of the Member against whom the allegation(s) has been made, report the Panel's decision to a public meeting of the Standards Committee;
- (e) The Standards Panel shall also consider under Sections 1 and 2 of the Local Government and Housing Act 1989: -
 - (a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and
 - b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

6. **Composition**

The Standards Panel shall comprise of 3 Members (one Member from each of the three main political parties) who shall be members of the Council's Standards Committee (unless an Alternate Member is nominated (see below)).

The spokesperson for each political group may nominate an 'Alternate Member' from his/her political group to sit on a Standards Panel, providing that the Member nominated has undertaken the requisite training on the Members' Code of Conduct (and any other training required by the Standards Committee).

No Member shall sit on the Standards Panel where he/she has a conflict of interest.

7. **Chairperson**

The Chairperson shall be appointed by the Standards Panel at each meeting.

Where the Standards Panel is considering an allegation of a breach of the Members' Code of Conduct, the Chairperson shall not be a Member of the

- same political party of the Member against whom the allegation(s) have been made.
8. **Quorum**
The quorum for a meeting of the Standards Panel shall be the 3 Members that make up its composition.
 9. **Frequency of Meetings** - The Standards Panel will only meet when required to undertake its role and discharge its functions as set out in these Terms of Reference.
 10. **Access to Information** – Where the Standards Panel is considering allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council’s Code of Conduct for Members under 1 (a) above, the matter shall be exempt from disclosure under paragraph 7C of the Council Access to Information Procedure Rules unless the Standards Panel at its meeting considers that the public interest in lifting the exemption outweighs maintaining the continued application of the exemption.

B. Terms of Reference of the Standards Appeal Panel

1. Where a complainant or Member or Co-opted Member is dissatisfied with the determination of a complaint by the Standards Panel, the Standards Appeal Panel will convene to re-consider the complaint providing that:
 - a. A request for permission to appeal is first made in writing, within 14 days of receipt of the Standards Panel’s Decision Notice, to the Monitoring Officer which details the procedural, legal and/or evidential issues relied upon in support of the request for permission; and
 - b. The Monitoring Officer being satisfied, having considered the views of the independent person, that (i) the request for permission raises valid procedural, legal and/or evidential issues and matters not previously considered by the Standards Panel, and/or that (ii) it is reasonable and equitable in all the circumstances of the case that permission to appeal be granted.
2. Where the Standards Appeal Panel has been convened pursuant to paragraph 1 above, the Standards Appeal Panel shall:
 - i. Consider the complaint/allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council’s Code of Conduct for Members.
 - ii. Consider and take into account the views of at least one independent person before making a decision on an allegation (falling within its remit) that the Members’ Code of Conduct has been breached.
3. (a) The Standards Appeal Panel after consideration of a complaint may (pursuant to paragraph 9.3(g) above:-

- (i) ask for additional information on the allegation before reaching a decision;
 - (ii) determine that no action should be taken in respect of the allegation(s) made;
 - (iv) determine that the Members' Code of Conduct has been proved to have been breached;
- (b) Where the Standards Appeal Panel determines that the Members' Code of Conduct has been breached, it may:
- (i) instruct the Monitoring Officer to write a formal warning letter to the Member reminding him/her of the need to comply with the Members' Code of Conduct; and/or
 - (ii) require the Member(s) to apologise to the complainant (whether verbally or in writing) for breaching the Members' Code of Conduct. Should the Member in question fail or refuse to do so promptly, the Monitoring Officer shall report this fact to the Member's Political Group Leader*; and/or
 - (iii) report the Panel's decision to a public meeting of the Standards Committee for reference/consideration; and/or
 - (iv) recommend to the Member's Political Group Leader* that disciplinary action should be taken against the Member in question and/or that he/she be removed from all (or some) outside bodies to which the Member has been appointed; and/or
 - (v) instruct the Monitoring Officer to arrange training for the Member in question who shall be required to attend. Should the Member fail to attend the training arranged, the Monitoring Officer shall report this fact to the Member's Political Group Leader*.

* In the event that the Member in question is the Political Group Leader, the recommendation shall be referred to the relevant Deputy Political Group Leader; in the event that the Members in question are both the Political Group Leader and Deputy Political Group Leader, the recommendation shall be referred to the next most relevant senior Political Group Official/Spokesperson.

- (c) Where the Standards Appeal Panel determines that the Members' Code of Conduct has NOT been breached, it may:
- (iii) recommend, subject to the agreement of the Member against whom the allegation(s) has been made, a Council press release be issued detailing the nature and outcome of the investigation into the allegations and the decision of the Panel.
 - (iv) subject to the agreement of the Member against whom the allegation(s) has been made, report the Panel's decision to a public meeting of the Council and/or the Standards Committee;

4. **Composition**

The Standards Appeal Panel shall comprise of 3 Members (one Member from each of the three main political parties) who shall be members of the Council's Standards Committee (unless an Alternate Member is nominated (see below)).

The spokesperson for each political group may nominate an 'Alternate Member' from his/her political group to sit on a Standards Appeal Panel, providing that the Member nominated has undertaken the requisite training on the Members' Code of Conduct (and any other training required by the Standards Committee).

No Member shall sit on (or otherwise attend, engage or interfere with) the Standards Appeal Panel where he/she has a conflict of interest.

5. **Chairperson** – The Chairperson shall be appointed by the Standards Appeal Panel at each meeting. Where the Standards Appeal Panel is considering an allegation of a breach of the Members' Code of Conduct, the Chairperson shall not be a member of the same political party of the Member against whom the allegation(s) have been made.

7. **Quorum**

The quorum for a meeting of the Standards Panel shall be the 3 Members that make up its composition.

9. **Frequency of Meetings** - The Standards Appeal Panel will only meet when required to undertake its role and discharge its functions as set out in these Terms of Reference.

10. **Access to Information** – Where the Standards Appeal Panel is considering allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members under 1 (a) above, the matter shall be exempt from disclosure under paragraph 7C of the Council Access to Information Procedure Rules unless the Standards Panel at its meeting considers that the public interest in lifting the exemption outweighs maintaining the continued application of the exemption..

This page is intentionally left blank

WIRRAL COUNCIL

MEMBERS' CODE OF CONDUCT

Introduction

The Localism Act 2011 requires the Council to adopt a Members' Code of Conduct with effect from 1 July 2012.

You are a representative of this Council and the public will view you as such therefore your actions impact on how the Council as a whole is viewed and your actions can have both positive and negative impacts on the Council.

This Code is based upon the "Nolan Principles-the seven principles of public life" which are set out at Schedule 1.

Interpretation

In this Code:-

"Meeting" means any meeting of:

- (a) the Council;
- (b) the executive of the Council;
- (c) any of the Council's or its executive's committees, sub-committees, joint committees or area committees;

whether or not the press and public are excluded from the meeting in question.

"Member" includes an appointed Member and Co-Opted Member.

General Obligations

1. When acting in your role as a Member of the Council:
 - 1.1 **DO** treat others with respect;
 - 1.2 **DO NOT** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members;
 - 1.3 **DO NOT** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where-
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;

- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is-
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) you have consulted the Monitoring Officer prior to its release.
- 1.4 **DO NOT** prevent another person from gaining access to information to which that person is entitled by law.
2. When using or authorising the use by others of the resources of the authority-
- 2.1. **DO** act in accordance with the Council's reasonable requirements including the requirements of the Council's ICT policy and the policies (attached to the Council's Constitution), copies of which have been provided to you and which you are deemed to have read;
 - 2.2. **DO** make sure that such resources are not used improperly for political purposes (including party political purposes); and
 - 2.3. **DO** have regard to nay applicable Local Authority Code of Publicity made under the Local Government Act 1986 (as amended).

Interests

- 3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests however when performing your public role as a member, **DO** act solely in terms of the public interest and **DO NOT** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
- 4. You are required to register "pecuniary and other interests" (these will be laid out in Regulations subject to these not being sensitive). Failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly provide false or misleading information about a pecuniary interest this will also be a criminal offence.

You are required to update your register of interests within 28 days of the date a disclosable pecuniary and other registerable interest arises.

5. Whilst there is no statutory requirement for you to declare or register any gifts or hospitality you receive (or benefit from) in your role as Councillor, you are required by the Council to declare or register any such gift or hospitality which has (or is estimated to have) a value in excess of twenty five pounds (£25.00). (This requirement is however is subject to change by future Regulations).

