



## Standards Committee

**Date:** Monday, 4 July 2011

**Time:** 6.00 pm

**Venue:** Committee Room 1 - Wallasey Town Hall

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## AGENDA

**1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

**2. MINUTES (Pages 1 - 4)**

To receive the minutes of the meeting held on 26 January 2011.

**3. CUSTOMER FEEDBACK - ANNUAL REPORT 2010/2011 (Pages 5 - 18)**

**4. THE FUTURE OF THE STANDARDS REGIME (Pages 19 - 22)**

**5. BRIBERY ACT 2010 (Pages 23 - 38)**

A copy of the report of the Director of Finance (Cabinet - 2/6/2011) is attached for members' information.

**6. REVIEW OF A RECENT STANDARDS COMPLAINT (Pages 39 - 50)**

**7. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR**

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## STANDARDS COMMITTEE

Wednesday, 26 January 2011

<u>Present:</u>	Brian Cummings (Chair)	
	Councillors	C Blakeley A Bridson WJ Davies
		AER Jones R Wilkins P Williams
<u>Deputies</u>	Councillors	A Pritchard (In place of K Hayes) M McLaughlin (In place of C Meaden) S Mountney (In place of L Rowlands)
<u>Independent Members</u>		Stella Elliott
<u>Apologies</u>	Councillors	Ken Harrison Alex Nuttall

### 22 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Councillor A Jones declared a personal interest in respect of minute 28 (Freedom of Information Requests) by virtue of him currently pursuing a freedom of information request.

### 23 MINUTES

The Director of Law, HR and Asset Management, submitted the minutes of the meeting held on 2 December, 2010.

Resolved - That the minutes be received.

### 24 STANDARDS FRAMEWORK - IMPLICATION OF THE LOCALISM BILL

The Head of Legal and Member Services presented the report of the Director of Law HR and Asset Management summarising the main provisions of The Localism Bill and the implications for the Standards Committee. The Bill set out the government's proposals 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 reforms covered four broad areas:

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

The report focused on the proposed legislation that will affect the Standards Regime, particularly the implications to the Members' Code of Conduct, Members Interests and Standards Committees.

Appendix 1 included a Briefing Note detailing the key implications of the Localism Bill on the Standards Regime.

Appendix 2 included, for information, a letter from the Local Government Minister, Bob Neill MP and a letter from the Chair of Standards for England, Dr Robert Chilton, to the Chairs of Standards Committees concerning the proposal to abolish Standards for England.

The Head of Legal and Member Services reported that he would electronically circulate updates (when there were matters of significance and importance to report) to all Members of the Council on the progress of the Localism Bill.

Resolved - That the Standards Committee note the Briefing Note set out at Appendix 1 detailing the potential implications of the Localism Bill (as at the date of this report) on the current standards regime.

## 25 **USE OF RECORDING MEDIA AT MEETINGS**

Further to minute 11 (29/9/2011) the Director of Law HR and Asset Management submitted a report which set out the current practices of neighbouring Councils in respect of recording meetings (Appendix A), and proposed a Standing Order and/or a Protocol on the use of recording media in Council buildings, during Council meetings (Appendix B). It also recommended that decisions on recording media other than during meetings should be delegated to the Chief Executive in consultation with Group Leaders to be determined based on the merits of the request and that there would be no filming/recording/photography at any time in Council buildings if a request had not been made and permission given.

Councillor Blakeley expressed his concern regarding the time that had been taken to deal with this matter which had originated from his complaint concerning the actions of an individual councillor.

Members discussed the issues raised in the Director's report but in the interests of openness and transparency it was decided that no further restrictions would be placed on the use of recording media in Council buildings.

Resolved – That the report be noted and that no further action be taken regarding this matter.

## 26 **REPORT AND PRESENTATION - FREEDOM OF INFORMATION(FOI) REQUESTS**

Further to minute 16 (2/12/2011) Jane Corrin, Information Manager, presented a report including a breakdown of Freedom of Information (FOI) requests that were received in 2009/10, figures from neighbouring Local Authorities, and analysis of the FOI requests, which were recorded in a central register. She responded to questions from members concerning:

- the legislation and definition of FOI requests;
- the mechanism for making requests (95% were received by email);
- the breakdown of requests received in 2009/10 and trends in terms of the increase in requests relating to highway maintenance and environmental complaints;
- the cost of facilitating requests and the methodology for itemising costs;
- further benchmarking with public bodies to include the Joint Boards;
- requests for information concerning third parties;
- the possibility of charging for the more detailed requests

Resolved –

- (1) That the report be noted.
- (2) That Jane Corrin be thanked for her presentation.

## 27 **CHAIR'S DISCUSSION PAPER - RESPONSE FROM POLITICAL GROUPS**

Further to minute (21/6/2010) the Chair submitted his paper setting out a number of issues for discussion with a view to improving the effectiveness of this committee in promoting standards and higher values as an integral part of all council activities.

Resolved - That the report be noted.

## 28 **NEW PROCEDURE FOR STANDARDS COMPLAINTS**

The Head of Legal and Member Services presented the report of the Director of Law, HR and Asset Management seeking approval to a local protocol on local assessment and investigation of allegations of misconduct by members. The aim of the local protocol was to improve the manner in which such allegations and complaints are handled and processed.

Members of the Committee expressed concern that delays in dealing with standards complaints were unacceptable for all the parties concerned. Members were of the view that the timescales within the protocol were not sufficiently clear and there was a need for 'non-complex' complaints to be dealt with within 6 months of receipt of the complaint.

Members further questioned, notwithstanding any amendments required, whether the protocol should be deferred whilst clarity on the implications of the Localism Bill is provided.

Members also suggested that officers should also explore possible collaborative working arrangements concerning standards matters with neighbouring Councils.

Resolved - That: this matter be deferred for a further report to a future meeting of the Committee in order that amendments to the protocol can be made to address (i) the need for greater clarity on timescales, (ii) the implications of the Localism Bill and (iii) if possible, any collaborative working arrangements with neighbouring Councils.