Disclosure and participation

6. At a meeting where such issues arise, **DO** declare any personal and/or professional interests relating to your public duties and **DO** take steps to resolve any conflicts arising in a way that protects the public interest.
7. Certain types of decisions, including those relating to a permission, licence, consent or registration for yourself, your friends, your family members, your employer or your business interests, are so closely tied to your personal and/or professional life that your ability to make a decision in an impartial manner in your role as a member may be called into question and in turn raise issues about the validity of the decision of the authority. **DO NOT** become involved in these decisions any more than a member of the public in the same personal and/or professional position as yourself is able to be and **DO NOT** vote in relation to such matters. (Further clarification is provided in Schedule 2 of this Code).
8. **DO NOT** improperly use knowledge gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer or your business interests.
9. Where you disclose a disclosable pecuniary interest, you must withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which you have an interest, except where you are permitted to remain as a result of a grant of a dispensation.

Pre-determination or bias

10. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however **DO NOT** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
11. When making a decision, **DO** consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

Interests arising in relation to overview and scrutiny committees (subject to Localism Act provisions)

12. In relation to any business before an overview and scrutiny committee of the Council (or of a sub-committee of such a committee) where-
- 12.1 that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - 12.2 at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.1 and you were present when that decision was made or action was taken; or
 - 12.3 that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Authority's Constitution or under delegated authority from the Leader):

You may attend a meeting of the overview and scrutiny committees of the Council or of a sub committees of such a committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purposes, whether under a statutory right or otherwise.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFISHNESS

Holders of the public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of the public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Schedule 2

Where the decision referred to in Clause 7 above relates to one of the functions of the authority set out below, and the condition which follows that function does not apply to you when making that decision, you may participate in the decision:

- (i) housing, where you are a tenant of your authority *unless* those functions relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or a parent governor of a school *unless* it relates particularly to the school which the child attends,
- (iii) statutory sick pay under Part XI of the School Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992

MEMBERS' CODE OF CONDUCT

PROTOCOL

Arrangements for Investigating and Making Decisions in relation
to allegations made under the Members' Code of Conduct

July 2012

Page 39

CONTENTS

| | | Page |
|-----|---|-------------|
| 1. | Interpretation | 3 |
| 2. | Introduction and Summary | 3 |
| 3. | What Can Be Dealt With Under This Local Protocol | 4 |
| 4. | What Cannot Deal With Under This Local Protocol | 4 |
| 5. | Acknowledging Receipt of a Standards Complaint | 5 |
| 6. | Anonymous Complaints | 5 |
| 7. | Pre-Assessment Reports and Enquiries | 5 |
| 8. | Referral of a Complaint for Investigation | 8 |
| 9. | Production of Documents, Information and Explanations | 9 |
| 10. | Interviews | 9 |
| 11. | Investigator's Report | 10 |
| 12. | Rights and Responsibilities of Members and the Investigator | 10 |
| 13. | Processing the Investigator's Report | 11 |
| 14. | Confidentiality of Information gathered during an Investigation | 11 |
| 15. | Role of Investigator and the Panels | 12 |
| 16. | Standards Panel | 12 |
| 17. | Notification of Standards Panel Decision and Right of Appeal | 13 |
| 18. | Request for permission to Appeal | 13 |
| 19. | Review Panel | 13 |
| 20. | Notification of Review Panel Decision | 14 |
| 21. | Access to Meetings and Decision Making | 14 |
| 22. | Confidentiality | 15 |
| 23. | Conflicts of Interest | 16 |
| 24. | Monitoring and Review | 16 |

| | | |
|-----|--|----|
| 25. | Failure to Comply with the Requirements of this Protocol | 16 |
| | | |
| 26. | Modification of Procedure | 16 |
| | | |

1. Interpretation

- 1.1 'Chairperson' refers to the relevant person presiding at the Standards Committee or the Standards Panel or Standards Appeal Panel.
- 1.2 'Complainant' means the person who is making the Standards Complaint.
- 1.3 'Investigator' means the Monitoring Officer or other person nominated by the Monitoring Officer (or his/her representative) to investigate a complaint.
- 1.4 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Panel and/or Standards Appeals Panel. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.
- 1.5 'Member(s)' includes all Elected Members of Wirral Council and all non-elected Co-Opted Members of any committee (including the Standards Committee and any Overview and Scrutiny Committee) (or any sub-committee) irrespective of whether they have any voting rights and also the Member's nominated representative.
- 1.6 'Monitoring Officer' means the employee appointed to this role by the Council pursuant to section 5 of the Local Government and Housing Act 1989 ('the 1989 Act'). (The Monitoring Officer has responsibility for ensuring that the Council acts lawfully and properly in everything it does.) 'Monitoring Officer' includes any Deputy Monitoring Officer appointed by the Monitoring Officer, whether generally or for a specific purpose, in accordance with the 1989 Act; and any person authorised by the Monitoring Officer to act on his/her behalf.
- 1.7 'Standards Complaint' means (i) a complaint made against a Subject Member alleging a potential breach of the Members' Code of Conduct/misconduct that is accepted by the Monitoring Officer as a valid complaint; and (ii) has been made in writing using the prescribed 'complaint form template' set out at Appendix 1 to this Protocol (unless otherwise accepted by the Monitoring Officer).
- 1.8 'Subject Member(s)' means the Member(s) of the Council who is the subject of an allegation(s) made under a Standards Complaint unless stated otherwise or the context so requires.

2. Introduction and Summary

- 2.1 This Protocol has been developed and established pursuant to paragraphs 9.3(f),(g) and (j) of the Terms of Reference of The Standards Committee set out at Article 9 of the Constitution.
- 2.2 Any action/steps taken, discretion exercised and decisions made pursuant to this Protocol must promote the following:
 - a. Fairness to all parties and in proceedings;
 - b. Accountability;
 - c. Transparency of decision making;
 - d. Efficiency; and
 - e. Value for money.

3. What Can Be Dealt With Under This Local Protocol

- 3.1 Complaints about the behaviour/conduct of a Member(s) must be made in writing using the prescribed 'complaint form template' set out at Appendix 1 to this Protocol (unless otherwise accepted by the Monitoring Officer) which is obtainable from Committee Services (or the Council's website), and addressed to the Monitoring Officer. In line with the requirements of the Equality Act 2010 (and other related legislation), the Council can make reasonable arrangements to assist people if they have a disability that prevents them from making a Standards Complaint in writing.
- 3.2 In order to avoid unnecessary use of public resources, the Complainant must specify on the complaint form template what the Subject Member(s) is alleged to have said or done, any corroborating evidence or details of people who will be able to provide it, and a copy of any documentary evidence the Complainant seeks to rely on.
- 3.3 Standards Complaints must be about a Member(s) breaking any part of the Council's Members' Code of Conduct. This includes:
- Unlawfully discriminating against someone.
 - Failing to treat people with respect.
 - Doing something to prevent those who work for the Council from being unbiased.
 - Revealing information that was given in confidence, or stopping someone getting information they are entitled to by law.
 - Damaging the reputation of their office or Council.
 - Using their position improperly to their own or someone else's advantage or disadvantage.
 - Misusing the Council's resources.
 - Allowing the Council's resources to be misused for the activities of a registered political party.
 - Failing to register a disclosable pecuniary interest or other relevant interest(s).
 - Failing to reveal a disclosable pecuniary interest at a meeting.
 - Failing to register any gifts or hospitality they have received in their role as a member, worth over £25.00.

4. What Cannot Deal With Under This Local Protocol

- 4.1 There are some complaints that are not legally capable of being dealt with under this Protocol, such as:
- Complaints about policy or decisions made.
 - Complaints where a Member(s) is not named.
 - Complaints that are not in writing (with the exception set out in paragraph 6.1 below or otherwise agreed by the Monitoring Officer).
 - Incidents or actions that are not covered by the Members' Code of Conduct or one of the Council's local protocols.
 - Incidents that are about a fault in the way the Council has or has not done something. This is known as maladministration and may be a matter for the Local Government Ombudsman.
 - Complaints about people employed by the Council – they will be dealt with through the Corporate Complaints Procedures or the Council's disciplinary procedures.
 - Complaints about the way in which the Council conducts and records its meetings - these should be referred directly to the Council's Monitoring Officer.