**WIRRAL COUNCIL  
STANDARDS COMMITTEE  
4 JULY 2011**

<b>SUBJECT:</b>	<b>CUSTOMER FEEDBACK – ANNUAL REPORT 2010/2011</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF FINANCE</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR JEAN STAPLETON</b>
<b>KEY DECISION?</b>	NO.

## **1.0 EXECUTIVE SUMMARY**

- 1.1 This report is the annual update on dealing with customer feedback. It provides analysis of contacts received over the period 1 April 2010 to 31 March 2011 (referred to as 2010/11), highlights trends and describes some of the challenges faced in ensuring all feedback is recorded and responded to consistently. The focus for customer feedback is to *'put things right and learn from it'* which recognises that complaints should not be dealt with in isolation and instead should be used to inform future improved service delivery.

## **2.0 RECOMMENDATION**

- 2.1. That Members note the report.

## **3.0 REASON FOR RECOMMENDATION**

- 3.1 Complaints and wider customer feedback should be seen as an opportunity for 'free' market research with customers who are actively engaged with services provided by the Council. Monitoring the effectiveness of procedures in dealing with these contacts and most importantly what is learnt from the interaction provides a key indicator of how successfully the Council is meeting the needs of local people.

## **4.0 BACKGROUND AND KEY ISSUES**

- 4.1 Customer feedback includes the following types of contact, with the figure in brackets indicating volume received and percentage of total customer feedback in 2010/11:

- Corporate complaints (1211/18%)
- Statutory complaints received by Adult Social Services and Children's Social Care (322/5%)
- Councillor/MP contacts (4144/63%)
- Local Government Ombudsman (LGO) contacts (63/1%)
- Contacts made directly to the Chief Executive (74/1%)

- Customer Suggestions (66/1%)
  - Customer Compliments (745/11%)
- 4.2 Customer feedback is reported quarterly through the corporate performance report and contributes to performance indicators PI 2004 (annual number of corporate complaints received) and PI 2015a (percentage of corporate complaints resolved within timescale).
- 4.3. Feedback is primarily recorded through the Customer Relationship Management (CRM) system although a separate application (Respond) is used to support the distinct statutory complaints process.
- 4.4. Each department has a designated coordinator to record; assign; progress chase and update contacts with resolution details. Coordinators meet regularly to raise issues with escalation to the cross departmental Customer Services Group (CSG) and to Chief Officers as appropriate, share best practice and communicate departmental changes. Where feedback is received outside of the generic customer access channels (One Stop Shops; Call Centre; generic email and web), the effectiveness of these coordinators is dependent on clear and consistent communication within departments.
- 4.5. To support best practice and promote a consistent approach to how customer feedback is dealt with across the Council, Customer Care Standards were created and promoted corporately. These guidelines focus on the commitment made to ensuring the expected standards of customer service are met across the Council. It allows customers to identify the minimum level of service expected and measure how their contact experience compared. Intranet guidance supports this and stresses customer service is a responsibility for all staff members, not just staff dealing directly with customers.
- 4.6 The approach to customer feedback has improved since the corporate process was implemented and the customer care guidelines adopted. Departments recognise a standard definition of 'what is a complaint' and commit to a standard process for dealing with customer feedback contacts. Comparison between service areas and departments can be undertaken, providing vital information on what customers are contacting the Council about and identifying best practice. The challenge is to maintain this consistency and drive service improvements.
- 4.7 The analysis between departments takes into account the re-assignment of service areas previously reported under the Regeneration Department remit and includes several service areas attracting high volumes of customer contact such as Re-housing services; Libraries and Halls and Sports and Recreation. The new departmental location of transferred services is as follows:
- Corporate Services - Community Services
  - Corporate Services - HMRI



- Corporate Services - Housing Strategy and Regeneration
- Corporate Services - Re-Housing Services
- Corporate Services - Strategy and Implementation
- Corporate Services - Supported Housing
- Finance - Libraries and Halls
- LHRAM-Community Safety
- LHRAM-Environmental Health
- LHRAM-Licensing
- LHRAM-Trading Standards
- Technical Services - Arts and Museums
- Technical Services - Parks and Countryside
- Technical Services - Sports and Recreation

## **PERFORMANCE SUMMARY**

### **Corporate and Statutory Complaints**

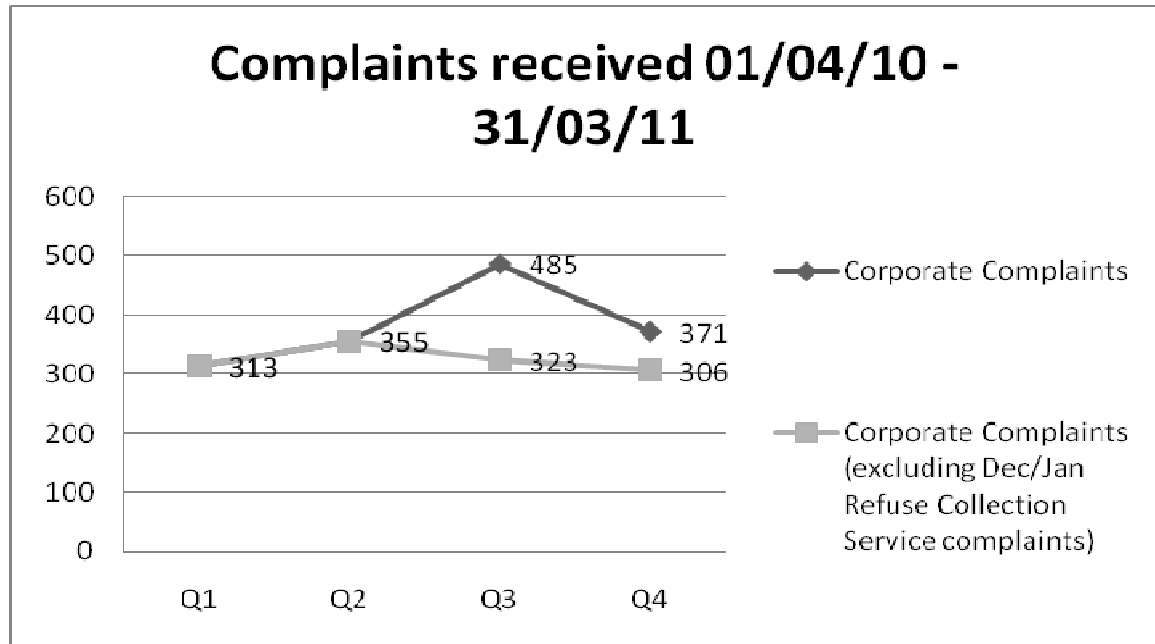
4.8. The 1211 corporate complaints received in 2010/11 showed a 9% decrease from 2009/10 (1332). Statutory complaints displayed a minimal decrease between 2010/11 (322) and 2009/10 (327). The departmental splits were as follows, with the figure in brackets indicating percentage of total complaints 2010/11:

- CYPD (25 corporate complaints; 70 statutory complaints) 95 (6%)
- Corporate Services 38 (3%)
- DASS (statutory complaints) 252 (16%)
- Finance 281(18%)
- LHRAM 37 (3%)
- Technical Services 830 (54%)

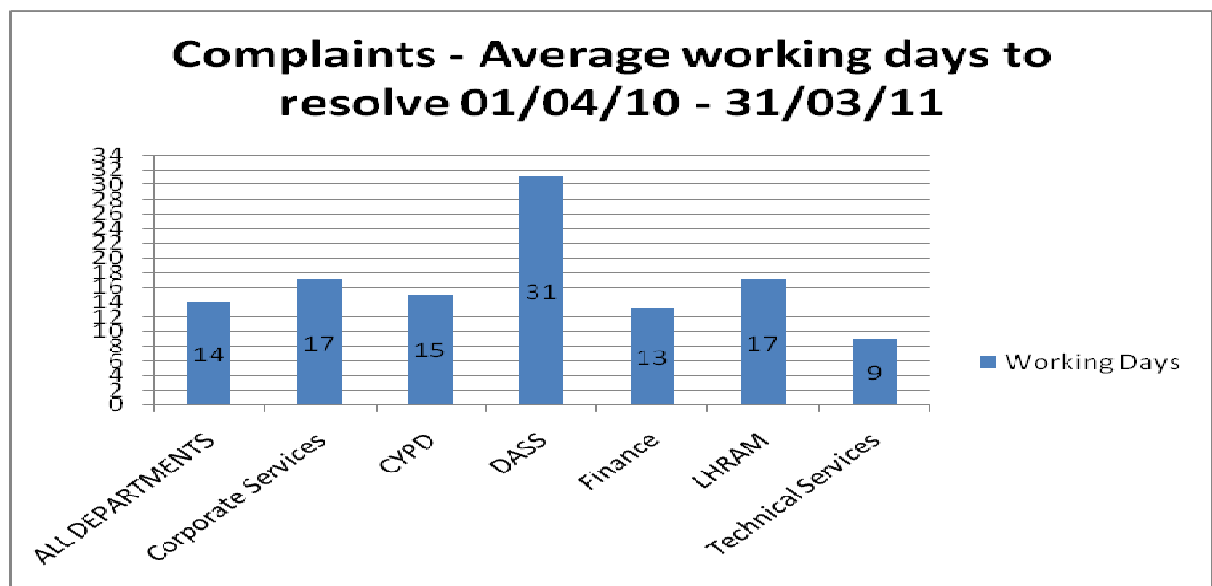
4.9. The Adult Social Services (DASS), Finance and Technical Services departments accounted for the largest proportion of complaints (combined total representing 88% of all complaints received). Key service areas within these departments attracting complaint feedback included:

- Refuse collection (Technical Services) received 325 corporate complaints, with issues caused by the adverse weather conditions in December/January (227 complaints received for the service during these two months) again dominating volumes, a repeat of 2009/10.
- Sports and Recreation (Technical Services) received 190 corporate complaints with dissatisfaction expressed over quality of facilities accounting for 36% of these complaints
- Access and Assessment (DASS) received 132 statutory complaints
- Revenues and Benefits (Finance) received 108 corporate complaints with disagreement with a decision made or dissatisfaction expressed with the effects of a decision accounting for 48% of these complaints

- 4.10. Excluding the complaint feedback generated by the winter adverse weather conditions affecting service delivery, quarterly corporate complaint totals displayed a decreasing trend through the latter half of the year:



- 4.11. The percentage of corporate complaints resolved within 15 working days improved for the third year in succession from 87% reported in 2008/09 to 90% in 2009/10 and 92% in 2010/11. This compares to the corporate target of 90% for 2010/11. The improved performance is driven by customer feedback coordinators efforts in progress chasing responses, supported by prioritisation through the Customer Relationship Management system (CRM). The average number of working days to respond to corporate and statutory complaints by department is as follows:

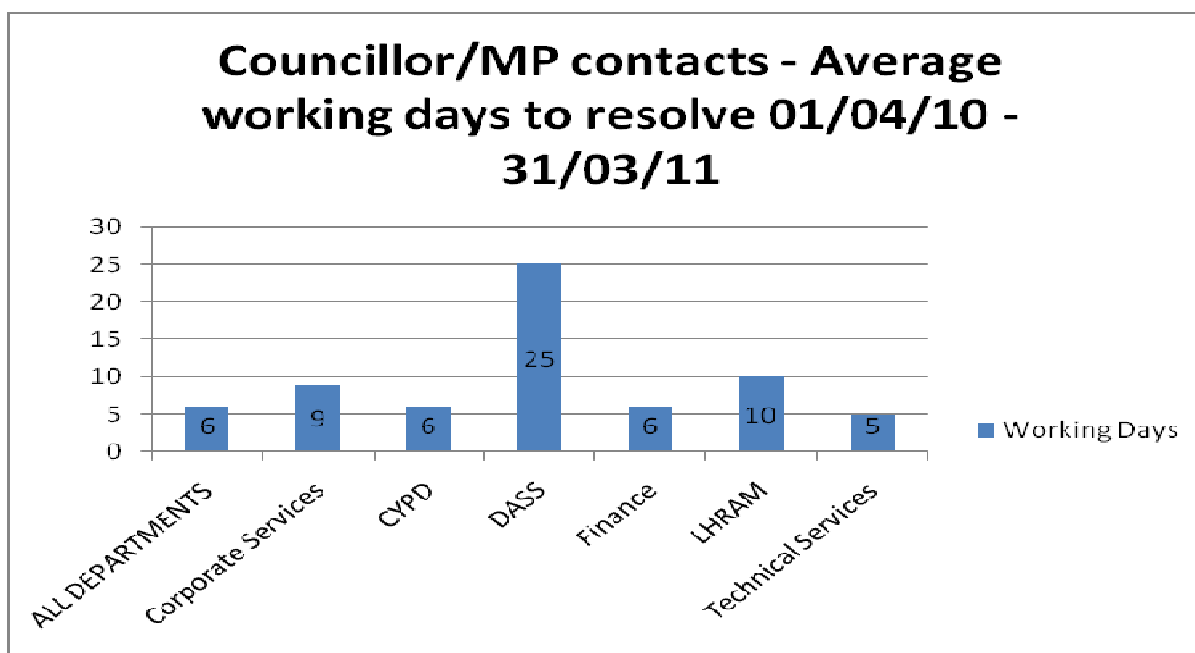


\*Statutory complaints (Children's Social Care and DASS) are not subject to the 15 working day corporate target

- 4.12. Split between the three corporate complaint stage, stages 1 took an average of 10 working days to be resolved, followed by 11 working days for stage 2 and 15 working days for stage 3. The use of an independent review by a chief officer of an alternate department can partly explain the longer time taken to resolve these stage 3 complaints.
- 4.13. As a proportion of total corporate complaints received, 8% of complainants expressed dissatisfaction with stage 1 resolution and raised either a stage 2 or stage 3 complaint.
- 4.14. Statutory complaints received by DASS and Children’s Social Care (CYPD) are dealt with in a statutory framework, outside of the corporate process and were resolved on average in 24 working days.

**Councillor/MP Contacts**

- 4.15. A total of 4,144 formal Councillor or MP contacts were received in 2010/11, compared to 3,846 contacts for the previous year, a 7% increase. Unlike complaints no single issue dominated councillor/MP contacts although Technical Services continues to receive the highest number of contacts with 82% of the total for all departments. This continues an increasing trend with this department contributing 75% in 2009/10 and 70% in 2008/09 of recorded contacts.
- 4.16 The corporate standard for resolution of these contacts is 10 working days and the average number of days taken for resolution in 2010/11 was 6 working days (no change from 2009/10). The average number of working days to respond to these contacts by department is as follows:



4.17. The number of Councillor and MP contacts by department was as follows with the figure in brackets indicating percentage of total contacts received in 2010/11:

- CYPD 189 (5%)
- Corporate Services 257 (6%)
- DASS 141 (3%)
- Finance 84 (2%)
- LHRAM 75 (2%)
- Technical Services 3398 (82%)

4.18 The Council responded to 94% of all councillor/MP contacts within 10 working days, compared to 91% in 2009/10 and 79% in 2008/09.

4.19 Within the departmental totals key areas of enquiry were as follows, with all areas being within Technical Services department unless stated otherwise, with the figure in brackets indicating percentage of total *departmental* contacts received in 2010/11:

- Road defect 553 (16%)
- Pavement defect 480 (14%)
- Traffic conditions 312 (9%)
- Street lighting 284 (8%)
- Street cleansing 243 (7%)
- Re-housing issues 194 (Corporate Services) (75%)
- Domestic bin collection 178 (5%)
- Fly-tipping 147 (4%)
- Winter maintenance 132 (4%)
- Access and Assessment 97 (DASS) (69%)

#### **Local Government Ombudsman (LGO) contacts**

4.20 During 2009/10 significant changes were made to both the external LGO process for dealing with complaints, with an emphasis on preliminary enquiries rather than instigating full investigations along with an internal re-structure to support the recording of such contacts within customer feedback.

4.21 A total of 63 contacts were recorded (48 preliminary requests for information; 10 follow-up enquiries and 5 full investigations) covering 52 individual LGO cases. This compares to 79 contacts in 2009/10.

4.22 The number of LGO contacts by department was as follows with the figure in brackets indicating percentage of total contacts received in 2010/11:

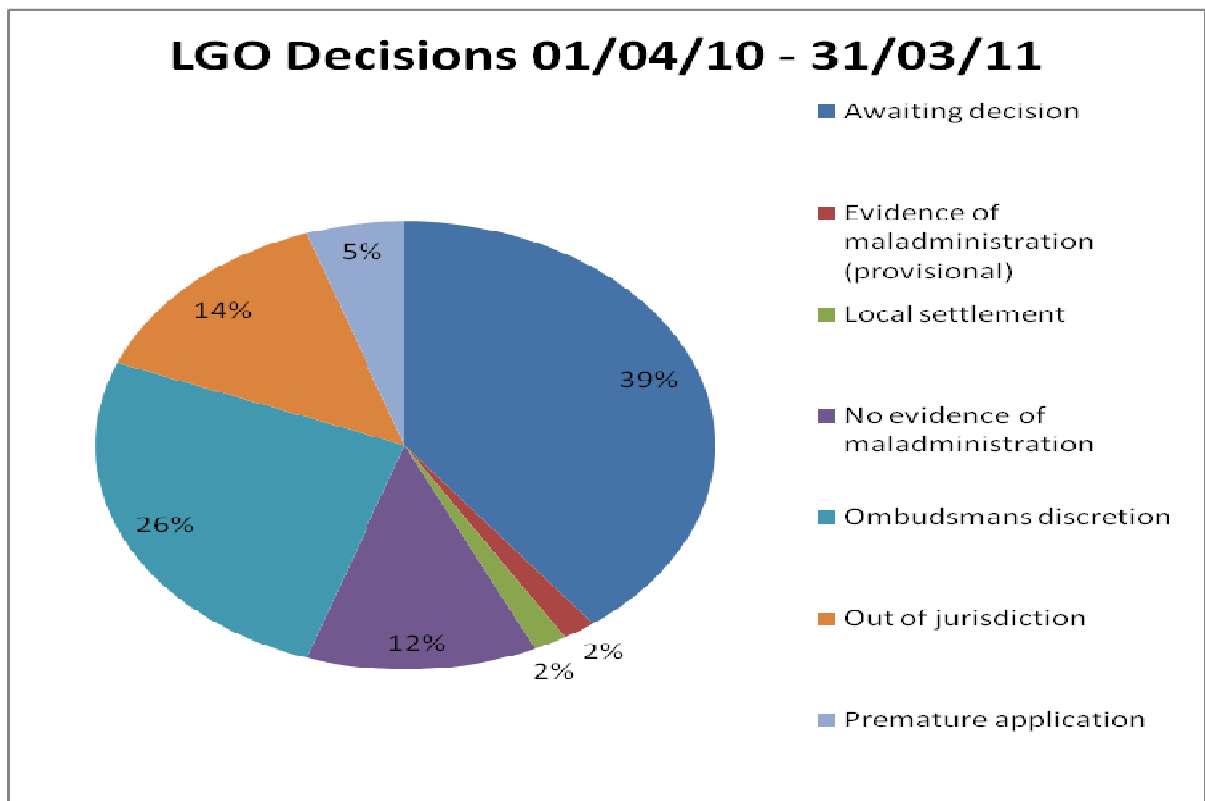
- CYPD 14 (22%)
- Corporate Services 5 (8%)
- DASS 23 (37%)
- Finance 4 (6%)