5. Acknowledging Receipt of a Standards Complaint

- 5.1 Unless paragraph 6.1 applies, within five working days of receipt, the Complainant shall be sent a written acknowledgement of the Standards Complaint.
- 5.2 Subject to the application of paragraphs 22.2, 22.4 and 22.6 below, within five working days of receipt of the Standards Complaint, the Subject Member(s) shall be sent a written notification and summary of the Standards Complaint received.
- 5.3 The Subject Member(s) shall not disclose (except to his/her advisor(s) confidentially) any information provided to him/her under paragraph 5.2 above to any other person/body without the express written consent of the Monitoring Officer.
- 5.4 Where a 'complaint' has been received which does not allege a potential breach of the Members' Code of Conduct/misconduct by a Member(s) or provides insufficient information to enable the 'complaint' to be progressed under this Protocol, the Monitoring Officer will inform the Complainant of this issue within five working days of receipt of the 'complaint' and advise the Complainant to either raise his/her issue through an alternative and more appropriate route (if available); or request that the Complainant provides further information in connection with the 'complaint'.
- 5.5 In the event that further information is provided by the Complainant, pursuant to paragraph 5.4 above, that enables the 'complaint' to be accepted as a Standards Complaint, paragraphs 5.1 and 5.2 above shall apply.
- 5.6 Where no further information is provided by the Complainant, pursuant to paragraph 5.4, no further action shall be taken in relation to the 'complaint' and the Monitoring Officer shall inform the Complainant accordingly.

6. Anonymous Complaints

- 6.1 No action shall be taken in respect of any anonymous 'complaints' received unless in the opinion of the Monitoring Officer to do so would be in the public interest. For example, if an allegation is made of a criminal nature and evidence is provided to support the allegation, the matter may be referred to the Police or the matter raised should be considered under the Council's Whistleblowing Policy.
- 6.3 Details of such allegations will be retained on file by the Monitoring Officer for future reference and monitoring purposes.

7. Pre-Assessment Reports and Enquiries

- 7.1 Upon receipt of a Standards Complaint, the Monitoring Officer may, if it is considered appropriate and/or necessary, ask the Complainant for clarification or additional information in relation to the complaint. The Monitoring Officer shall be entitled to undertake such preliminary enquiries as he/she considers necessary in order to carry out the Preliminary Assessment and Evaluation referred to in paragraph 7.2 below.
- 7.2 The Monitoring Officer shall, as soon as practicably possible after receipt of a Standards Complaint (and after receiving any clarification/information requested under paragraph 7.1 above), assess and evaluate the Standards Complaint to determine whether:

- (i) it can be dealt with by local resolution;
 - (ii) it is frivolous and/or vexatious;
 - (iii) it can be dealt with by adopting another approach that is considered more effective and/or efficient; or
 - (iv) it is appropriate to be referred for investigation (see paragraph 8 below)
- (“Preliminary Assessment and Evaluation”).

7.3 The Preliminary Assessment and Evaluation carried out by the Monitoring Officer under 7.2 above, must take into account of (i) the views of the Independent Person; (ii) the public interest, (iii) the comments of all three Political Group Leaders*; (iii) any guidance provided by Standards Committee; and (iv) paragraph 2.2 above.

[*In the event that the Subject Member is the Political Group Leader, the Monitoring Officer shall seek the views of the relevant Deputy Political Group Leader; in the event that the Subject Members are both the Political Group Leader and Deputy Political Group Leader, the Monitoring Officer shall seek the views of the next most relevant senior Political Group Official/Spokesperson.]

7.4 The suitability of an alternative course of action to an investigation of a Standards Complaint will be heavily influenced by the nature of the complaint. Certain Standards Complaints may indicate that there is a wider underlying problem/trend. Deciding to deal pro-actively with such a matter in a positive way that does not involve an investigation can be a sensible way of resolving the matter/Standards Complaint. This may be the simplest and most cost effective way of (i) getting the matter/Standards Complaint resolved promptly; (ii) helping the Council work more effectively; and (iii) avoiding similar complaints in the future.

7.5 The Monitoring Officer, in carrying out the assessment and evaluation under paragraph 7.2 above, may consider that it is appropriate and proportionate that an alternative course of action is taken in relation to Standards Complaint as it (i) enables a more satisfactory resolution to be achieved for all parties concerned; (ii) enables working practices or policies to be amended in light of the issues raised; and/or (iii) allows a better understanding of Members knowledge of the Members’ Code of Conduct and/or Council procedures to be gauged. Evidence of this may include:

- (a) a number of Members failing to comply with the same part(s) of the Code;
- (b) officers giving incorrect advice;
- (c) failure to adopt the Code; or
- (d) inadequate or incomplete protocols.

Other action may also be appropriate where a breakdown in relationships within the Council is apparent; evidence of this may include:

- (a) a pattern of allegations of disrespect, bullying or harassment;
- (b) factionalised groupings within the Council;
- (c) a series of ‘tit-for-tat’ allegations; or

- (d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures.

7.6 The Monitoring Officer should, as part of any Preliminary Assessment and Evaluation, take a practical approach to considering other action, taking into account the needs of the Council.

7.7 Unless otherwise stated within this Protocol, Standards Complaints that are referred for investigation under paragraph 7.2 (iv) above, will not be referred to the Standards Panel in the event that the other action undertaken has (or is perceived to have) failed due to no fault or reason on the part of the Subject Member(s). To do so in such circumstances is considered unfair to the Subject Member(s).

Local Resolution

7.8 If, following Preliminary Assessment and Evaluation, the Monitoring Officer is of the opinion that a local resolution of the complaint is possible and appropriate, he/she shall approach the Subject Member(s) and ask whether the he/she admits, denies or otherwise wishes to comment on the allegation made in the Standards Complaint; and whether he/she would be prepared to offer an apology or undertake other remedial action conducive to achieving a local resolution.

7.9 If the Subject Member(s) agrees to offer an apology or undertake other remedial action, and duly does so, the Standards Complaint shall not be progressed any further. In such circumstances there shall be no reporting of the Standards Complaint and/or its outcome to the Council or any Committee of Council other than as part of a periodic anonymous summary to the Standards Committee for monitoring and review purposes.

7.10 If the Monitoring Officer, whilst seeking local resolution of the Standards Complaint, is of the opinion that:

- (i) local resolution is unlikely to be achieved at all or within an acceptable timescale; and/or
- (ii) the Subject Member fails to offer an apology or undertake the agreed remedial action within the timescales agreed or within a reasonable time; and/or
- (iii) there has been a material change in circumstances (i.e. further information coming to light and issues being raised) since the Monitoring Officer undertook the Preliminary Assessment and Evaluation under paragraph 7.2;

then the Monitoring Officer shall refer the Standards Complaint and the additional information for investigation and the investigation report produced shall be considered by the Standards Panel.

Frivolous/Vexatious

7.11 If, following the Preliminary Assessment and Evaluation, the Monitoring Officer is of the opinion that the Standards Complaint is frivolous and/or vexatious, he/she shall inform the Complainant of his/her view and the reasons for reaching that conclusion. The Standards Complaint shall not be progressed any further and nor will there be a right of appeal against the decision of the Monitoring Officer in such circumstances.

Alternative approach

- 7.12 If, following the assessment and evaluation outlined above, the Monitoring Officer is of the opinion that an alternative approach exists that could achieve a more effective and efficient resolution of the Standards Complaint than that outlined in paragraphs 7.8 and 7.9 above, he/she shall adopt that approach accordingly and endeavour to achieve a resolution of the Standards Complaint.
- 7.13 If the Monitoring Officer, whilst seeking resolution of the Standards Complaint by adopting an alternative approach, under paragraph 7.12, is of the opinion that:
- (i) a resolution of the Standards Complaint is unlikely to be achieved at all or within an acceptable timescale; and/or
 - (ii) the Subject Member fails to co-operate or undertake the agreed remedial action within the timescales agreed or within a reasonable time; and/or
 - (iii) there has been a material change in circumstances (i.e. further information coming to light and issues being raised) since the Monitoring Officer undertook the Preliminary Assessment and Evaluation under paragraph 7.2;

then the Monitoring Officer shall refer the Standards Complaint and any other relevant information for investigation; and the investigation report produced shall be considered by the Standards Panel.

8. Referral of a Complaint for Investigation

- 8.1 Where the Monitoring Officer has determined that the Standards Complaint should be referred for investigation, he/she may undertake the investigation in person; or alternatively, (i) appoint another person (including the Deputy Monitoring Officer); or (ii) another appropriate officer (having regard to the nature of the allegations); or (iii) a Monitoring Officer/Deputy Monitoring Officer of another local authority; or (iv) an external Investigator of appropriate experience and standing, (an 'Investigator'), to undertake the investigation.
- 8.2 Within five working days of the Monitoring Officer's decision that the Standards Complaint should be investigated, he/she will:
- (i) begin to investigate the matter personally; or
 - (ii) appoint an Investigator and instruct him/her to conduct an investigation of the Standards Complaint and to report his/her findings to the Monitoring Officer and subsequently to the Standards Panel.
- 8.4 The Monitoring Officer may appoint another person (or other persons) to assist him/her or the Investigator in the conduct of his/her functions.
- 8.5 The investigation will be carried out having regard to any guidance provided by the Standards Committee and/or the Monitoring Officer; and shall normally be completed (i.e. a final report produced) within twelve weeks from the date the decision was made that the Standards Complaint should be investigated. The timescale for investigation may take longer when dealing with complex complaints or where there are large numbers of

witnesses. In such cases the Monitoring Officer will ensure that the process is dealt with in a timely manner; concluded as soon as reasonably practicable; and that the Complainant, Subject Member(s) and Chairperson of the Standards Committee are kept informed as to progress.

- 8.6 The Monitoring Officer shall ensure that the investigation is conducted in a manner that is appropriate to the seriousness of the complaint and compliant with natural justice and human rights. The Monitoring Officer shall have regard to all relevant considerations, including: the extent to which allegations are supported by any evidence; the Council's financial position; and the public interest.

9. Production of Documents, Information and Explanations

- 9.1 In the course of the investigation, the Investigator (and any person authorised on his/her behalf) may make such enquiries of any person (and/or request any person to provide any document, information or explanation), as he/she thinks necessary for the purposes of carrying out the investigation.

10. Interviews

10.1 Timescale

The Investigator will make arrangements for interviews with relevant persons within ten working days of being appointed. If it subsequently becomes apparent that there needs to be further interviews (or other evidence provided) this will be dealt with as soon as reasonably practicable.

10.2 Requesting attendance

- (i) In the course of the investigation the Investigator may request any person to attend and appear before him/her or otherwise provide advice or information, as he/she thinks necessary for the purposes of carrying out the investigation.
- (ii) The Complainant, Subject Member and other relevant Members (as determined by the Investigator) shall co-operate fully with the Investigator and make themselves available for interview within a reasonable period of time (which must not exceed 21 days) of the Investigator requesting a convenient time and date for interview.
- (iii) In the event that the Complainant or Subject Member(s) fail to respond to a request for interview or fail to make him/herself available for interview within 21 days of the Investigator request for interview or fail to co-operate fully with the Investigator thereby leading to unnecessary and/or unacceptable delay, the Monitoring Officer shall be entitled, after seeking the views of the Independent Person, to instruct the Investigator to complete the investigation and final report without interviewing the Complainant or Subject Member(s).

10.3 Representation

Any person who is interviewed by the Investigator may be accompanied (at their own expense) by one friend/adviser provided that that person is not a witness in the same investigation.

10.4 Notes of interviews

Where reasonably practicable, following the interview the Investigator will produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask him/her to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

11. Investigator's Report

- 11.1 The Investigator will decide whether it is appropriate to produce a draft report or to produce a final report without first producing a draft report; a draft report will only be produced in the case of unusually lengthy or complex investigations. In either event, the Investigator may wish to confirm the accuracy of parts of the report directly with the Complainant and/or any other persons interviewed during the investigation.
- 11.2 The draft report will be marked "Confidential" and "Draft". It will also make clear that the draft report does not necessarily represent the Investigator's final findings and that a final report will be presented to the Standards Panel once the Investigator has considered any comments received on the draft report.
- 11.3 The Investigator will then send a copy of his/her draft report to the Complainant and Subject Member(s), who will be afforded the opportunity to make comments on the draft report for consideration by the Investigator. All such comments shall be made by the Complainant and Subject Member(s), to the Investigator, within ten working days of receipt of the draft report.
- 11.4 The Investigator shall, upon receipt of any comments received under paragraph 11.3 above, will consider such comments when preparing his/her final report.

12. Rights and Responsibilities of Members and the Investigator

- 12.1 Depending upon the seriousness of the allegations and the available evidence, the Investigator may also interview other persons named by the Subject Member(s) or the Complainant if the Investigator considers such persons may assist the investigation. Neither the Subject Member(s) nor the Complainant shall seek to interview any person who may be of assistance to the investigation.
- 12.2 The Subject Member(s) and Complainant may provide the Investigator with any documents and information they would like the Investigator to examine as part of the investigation, or the contact details of persons they would like the Investigator to interview.
- 12.3 The Complainant and Subject Member(s) will normally be interviewed face-to-face by the Investigator. Other witnesses may be interviewed by telephone or invited to make written submissions, as the Investigator considers appropriate. The Subject Member(s) will normally be given an opportunity to comment upon all evidence submitted by the Complainant (or others) to substantiate the complaint.
- 12.4 It is a breach of the Members' Code of Conduct to attempt to intimidate the Investigator or Members of the Standards Committee, or any witness, potential witness or any other person in relation to the Standards Complaint and any investigation. Neither the Complainant nor Subject Member(s) should attempt to discuss or otherwise

communicate matters and issues relating to a Standards Complaint in which they are involved with Members of the Standards Committee. Should the Complainant or Subject Member(s) have any queries or concerns in respect of the Standards Complaint or investigation, then he/she should raise them directly with the Monitoring Officer in writing.

- 12.5 Anyone involved with the investigation will be advised that they may be compromising their position if they communicate with the media on matters relevant to the investigation whilst the investigation is ongoing and that any communication that is made should emanate from the Council's communication team.
- 12.6 It is the responsibility of the Investigator to seek to discover the facts in an impartial and thorough manner. It is the responsibility of the Standards Panel (and Standards Appeal Panel) to determine the facts and decide whether there has been a failure to comply with the Code of Conduct.

13. Processing the Investigator's Report

- 13.1 Within five working days from receipt of the Investigator's report the Monitoring Officer shall send a copy of the Investigator's final report to both the Complainant and the Subject Member(s).
- 13.2 In the event that the Investigator in his/her final report concludes that the Members' Code of Conduct has not been breached (and the Monitoring Officer is satisfied, after seeking the views of the Independent Person, with the investigation and the Investigator's final report), then no further action shall be taken in respect of the Standards Complaint and the matter shall be closed. The Monitoring Officer shall, with agreement of the Subject Member(s), arrange for a Council media statement to be issued in relation to the Standards Complaint and the findings/outcome of the investigation.
- 13.3 Where the Investigator has concluded in his/her final report that the Members' Code of Conduct has been breached, the Monitoring Officer shall, within 10 working days of receipt of the Investigator's final report, write to the Complainant and Subject Member requesting that they complete relevant forms to enable the Standards Panel to be convened at a convenient time and date to all parties to consider the Investigator's Report. Responses must be returned to the Monitoring Officer within ten working days of the request being made. Should either the Complainant or Subject Member(s) fail to reply, a reminder will be sent to him/her allowing a further five working days to reply. Should a reply still not be received, the Monitoring Officer shall be entitled to assume that the Complainant or Subject Member(s) (as applicable) does not dispute the findings and conclusions of the Investigator's final report and does not wish to participate in the Standards Panel hearing.

14. Confidentiality of Information gathered during an Investigation

- 14.1 Information gathered during an investigation will be treated as confidential until it is reproduced in the form of a final report. Anyone involved in the investigation or is interviewed will be required to maintain confidentiality and any Member (including the Subject Member) will be reminded of his/her obligation under part 1.3 of the Members' Code of Conduct not to disclose information they have received in confidence.
- 14.2 If a draft report is issued in relation to the outcome of the investigation, it will be marked "confidential", to preserve the integrity of the final report or any further investigation that may need to be carried out, and must not be disclosed by the recipient to another person

(unless disclosure is to his/her advisor(s) confidentially).

15. Role of Investigator and the Panels

- 15.1 The function of the Investigator is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Standards Panel (and the Standards Appeals Panel as applicable), to assist it in determining whether the Subject Member has failed to comply with the Members' Code of Conduct as alleged in the Standards Complaint.
- 15.2 It is essential that the Investigator acts, at all times, in a manner that is impartial and fair to all parties.
- 15.3 The Standards Panel (and the Standards Appeals Panel as applicable) shall act in an inquisitorial manner seeking the truth in relation to the conduct of the Subject Member and on the balance of probabilities reach a decision having regard to all relevant representations, evidence and information adduced.

16. Standards Panel

- 16.1 Where a Standards Complaint has been referred for investigation and a finding of a breach has been found by the Investigator, the Standards Panel shall be convened within 20 working days of the Monitoring Officer receiving the Investigator's final report.
- 16.2 The Standards Committee shall consider and/or have regard to:
- (i) the Investigator's final report;
 - (ii) the views of the Independent Person;
 - (iii) material factors, relevant issues and evidence;
 - (iv) relevant representations made by the parties,
 - (v) available guidance and advice; and
 - (iii) any aggravating and/or mitigating factors (as considered appropriate).