- LHRAM 3 (5%)
- Technical Services 14 (22%)

4.23 Within the departmental totals key areas of enquiry were as follows, with the figure in brackets indicating percentage of total *departmental* contacts received in 2010/11:

- DASS Care Services 22 (96%)
- CYPD Schools 7 (50%)
- Technical Services Planning 5 (36%)
- CYPD Children’s Social Care 4 (29%)
- Finance Revenues and Benefits 3 (75%)
- CYPD Anti Social Behaviour 3 (21%)

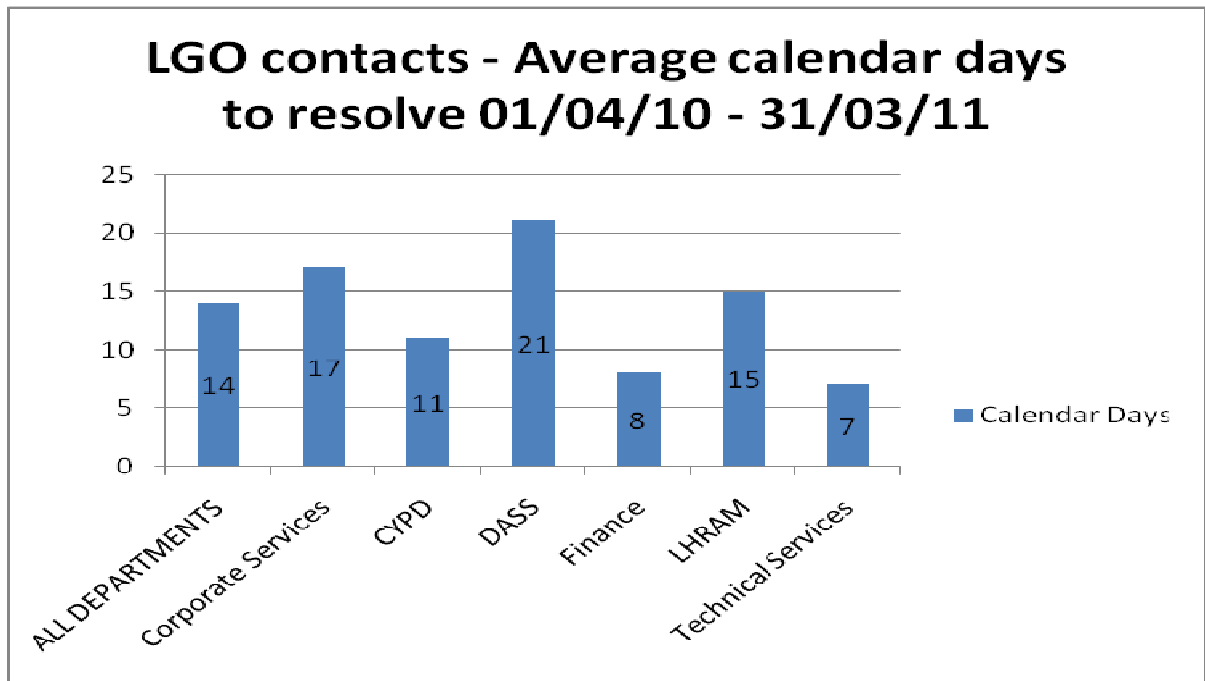
4.24 The LGO provides a decision category on all cases considered and the breakdown for 2010/11 is as follows:



- Awaiting Decision: enquiry responded to and awaiting evaluation from LGO
- Evidence of Maladministration: LGO can find evidence of wrong-doing
- Local Settlement: the Council has come to a satisfactory arrangement with the complainant to resolve issue(s)
- No Evidence of Maladministration: LGO can find no evidence of wrong-doing
- Ombudsman’s Discretion: LGO has decided not to investigate further, usually due to insufficient evidence of injustice caused

- Out of Jurisdiction: case is outside the LGO's remit to investigate
- Premature Application: Council has not had the opportunity to investigate the complaint fully before referral to the LGO; reconsidered as corporate/statutory complaint

4.25 The standard by which the Council is measured is 28 calendar days to respond to LGO contacts, excluding complaints about schools (14 calendar days) or if the LGO provides specific target dates. Across all the contacts recorded, the Council responded on average in 14 calendar days for 2010/11, compared to 22.7 days for 2009/10. The average number of calendar days to respond to these contacts by department is as follows:



4.26 The LGO is currently preparing a formal annual performance report for all councils in England which has a provisional figure of 20.2 calendar days for Wirral. The disparity between the Wirral and LGO figures is due to differences in the method of calculation, specifically that Wirral uses all contacts resolved to produce an average whereas the LGO assesses only what they categorise as 'first enquiries'. The LGO's reported figure would still place Wirral in the top 64% of Metropolitan Authorities with an average of 28 calendar days or less. A formal response will be provided to the LGO's annual letter to Wirral once received from the LGO and this will be reported to this Committee.