It will then reach one of the following decisions in respect of the complaint:

- (a) Agree with findings and conclusions of the Investigator as set out in the Investigator's final report; or
 - (b) Reach an alternative decision as permitted under its Terms of Reference.
- 16.3 All relevant parties shall be entitled to attend the meeting of the Standards Panel. The Panel will afford all relevant parties the opportunity to make representations to the Panel in support of their respective positions. Whilst the parties will not be entitled to cross-examine each other, they will be entitled to challenge and rebut any evidence adduced or representations made by the other.
- 16.4 Sanctions
If the Standards Panel determines that the Members' Code of Conduct has been breached, it may impose one or more of the sanctions detailed within its terms of reference.
- 16.5 The Standards Panel may commission further investigation/s or request additional information as necessary to enable it make a decision in relation to the Standards

Complaint; and accordingly adjourn the consideration of a Standards Complaint to another meeting.

17. Notification of Standards Panel Decision and Right of Appeal

17.1 The Standards Panel decision and its reasons shall be confirmed in writing to the Complainant and the Subject Member(s) within normally five working days of the Standards Panel meeting. The Complainant and Subject Member(s) have a right to seek permission to appeal to the Standards Appeal Panel against the decision of the Standards Panel in accordance with paragraph 18 below.

18. Request for permission to Appeal

18.1 If the Complainant or Subject Member(s) is dissatisfied with the decision of the Standards Panel, he/she may seek permission to appeal to the Standards Appeal Panel against the decision on the grounds set out below.

18.2 Any request seeking permission to appeal must be made in writing to the Monitoring Officer within 21 working days of receipt of the Standards Panel's decision.

18.3 The Monitoring Officer shall acknowledge any request seeking permission to appeal made under paragraph 18.2 within 5 working days of receipt.

18.4 A request seeking permission to appeal will only be valid and accepted providing:

- (i) it confirms the procedural, legal and/or evidential issues are relied upon in support of the request; and
- (ii) the Monitoring Officer is satisfied, having considered the views of the Independent Person, that (a) significant and/or important procedural, legal and material evidential issues have been raised; and/or (b) it is considered reasonable and equitable in the circumstances that the request for appeal be permitted.

The Monitoring Officer shall make a decision in respect of the request within 5 working days and promptly notify the Complainant and Subject Member of his/her decision.

19. Review Panel

19.1 The Monitoring Officer shall convene a meeting of the Standards Appeal Panel to consider the appeal within 20 working days (or as soon as practicable thereafter) of his/her decision to allow an appeal under paragraph 18.4 above.

19.2 The Monitoring Officer shall, within 10 working days of allowing the appeal, write to the Complainant and Subject Member requesting that they complete relevant forms to enable the Standards Appeal Panel to be convened at a convenient time and date to all parties to hear the appeal. Responses must be returned to the Monitoring Officer within ten working days of the request being made. Should either the Complainant or Subject Member(s) fail to reply, a reminder will be sent to him/her allowing a further five working days to reply. Should a reply still not be received, the Monitoring Officer shall be entitled to assume that the Complainant or Subject Member(s) (as applicable) does not dispute

the findings and conclusions of the Investigator's final report and does not wish to participate in the Standards Appeal Panel hearing.

19.3 The Standards Appeal Panel will consider and/or have regard to:

- (iv) the Investigator's report;
- (v) the views of the Independent Person;
- (vi) material factors, relevant issues and evidence;
- (iv) relevant representations made by the parties,
- (v) available guidance and advice; and
- (iii) any aggravating and/or mitigating factors (as considered appropriate).

The decision and reasons of the Standards Panel relating to the Standards Complaint shall not be disclosed to the Standards Appeal Panel.

The Standards Appeal Panel will then reach one of the following decisions in respect of the appeal:

- (a) Agree with findings and conclusions of the Investigator as set out in the Investigator's final report; or
- (b) Reach an alternative decision as permitted under its Terms of Reference.

19.4 All relevant parties shall be entitled to attend the meeting of the Standards Appeal Panel. The Panel will afford all relevant parties the opportunity to make representations to the Panel in support of their respective positions. Whilst the parties will not be entitled to cross-examine each other, they will be entitled to challenge and rebut any evidence adduced or representations made by the other.

19.5 Sanctions

If the Standards Appeal Panel determines that the Members' Code of Conduct has been breached, it may impose one or more of the sanctions detailed within its terms of reference.

19.6 The Standards Appeals Panel may commission further investigation/s or request additional information as necessary to enable it make a decision in relation to the appeal; and accordingly adjourn the consideration of the appeal to another meeting.

20. Notification of Review Panel Decision

20.1 The Standards Appeal Panel decision and its reasons shall be confirmed in writing to the Complainant and the Subject Member, within normally five working days of the Standards Appeal Panel considering the Standards Complaint. The Complainant and Subject Member do not have a right to of appeal against the decision of the Standards Appeal Panel.

21. Access to Meetings and Decision Making

21.1 Where the Standards Panel or Standards Appeals Panel is considering allegations that a Subject Member has failed, or may have failed, to comply with the Members' Code of Conduct, the Standards Complaint and all associated reports, documents, information and the like shall be exempt from disclosure under paragraph 7C of the Council Access to Information Procedure Rules unless the Standards Panel or the Standards Appeals

Panel at its meeting considers that the public interest in lifting the exemption outweighs the public interest in maintaining the exemption.

21.2 Agendas and papers for meetings of the Standards Panel and Standards Appeals Panel shall be distributed in accordance with the Council's Access to Information Procedure Rules.

21.3 The publication of Standards Panel and Standards Appeals Panel decisions and associated information shall be kept for six years from the date of the decision.

22. Confidentiality

22.1 Unless otherwise permitted under this Protocol or required by legislation, a Standard Complaint (and all associated information, documents, information) shall remain confidential until such time that the Monitoring Officer, or Standards Committee, or the Standards Panel or the Standards Review Panel, consider it appropriate (if at all) to disclose the Standards Complaint (and all associated information, documents, information) in the public domain.

22.2 The Subject Member(s) will (unless otherwise stated in this Protocol) be sent a summary of the complaint within five working days of receipt unless the Monitoring Officer believes to do so would:

- (a) put the complainant at risk of bullying, harassment or intimidation;
- (b) put other witnesses at risk of bullying, harassment or intimidation;
- (c) prejudice any investigation;
- (d) prejudice any other action from being taken;
- (e) not be in the public interest; and/or
- (f) not be consistent with guidance provided by the Standards Committee or Secretary of State.

22.3 The Subject Member shall not disclose (except to his/her advisor(s) in confidence) any information provided to him/her under paragraph 22.2 above without the express written consent of the Monitoring Officer.

22.4 Any request by the Complainant to keep his/her name confidential will be considered by the Monitoring Officer within five working days of receipt of any such request and the decision (with reasons) communicated to the Complainant in writing. Where the request is refused, the complainant may be afforded the opportunity to withdraw the Standards Complaint. However, where the Standards Complaint relates to a serious matter, the Monitoring Officer reserves the right to progress the Standards Complaint in accordance with this Protocol.

22.5 In exceptional circumstances, despite the Monitoring Officer agreeing to the Complainant's identity being kept confidential under paragraphs, 22.1, 22.2 and/or 22.4 above, the confidential details in question may still become known in the public domain or have to be provided for other reasons and purposes which disclosing them in the public domain.

22.6 The Subject Member will not be informed/notified of the Standards Complaint and/or the identity of the Complainant, in accordance with paragraph until after the Monitoring Officer has considered the Standards Complaint and made a determination in relation to any request for confidentiality made under paragraph 22.4 above.

23. Conflicts of Interest

23.1 Members and officers shall not take part in meetings of the Standards Panel or Standards Appeal Panel where any of the following circumstances apply:

- (a) The complaint is likely to affect the well-being or financial position of that Member or officer or the well-being or financial position of a friend, family member of person with whom they have a close association.
- (b) The Member or officer is directly or indirectly involved in the Standards Complaint and/or investigation in any way.
- (c) A family member, friend or close associate of the Member or officer is involved in the Standards Complaint and/or investigation.
- (d) The Member or officer has an interest in any matter relating to the Standards Complaint and/or investigation. For example, it concerns a Member's failure to declare an interest in a planning application in which the Member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.