### **Other Feedback**

4.27 There were 74 contacts recorded via the Chief Executive's office (compared to 88 in 2009/10) with Technical Services enquiries accounting for 97% of this total. Contacts regarding Highway maintenance (26%); Parks and Countryside (15%) and Refuse collection (11%) featured prominently. Contacts were dealt with on average within 7 working days against a corporate target of 5 working days.

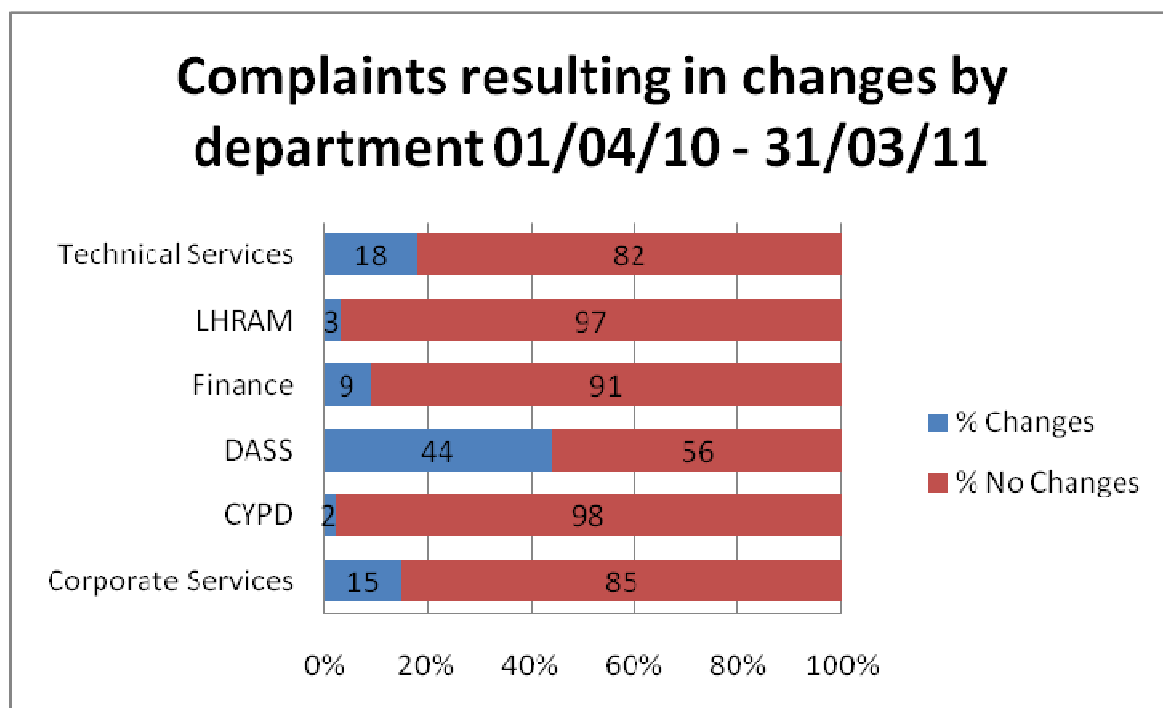
4.28 Customer feedback coordinators recorded 66 customer suggestions, with the Technical Services department contributing 70% of these contacts. Sports and Recreation was most popular with 39% of all suggestions received, unchanged from 2009/10. The majority of suggestions within this service area relate to the availability of activities and classes; standard of facilities and opening times.

4.29 The Council officially recorded 745 compliments in 2010/11, although the expectation is that many more expressions of satisfaction with services provided were received in the numerous interactions with customers across all departments and delivery channels. Typical comments include “excellent service received”; “praise for officers involved”; “appreciation of the level of service provided”; “extremely impressed with work” and a “pleasure to deal with Council”. Services attracting particularly high levels of praise were as follows, with the figure in brackets indicating percentage of total compliments received in 2010/11:

- One Stop Shops and Cashiers 95 (13%)
- Corporate Call Centre 46 (6%)
- Refuse Collection 44 (6%)

**Customer feedback resulting in changes**

4.30 From 2009/10 there has been a focus on customer feedback and complaints specifically resulting in positive changes made to service delivery. There were a total of 345 changes to process/procedure or improvements made to service delivery as a result of customer feedback received. Comparative analysis between departments reveals the following levels of organisational learning from complaints received:



4.31 Examples of changes implemented in 2010/11 include the following:

- Improved clarity of Streetscene email responses
- Improved disabled access to a Council building
- New guidelines implemented for Council contractors to ensure minimal disturbance for local residents
- Revised Council Tax/Benefit notifications to ensure accuracy/clarity of information
- Amendments to refuse collection information displayed to improve service communication
- Improved information displayed on the website for the sports and recreation service
- Increased capacity of exercise classes in response to demand
- Improved safety features for a children's play area
- Improved information available for Wirral visitors
- Improved working procedures for Council bailiffs to ensure standards of customer service adhered to
- Additional gym equipment ordered, informed by customer feedback received
- New guidelines introduced to ensure accuracy of benefits correspondence
- Promotion of Polish support group services through One Stop Shops
- Improved research capabilities available at local library
- Enhanced street lighting provision
- Revised assessment framework for personal budgets to ensure fairness
- Coordinated approach taken to anti-social behaviour reported to ensure improved environment for all residents in a local area
- Enhanced on-line leisure booking system, in response to initial feedback received
- Improved record management procedures adopted by Council contractor to ensure consistency of service
- Introduction of regular monitoring in cemetery to ensure required standards met and disrepair issues addressed

#### **Customer feedback by channel**

4.32 Customer feedback contacts were recorded across the following channels with the percentage proportion of total feedback received:

- e-mail (37%)
- web (23%)
- letter (22%)
- telephone (14%)
- in person (4%).



## **FUTURE DEVELOPMENTS FOR 2011/12**

### **Improved reporting**

- 4.33 From 1 April 2010 all customer feedback recorded on the CRM system has been entered in a consistent format to support more effective analysis during 2010/11. A new range of reporting tools were provided for departmental coordinators to both scrutinise trends in feedback and assist progress chasing throughout the reporting period. The improving resolution rate, measured in average working or calendar days, for corporate complaints, Councillor/MP contacts and LGO contacts suggests that the efforts of departmental coordinators, backed up by improved CRM functionality have been effective. The intention is to maintain and improve the effectiveness of the corporate approach to handling customer feedback during 2011/12.

### **Customer feedback resulting in changes**

- 4.34 A new indicator will be introduced for 2011/12 which will set a target for a minimum number of feedback contacts resulting in change to highlight the importance of organisational learning throughout the Council.

### **Customer Satisfaction Surveys**

- 4.35 Originally planned for 2010/11 but now in place for 2011/12, a proportion of complainants will be asked for their opinions on the complaint process itself, focusing on timeliness; quality of response and confidence in an impartial review undertaken of the issue. Results will be reported quarterly.

### **Customer Care Standards Review**

- 4.36 Launched in 2008, these standards set out the Council commitment to delivering high quality service across all departments in a consistent and measurable manner, clearly defined for both staff and customers.
- 4.37 In 2010 an independent review took place using dedicated resources to benchmark customer service across departments to ensure that the standards are being consistently applied in all service areas. Supplementing this is a rolling exercise of mystery shopping across departments which focuses on the customer care standards.

### **Customer Focus**

- 4.38 This area of work underpins the Customer Access Strategy (CAS) and incorporates customer feedback; customer care standards and liaison with the LGO. In addition there are on-going projects which aim to promote customer access to Council services. Improved customer consultation is being achieved through focus groups, questionnaires, exit surveys and feedback analysis.

## **Freedom of Information (FOI) Requests**

- 4.39 The intention was to incorporate FOI's into the CRM customer feedback module during 2010/11, but due to resource constraints this was not achievable. There is recognition that the inclusion of FOI requests will offer greater insight into what customers are contacting the council for and identifying what measures can be taken to make such information more accessible and so it remains a target for 2011/12. Cabinet on 23 June 2011 approved the extension and enhancement of the CRM system.

## **Performance Objectives 2011/12**

- 4.40. Key aims for this year will be to recognise organisational changes made in response to customer feedback through specific performance monitoring; sustain the improving consistency between departments; maintain and improve upon the working/calendar days resolution rate for customer feedback; incorporate FOI requests and objectively measure the customer experience of contacting the Council. All of the above support the aspiration for greater customer insight to shape future delivery of services and create an excellent Council.

## **5.0. RELEVANT RISKS**

- 5.1. By not using comment and complaint information effectively the authority would lose the opportunity to improve both service delivery and the quality of its public contact.

## **6.0. OTHER OPTIONS CONSIDERED**

- 6.1. None

## **7.0. CONSULTATION**

- 7.1. Voluntary, community and faith groups will be consulted as part of the wider customer focus work as well as through the links with the customer access strategy.

## **8.0. IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 8.1 These groups will be consulted as part of the wider Customer Focus work (see point 6.5) as well as the linkages with the Customer Access Strategy.

## **9.0. RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 9.1 There are none arising directly from this report.

## **10.0 LEGAL IMPLICATIONS**

- 10.1 There are none arising directly from this report.

## 11.0 EQUALITIES IMPLICATIONS

11.1 An Equality Impact Assessment (EIA) is not required specifically as part of this report though one has been developed for the updated Customer Access Strategy which informs the approach taken for customer feedback.

## 12.0 CARBON REDUCTION IMPLICATIONS

12.1 None.

## 13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 None.

FNCE/152/11

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## APPENDICES

None

## SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
Standards Committee	21 June 2010

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**WIRRAL COUNCIL  
STANDARDS COMMITTEE  
4 JULY 2011**

<b>SUBJECT:</b>	<b>The Future of the Standards Regime</b>
<b>WARD/S AFFECTED:</b>	<b>All</b>
<b>REPORT OF:</b>	<b>Director of Law, HR and Asset Management</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>Leader</b>
<b>KEY DECISION</b>	<b>No</b>

## **1.0 EXECUTIVE SUMMARY**

On 26 January the Head of Legal and Member Services presented a report to the Standards Committee summarising the main provisions of the Localism Bill and the implications for the Standards Committee.

The purpose of this report is to update the Standards Committee on the future of the Standards Board regime.

## **2.0 RECOMMENDATION(S)**

2.1 That the Standards Committee:

(1) Note the contents of this report.

(2) Request that the Monitoring Officer continue to examine the provisions of the Bill and present proposals to a future meeting of the Standards Committee with regard to how the Council may respond to the Bill once it is enacted.

## **3.0 REASON/S FOR RECOMMENDATION/S**

3.1 This report has been prepared so that Members of the Standards Committee can be briefed on the potential implications of the Localism Bill in relation to the standards regime, including the Members' Code of Conduct and the future of the Council's Standards Committees.

## **4.0 BACKGROUND AND KEY ISSUES**

4.1 The Government has stated that it considers the Standards Board regime consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend councillors and an unelected central body is inconsistent with the principles of localism, and that the regime can be a vehicle for vexatious or politically motivated complaints.

4.2 The Government considers that it is the right and the responsibility of the electorate to determine who represents them and that the abolition of the regime will restore power to local people. Subject to Parliament approving the necessary legislation, the changes are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England, will be revoked
- The Local Authorities (Model Code of Conduct ) order 2007 which prescribes the model code of conduct to apply to members of relevant authorities will be revoked.
- The requirement for local authorities to have standards committees will be abolished.
- Standards for England will be abolished
- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members.

4.3 In its announcement advising that the current standards regime is to be abolished in its entirety, the Department for Communities and Local Government (DCLG) stated that “councillors will have to register certain personal interests in a publicly available register; this could include anything that could be reasonably regarded as likely to influence or affect their actions, conduct when on business for the authority, or voting.”

4.4 The present conduct regime will continue to function in a normal manner, considering, investigating and determining allegations of misconduct until a fixed date (“the appointed day”), probably two months after the Bill receives Royal Assent. This means that until the appointed day, an allegation of misconduct can be made under the standards regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures will be put in place to address this.

4.5 Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that they would be properly dealt with. It also provides an opportunity for a member who has an allegation made against them to clear their name.