24. Monitoring and Review

24.1 For monitoring and review purposes, the Monitoring Officer shall provide the Standards Committee, at each of its meetings (unless otherwise directed by the Standards Committee), an anonymous summary (unless the information is already in the public domain) of all Standards Complaints received, their progress, outcome and any costs incurred.

25. Failure to Comply with the Requirements of this Protocol

25.1 Failure by a Member to comply with the reasonable requirements of the Investigator, or this Protocol, may result in a complaint being made to or by the Monitoring Officer under the Members' Code of Conduct.

26. Modification of Procedure

26.1 The Monitoring Officer, in consultation with the Chairperson of the Standards Committee and Political Group Leaders (or their nominated spokesperson), may vary the procedures and practices detailed in this Protocol where the variation is considered (i) necessary to ensure the effective and timely administration, investigation and/or determination of a Standards Complaint; and (ii) it is fair and equitable to do so. Any such variation shall be recorded in writing (which shall include the reasons for the variation) be signed by the Chairperson of the Standards Committee and reported to the next meeting of the Standards Committee.

This page is intentionally left blank



Complaint Form

Members' Code of Conduct

| | |
|--------------------|--|
| Title: | |
| First name: | |
| Last name: | |

| | |
|---------------------------|--|
| Address: | |
| Daytime telephone: | |
| Evening telephone: | |
| Mobile telephone: | |
| Email address: | |

| | |
|--------------------------|--|
| Date of Complaint | |
|--------------------------|--|

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, it will be necessary (unless otherwise determined by the Monitoring Officer) to inform the following people that you have made this complaint:

- the Member(s) you are complaining about;
- the Monitoring Officer authorised representatives/advisors; and if necessary
- any investigator appointed; and/or
- witnesses involved in the investigation.

Please note that (unless otherwise determined by the Monitoring Officer) your name and a summary of your complaint (or in some cases where justified a full copy of your complaint) will be provided to those persons mentioned above.

If you have serious concerns about your name and a summary (or full copy of your complaint), or any details of your complaint being disclosed, please complete section 5 of this form.

1. Please tell us which statement best describes you:

- Member of the Public
- Elected or Co-Opted Member of an authority
- Member of Parliament
- Local Authority Monitoring Officer
- Other Council Officer or Council employee
- Other ()

2. Equality monitoring questions - please fill in the monitoring form attached to this complaint form.

Making your complaint

On receipt of your complaint the Monitoring Officer will be considered in accordance with the Council's Protocol: Arrangements for Investigating and Making Decisions in relation to allegation made under the Members' Code of Conduct.

Please return your completed complaint form to the Council's Monitoring Officer, by post or email, at the address shown at section 11 of this form.

3. Please provide us with the name of the Member(s) you believe have breached the Members' Code of Conduct and the name of their authority:

| Title | First name | Last name | Council or authority name |
|-------|------------|-----------|---------------------------|
| | | | |
| | | | |
| | | | |
| | | | |

4. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe amounts to a breach of the Members' Code of Conduct.

If you are complaining about more than one Member you should clearly explain what each individual Member has done that you believe amounts to a breach of the Members' Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when he/she undertakes his/her Preliminary Assessment and Evaluation of your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member(s) said or did. For instance, instead of writing that the Member insulted you, you should state what was actually said.

- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation.
- If the conduct alleged took place over three months before submitting this complaint please explain why the complaint was not made sooner.

DETAILS OF YOUR COMPLAINT:

(Please note that the box will automatically expand as required)

5. Only complete this next section if you are requesting that your identity is kept confidential

In the interests of fairness and in compliance with the rules of natural justice, we believe a Member(s) who is complained about has a right to know who has made the complaint and the substance of the allegation(s) made against him/her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:

- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same);
- the matter is the subject of an investigation by another public body e.g. the Police and that investigation may be prejudiced as a result of disclosure; or
- you believe that you may receive less favourable treatment from the Council because of the seniority of the Member(s) against whom you are making the complaint.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint, and will then contact you with the decision. If your request for confidentiality is not granted, you will usually be afforded the opportunity of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is serious, the Monitoring Officer can proceed with an investigation or other action and disclose your name even if you have expressly asked that it remains confidential.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

(Please note that the box will automatically expand as required)

6. Remedy Sought

Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

Please provide details of the remedy sought:

(Please note that the box will automatically expand as required)

7. Additional Help

Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, reasonable adjustments will be made to assist you, should you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

8. Process from here

Once a valid complaint relating to an alleged breach of the Members' Code of Conduct has been received by the Monitoring Officer, it will be assessed and

evaluated by the Monitoring Officer in accordance with the Council's Protocol: Arrangements for Investigating and Making Decisions in relation to allegation made under the Members' Code of Conduct.

The Monitoring Officer may seek clarification or further information from you.

The Monitoring Officer will decide whether the complaint:

- (i) should be dealt with by local resolution;
- (ii) is frivolous and/or vexatious;
- (iii) can be dealt with by adopting another approach that is considered more effective and/or efficient; or
- (iv) is appropriate to be referred for investigation.

You will be informed of the Monitoring Officer's decision in writing and any applicable next steps in the process.

(Please note that the Council's Protocol: Arrangements for Investigating and Making Decisions in relation to allegation made under the Members' Code of Conduct, is available on the Council's website and details the process and procedures for dealing with complaints).

10. Contact Details:

Bill Norman

Monitoring Officer and Proper Officer

Wirral Council
Town Hall
Brighton Street
Wallasey
Wirral
CH44 8ED

Tel: 0151 691 8498

Fax: 0151 691 8482

E-mail: billnorman@wirral.gov.uk

Improving Access to Services Monitoring Form**Why is the council asking you for information?**

We want to ensure that all Wirral residents can access all of our services, and to ensure you all receive an appropriate and relevant service dependent upon your needs.

We need your help in order for us to do that.

We are asking you to provide us with vital personal information, which will be anonymous and cannot be attached to your name or address. We need this information to build a picture of who uses our services. This will also help us to identify which local communities are not accessing our services and why.

The information you provide is voluntary, you do not have to complete some or all of the questions.

However, the more information you provide the more we can ensure continuous improvements to our services.

1. Which council service are you enquiring about?**2. Your Gender**

Male

Female

(please tick one box)

YES / NO Is your gender identity the same as the gender you were assigned at birth? (please delete as appropriate)

3. Your Age

Please state your date of birth

4. Your Ethnicity

(Please tick one box or state your ethnicity)

A. White

- English
- Other British
- Irish
-] Any other White background (please state)

B. Mixed

- White & Black Caribbean
- White & Black African
- White & Asian
-] Any other Mixed background (please state)

C. Asian or Asian British

- Indian
- Pakistani
- Bangladeshi
- Chinese
-] Any other Asian background (please state)

D. Black or Black British

- Caribbean
- African
-] Any other Black background (please state)

E. Other Ethnic Group

- Arab
- Gypsy / Romany / Irish Traveller
-] Any other Ethnic Group (please state)

5. Your Disability

Do you consider yourself to be a disabled person?

YES / NO (please delete as appropriate)

6. Your Sexual Orientation

- Heterosexual
- Lesbian or Gay
- Bisexual

(please tick one box)

7. Your Religion or Belief

What is your religion?

- None
- Christian (including Church of England, Catholic, Protestant & all other Christian denominations)
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh
-] Any other religion (please state)

What is your belief?

- Humanist
- Atheist
- Agnostic
- Pagan
-] Any other belief (please state)

Thank you very much for completing this form

EXPLANATORY NOTE

Localism Act 2011 and the Standards Regime

INTRODUCTION

1. Localism Act 2011

- 1.1 The main elements of the new Council standards regime are contained within Chapter 7 and Schedule 4 of the Localism Act.
- 1.1 The intention is that the new standards regime will be more cost effective, efficient, less formal, less time consuming and more proportionate.
- 1.2 One significant change made by the Localism Act will be the abolition of Standards for England, which will cease to exist after 31 March 2012.
- 1.3 DCLG has stated that Standards for England will cease to regulate Member Standards as from 31 January 2012.
- 1.4 Both The Relevant Authorities (General Principles) Order 2001, which sets out the principles which currently govern the conduct of Members and Co-opted Members of relevant authorities in England and Police Authorities in Wales; and The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159), which prescribes the model code of conduct to apply to Members of relevant authorities, will be revoked.
- 1.5 The changes to the standards regime will come into force on 1 July 2012.

LOCALISM ACT: THE STANDARDS REGIME

2. New Duty and Arrangements

- 2.1 The Council, under Section 27(1) of the Localism Act, “must promote and maintain high standards conduct by Member and Co-opted Members” of the Council.
- 2.2 In discharging the duty mentioned in paragraph 2.1 above, the Council must adopt a code dealing with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity.¹
- 2.3 The Council must also have in place arrangements under which:

- a. allegations can be investigated, and

¹ Section 27(2) Localism Act 2011

b. decisions on allegations can be made.²

2.4 Independent Person: The arrangements referred to above, must include provision for the appointment by the Council of at least one independent person –

a. whose views are to be sought, and taken into account, by the Council before it makes its decision on an allegation that it has decided to investigate; and

b. whose view may be sought –

i) by the Council in relation to allegations that are not subject to investigation; and

ii) by a Member/Co-opted Member of the Council if the person's behaviour is subject to an allegation.

2.5 A person cannot be an Independent Person for the purposes of the Localism Act if at any time during the 5 years ending with the appointment, the person was:

i) a Member/Co-opted Member or officer of the Council; or

ii) a relative or close friend of anyone mentioned in i) above.³

2.6 The appointment of a Independent Person(s) must be by public advert, an application process being adopted and the appointment by a majority of the Members of the Council.

2.7 Secretary of State guidance is awaited on the definition of an Independent Person under the Localism Act. On the strict literal interpretation of this provision, all current independent members of the Council's Standards Committee would fall outside the definition of "Independent Person" under the Localism Act.

3. The Code of Conduct

3.1 The Council must ensure that the Member Code of Conduct, when viewed as a whole, deals with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity" ("the Member Code of Conduct").

3.2 The Council is permitted to either revise its existing Members' Code of Conduct or adopt a new code of conduct as a replacement.

3.3 The Localism Act requires the Member Code of Conduct to be consistent with the following principles⁴:

² Section 28(6) Localism Act 2011

³ Section 28(8) Localism Act 2011

⁴ Section 28(1) Localism Act 2011

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership.

3.4 The Localism Act further requires the new Member Code of Conduct to include the arrangements the Council considers appropriate with regards the registration and disclosure of –

- pecuniary interests; and
- interests other than pecuniary interests.⁵

4. Disclosure and Registration of Members Interests

4.1 Members and Co-opted Members of the Council have a legal obligation⁶ to notify the Council’s Monitoring Officer of any “disclosable pecuniary interest” for the purposes of inclusion within the register of Interests.

4.2 “Disclosable pecuniary interest”: This is defined under Section 30(3) Localism Act and includes:

- a. an interest of the Member/Co-opted Member; or
- b. an interest of:
 - i. the Member’s/Co-opted Member’s spouse or civil partner;
 - ii. a person with whom the Member/Co-opted Member is living as husband and wife; or
 - iii. a person with whom the Member/Co-opted Member is living as if they were civil partners.

and the Member/Co-opted Member is aware that other person has the interest.

4.3 Further guidance on the definition of a “disclosable pecuniary interest” is awaited from the Secretary of State.

4.4 Notification Period: A new (or re-elected) Member of the Council must notify the Monitoring Officer of any “disclosable pecuniary interest” (or any unregistered “disclosable pecuniary interest” if the case of a re-elected Member) before the end of 28 days beginning with the day on which the persons becomes a Member/Co-opted Member of the Council.

⁵ Section 28(2) Localism Act 2011

⁶ Section 30(1) Localism Act 2011

4.5 There is provision for Regulations to be made requiring the Monitoring Officer to establish and maintain a Register of Interests of Members and Co-opted Members of the Authority. Regulations can make provision:

5. Register of Interests

5.1 The Council's Monitoring Officer is required to establish and maintain a register of interests of the Members and Co-opted Members of Council.

5.2 Where an interest is disclosed by a Member/Co-opted Member, the Monitoring Officer must record that interest (irrespective of whether it is a "disclosable pecuniary interest") in the register of interests.

5.3 The Register of Interests must be available for inspection and must be published on the Council's website.

6. Disclosing interests at Council meetings

6.1 Unless otherwise registered in the register of interests (as referred to above), a Member/Co-opted Member attending a Council meeting (i.e. meeting of the Council, or any committee, sub-committee, joint committee or sub-joint committee of the Council), must disclose that "disclosable pecuniary interest(s)" to the meeting.

6.2 A Member/Co-opted Member does not have to disclose the nature of the disclosable pecuniary interest if it is sensitive. A sensitive disclosable pecuniary interest is one which if disclosed could lead to the Member/Co-opted Member or a person connected with him/her, being subjected to violence or intimidation.⁷

6.3 Where an unregistered disclosable pecuniary interest is disclosed at a meeting, the relevant Member/Co-opted Member must notify the Monitoring Officer of the disclosable pecuniary interest within 28 days of the date of the meeting in question.

6.4 Participation at Meetings: Where a Member/Co-opted Member discloses an unregistered disclosable pecuniary interest (whether it be sensitive or not) at a Council meeting (as described at paragraph 6.1 above), then the Member/Co-opted Member must not:

- i. participate or further participate in any discussion of the matter at the Council meeting;
- ii. participate in any vote, or further vote, taken on the matter at the Council meeting.

(Unless otherwise granted a dispensation by the Council).

7. Failure to disclose Interests/Sanctions

7.1 A person commits an offence if, without reasonable excuse, he/she fails to register or disclose a "disclosable pecuniary interest" as required or knowingly or recklessly

⁷ Section 32 Localism Act

provides information in relation to a “disclosable pecuniary interest” that is false or misleading.⁸

- 7.2 A person who commits an offence, as outlined in paragraph 7.1, shall upon summary conviction be liable to a fine not exceeding £5,000.00 and may be disqualified for a period not exceeding 5 years from being or becoming a Member or Co-opted Member of a Council.
- 7.3 The Localism Act removes the power of the Council to suspend a person being Member/Co-opted Member.
- 7.4 Any criminal proceedings shall be brought by or on behalf of the Director of Public Prosecutions and may be brought within 12 months of the date evidence existed that was both in the knowledge and to the opinion of the prosecutor, sufficient to warranted proceedings. There is however a three year limitation period that applies to all conduct.

8. Standards Committee

- 8.1 There is no specific requirement under the Localism Act to retain the Council’s Standards Committee. However, the Standards Committee Working Group is of the view that a Standards Committee is required to:
- a. Assist the Council discharge its duty to promote and maintain high standards conduct by Member and Co-opted Members of the Council; and
 - b. Ensure appropriate and effective arrangements are in place to:
 - i. Investigate allegations into conduct;
 - ii. Make decisions in relation to allegations against conduct;
 - iii. Monitor standards issues and matters;
 - iv. Deal with requests for dispensations;
 - v. Consider and approve training; and
 - vi. Evaluate and assess applications received for the position of Independent Person.
- 8.2 There is no restriction on the number of Standards Committees or Sub-Committees that the Council can establish.

Surjit Tour
Head of Legal & Member Services

17 January 2012
Updated 12 April 2012

⁸ Section 34 Localism Act 2011

This page is intentionally left blank

STANDARDS COMMITTEE WORKING GROUP

Thursday, 1 March 2012

| | | |
|------------------------------|-------------|---|
| <u>Present</u> | Councillors | B Davies D Roberts L Rowlands P Williams K Harrison |
| | Mr | |
| <u>Apologies for Absence</u> | Councillors | C Blakeley J Salter |

1. ELECTION OF CHAIR

RESOLVED:

That Mr K Harrison be elected Chair of the Standards Committee Working Group.

2. MATTERS/ISSUES FOR DISCUSSION

The Head of Legal and Member Services informed the Working Group that as part of its remit it must discuss the following and make recommendations to the Standards Committee, who in turn would make recommendations to the Council, so that a new Standards regime could come into force from 1 July 2012:

- (a) The structure of the standards regime and relevant terms of reference of the future of the Council's Standards Committee/Sub-Committees/Panels;
- (b) The content of the new Members' Code of Conduct;
- (c) The role, description and recruitment process for independent persons;
- (d) The register of Interests and the level of detail to be included;
- (e) The arrangements, procedures and protocols necessary to effectively deal with alleged breaches of the new Members' Code of Conduct;
- (f) The arrangements and procedures to deal with dispensations;
- (g) Members'/Co-opted Members' training needs; and

- (h) Whether a new protocol should be prepared for dealing with and making referrals to the Police in relation to alleged criminal activities/offences.

3. REVIEW AND REVISION OF THE MEMBERS' COMPLAINTS PROCEDURE

The Working Group considered how complaints against Members should be handled in the future and the need to draft a protocol on this. Members were of the view that any new procedures put in place should be open and transparent. They were particularly worried about the sanctions that could be imposed as it was thought that they may not have the 'teeth' needed to curtail bad behaviour. A self regulatory process would need to be put in place to get the message across that Members were responsible for their own actions and to bring about improvements to the Council and the behaviour within it. This may include Members being made to apologise at Council meetings, for any misdemeanours and putting the facts into the public domain. It was also important, in certain circumstances, to put the facts into the public domain when it was found that a Member had no case to answer in order to clear the Members' name.

It was proposed that officers establish what sanctions the other Merseyside authorities intended to use as part of their new Standards regimes. Consultation should begin urgently in order to share best practice.

It was proposed to establish a Complaints Panel and that the pool of Members from which they would be drawn should include not only Standards Committee Members but their deputies as well. For this to work effectively Members' training on the Council's new complaints regime would be required, as soon as possible.

It was agreed that if a complaint met a certain threshold officers would be required to commission an investigation without reference to a Panel and the report would then be considered by the Complaints Panel. If the complaint was not upheld a complainant would have 21 days to appeal to an Appeals Panel. It was agreed that Initial Assessment and Consideration Panels would play no part in the new complaints process.

The Working Party considered how frivolous and vexatious complaints should be handled in future and how the Council could ensure that those Members who were cleared of any wrong doing did not suffer reputational loss. It was proposed that a discretionary process must be defined to consider the nature of a complaint and whether it was based on inaccurate information.

Members were aware, from experience, that there had been a lot of complaints lodged by 'time wasters'. It was proposed that under the

new arrangements the complainant(s) name(s) would be included in the paper work considered by the Panel. There must be a mechanism in place to deal with serious complaints and the Working Group gave consideration to how to make people think about whether to make a complaint in the first place and whether it was possible to include a discretionary exercise to find an alternative avenue to address the matter.

The Working Party was in agreement that the Monitoring Officer's role should not be watered down, and if anything it should be beefed up to stop frivolous complaints from Members about other Members. It was considered that the Group Leaders should also have a role to play in this. The Monitoring Officer could sift out the not so important complaints and try to seek agreement. If agreement was not possible or conflict remained the Monitoring Officer could then engage with the appropriate Group Leader, early in the process, and request his support. The relevant Group Whip would then be asked to deal with the matter appropriately. An appropriate timescale could be put on this process to avoid unnecessary delays.

The Working Group believed that the nature of a complaint should be disclosed to the subject Councillor who should have the right to respond. This would have to be done speedily to avoid relationships becoming fraught. The Working Group agreed that Members should not be kept in the dark, under the new process for handling complaints against them, and should always be told about allegations made against them.

The Working Group also agreed that where it had been determined that there was no case to answer and a complainant Member had gone against advice received, the Council should back the subject Member by issuing an appropriate press release and imposing a sanction on the complainant Member because that Member had signed up to the Members' Code of Conduct. However, this would not apply in the case of complaints against Members by members of the public.

The Working Group wished to see a robust, efficient and effective complaints process in place so that the end point could be reached as soon as possible.

4. MEMBERS' CODE OF CONDUCT

The Working Party was in agreement that the new, revised Code must conform to the principles of selflessness, integrity, objectivity; accountability; openness; honesty; and leadership. It was agreed that trust was very important and again it was vital to share the best practice of neighbouring Councils and Members proposed that meetings be arranged as soon as possible to ensure that this happened. When Members signed up to the new Code on 1 July 2012

the onus would be on them to follow process and be honest and truthful right through.

5. TIMETABLE FOR THE REVIEW OF THE STANDARDS REGIME

The Working Party had regard to the timescales it needed to work to in order for the new Standards regime to be approved by the Council before 1 July 2012 and agreed that in order to carry out the work needed it would be necessary to postpone the next Standards Committee which was scheduled to meet on 12 March 2012 to a later date. The next meeting of the Working Party would be scheduled in two/three weeks time and would consider the new protocol for dealing with complaints about Members and the Members' Code of Conduct.

Tour, Surjit

From: Wilkie, Jim D.
Sent: 12 April 2012 16:03
To: Norman, Bill D.; Tour, Surjit; Hudspeth, Shirley; Coleman, Ian E.
Subject: FW: Local codes of conduct

From: Chief Executive, Local Government Association [mailto:info@local.gov.uk]
Sent: 10 April 2012 11:22
To: Wilkie, Jim D.
Subject: Local codes of conduct

10 April 2012

Local codes of conduct

Dear Colleague,

Following the enactment of the Localism Act 2011, the standards regime is changing. The Standards Board has recently been abolished and it is anticipated that on 1 July 2012 new provisions will be commenced to frame the conduct of elected and co-opted members in local government. This will see control handed back to councils to adopt their own local code of conduct, which is consistent with the seven Nolan principles of public life.

In the House of Lords, peers suggested that the LGA should develop material to support councils when developing new local codes. The LGA has worked with a range of stakeholder organisations to produce the template code that I am circulating to you today. This short outcome-focused code is accompanied by a one-page guidance note to highlight some of the conduct that is consistent with the code.

[View the template code and guidance note](#)

These documents are provided to assist authorities in thinking about how their new code of conduct should look and it remains the LGA's view that it is for each council's locally elected members to decide what the right code will look like in their area. I hope that these documents provide useful food for thought as you start those local discussions.



Carolyn Downs
LGA Chief Executive

Contact us

Local Government House
Smith Square
London, SW1P 3HZ

Email: info@local.gov.uk
Telephone: 020 7664 3000
Fax: 020 7664 3030



© 2012 Local Government Association | www.local.gov.uk

[Privacy policy](#)

If you no longer wish to receive promotional information from the LGA please email info@local.gov.uk with the word CANCEL in the subject line of your email. This will not cancel other subscriptions you may have with the LGA.

If you no longer wish to receive any communication in any form from the LGA (including first magazine), please email info@local.gov.uk with the word REMOVE in the subject line and a list of those organisations you wish to unsubscribe from. This will cancel all subscriptions you may have with the LGA.

Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

Equality Impact Toolkit (new version February 2012)

Section 1: Your details

Council officer: Surjit Tour, Head of Legal & Member Services

Email address: surjittour@wirral.gov.uk

Head of Service: As above

Chief Officer: Bill Norman, Director of Law, HR and Asset Management

Department: Law, HR and Asset Management

Date: 13 April 2012

Section 2: What Council function / proposal is being assessed?

Proposed changes to the Council's Members' Code of Conduct and the arrangements for dealing with and making decisions in relation to complaints made under the aforementioned Code.

Section 2b: Is this EIA being submitted to Cabinet or Overview & Scrutiny Committee?

No

Section 3: Will the Council function / proposal affect equality in? (please tick relevant boxes)

- Services**
- The workforce**
- Communities**
- Other** (please state)

If you have ticked one or more of above, please go to section 4.

- None** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 4: Within the Equality Duty 2010, there are 3 legal requirements. Will the Council function / proposal support the way the Council(please tick relevant boxes)

- Eliminates unlawful discrimination, harassment and victimisation
- Advances equality of opportunity
- Fosters good relations between groups of people

If you have ticked one or more of above, please go to section 5.

- None** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 5: Will the function / proposal have a positive or negative impact on any of the protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any negative impact.

| Protected characteristic | Positive or negative impact | Action required to mitigate any negative impact | Lead person | Timescale | Resource implications |
|--------------------------|-----------------------------|---|-------------|-----------|-----------------------|
| | | | | | |
| | | | | | |
| | | | | | |

Section 5a: Where and how will the above actions be monitored?

Section 5b: If you think there is no negative impact, what is your reasoning behind this?

Section 6: What research / data / information have you used in support of this process?

Section 7: Are you intending to carry out any consultation with regard to this Council function / policy?

Yes / No – (please delete as appropriate)

If 'yes' please continue to section 8.

If 'no' please state your reason(s) why:

(please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 8: How will consultation take place?

Before you complete your consultation, please email your 'incomplete' EIA to equalitywatch@wirral.gov.uk via your Chief Officer in order for the Council to ensure it is meeting it's legal requirements. The EIA will be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 5. Then email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for re-publishing.

Section 9: Have you remembered to:

- a) **Add a hyperlink to your published EIA on the Council website?** (section 2b)
- b) **Include any positive impacts as well as negative impacts?** (section 5)
- c) **Send this EIA to equalitywatch@wirral.gov.uk via your Chief Officer?**
- d) **Review section 5 once consultation has taken place and sent your completed EIA to equalitywatch@wirral.gov.uk via your Chief Officer for re-publishing?**