4.6 The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for the local authority to arrange for the conclusion of the investigation . The local authority’s standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.

4.7 The Government has indicated that it is committed to maintaining high standards of conduct in office and will ensure that, in the absence of a statutory code of conduct, councillors do not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represent. Members will be required to continue to register and declare personal interests and will not be allowed

to use their personal position improperly for personal gain. The Government intend that wilful failure to comply with these requirements will constitute a criminal offence.

4.8 The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code of conduct will be abolished. However, local authorities will be free to adopt their own voluntary code of conduct should they so wish.

The requirement to maintain a standards committee will be abolished but local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

4.9 Standards for England has stressed that until such time as appropriate legislation has been passed, the current statutory framework remains operative.

## **5.0 RELEVANT RISKS**

5.1 Should the Council not adopt a voluntary Members' code of conduct or alternative mechanism/framework, it could fail in its duty to maintain and promote high standards of conduct amongst its Members and Co-opted Members, which could result in reputational harm.

## **6.0 OTHER OPTIONS CONSIDERED**

6.1 There are no other relevant options.

## **7.0 CONSULTATION**

7.1 There is no planned consultation in respect of the proposed changes to the standards regime.

## **8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

8.1 There are no such implications arising.

## **9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

9.1 None identified at this stage.

## **10.0 LEGAL IMPLICATIONS**

10.1 The legal implications are set out throughout the report.

## **11.0 EQUALITIES IMPLICATIONS**

11.1 Any equalities implications will be considered if and when the Localism Bill receives Royal Assent.

## **12.0 CARBON REDUCTION IMPLICATIONS**

12.1 There are no such implications arising.

## 13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 There are no such implications arising.

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## REFERENCE MATERIAL

Localism Bill

## SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
<b>Standards Committee</b>	<b>26 January 2011</b>



## WIRRAL COUNCIL

### CABINET

2 JUNE 2011

<b>SUBJECT:</b>	<b>BRIBERY ACT 2010</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF FINANCE</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>FINANCE AND BEST VALUE</b>
<b>KEY DECISION?</b>	<b>YES</b>

#### **1.0 EXECUTIVE SUMMARY**

- 1.1 This report outlines the Bribery Act 2010, and sets out the actions required to ensure compliance. The report also sets out the sanctions which are applicable to the Council, in the event of a prosecution under the Act.
- 1.2. A period of consultation preceded the implementation of the Act which was initially planned for 1 April 2011. Following the period of consultation the implementation date was delayed. On 30 March 2011 the Ministry of Justice published long awaited Guidance relating to the Act and announced that the implementation date will be 1 July 2011.
- 1.3. A draft Anti Bribery Policy is attached which has been prepared in accordance with CIPFA best practice.
- 1.4. Following discussions with the Head of Legal and Member Services, an action plan has been prepared to ensure that the Council implements appropriate actions to comply with the requirements of the Act. This is attached at Appendix 2: section 1 of this identifies the current situation within the Council and section 2 identifies those actions required.

#### **2.0 RECOMMENDATIONS**

- 2.1. That the Council takes appropriate steps to ensure compliance with the legislation as identified in the attached action plan.
- 2.2. That the Anti-Bribery Policy be approved.
- 2.3. That Members endorse the promotion of the policy across the Council.

#### **3.0 REASON FOR RECOMMENDATIONS**

- 3.1 The sanctions introduced by the Act are severe and offences include the corporate offence of 'failing to prevent an act of bribery.' There is however a defence available to the Council of having 'Adequate Procedures' in place. Appropriate actions will have to be taken in order that the Council can rely on the defence of having 'Adequate Procedures.'

## **4.0 BACKGROUND AND KEY ISSUES**

- 4.1. Whilst most of the offences occur through the offering or acceptance of bribes there is also an offence under which an organisation can be prosecuted for failing to prevent bribery (section 7) The Act includes specific details about the type of functions and activities covered by the Act. Included amongst the list is 'any Function of a Public Nature'
- 4.2. The maximum sanctions for "other persons" (this includes Wirral Council) could be an unlimited fine if the case goes to the Crown Court. In addition if the Council was successfully prosecuted under the Act, the Council could be prevented from tendering for any dealings with other councils. Senior Officers can also be convicted of an offence where they are deemed to have given their consent, or connivance to giving or receiving a bribe or bribing a foreign official.
- 4.3. There is a defence available to the Council. The defence is that of having adequate procedures in place. To successfully rely on this defence the Serious Fraud Office would have to be satisfied that the anti bribery philosophy is embedded in the culture of Wirral. In order to prove that the Council has adequate procedures in place the Ministry of Justice has advocated a list of actions which the Council should undertake. The list includes:
- Completion of a risk assessment to identify all areas of the organisation potentially susceptible to Bribery
  - Ensuring that there is top level commitment to a culture of zero tolerance to bribery
  - Putting in place proportionate due diligence procedures
  - Ensuring that all pertinent policies are practical and accessible and understood by all employees
  - Ensuring that there is a system in place to monitor and review the effectiveness of actions.
- 4.4. The Council already has a governance framework which essentially includes all strategies, codes, policies, plans, rules, arrangements, terms and procedures which not only detail necessary responsibilities and practices to ensure the effective discharge of Council duties and functions in a lawful, transparent, and accountable manner but also assist the Council to mitigate against the risks to which it is exposed, including many of those now falling within the remit of the Bribery Act 2010.

- 4.5. However there remain a number of actions which the Council should take to ensure full compliance with the Act. Areas to be addressed are:
- a. The main areas which are likely to be susceptible to bribery need to be identified and the Council must be satisfied that all those whom we deal with are aware of and endorse the Council's zero tolerance stance. The relevant people who must be informed are suppliers, employees, Members, charities, partnerships, agencies and consultants.
  - b. All documentation needs to be scrutinised to ensure that it reflects the Council's zero tolerance approach. These documents will include, but not be limited to, new supplier forms and tender documents.
  - c. The Council has to be satisfied that it has adequate policies and procedures in place to prevent bribery and that these policies are appropriately publicised and communicated to all stakeholders.
  - d. A statement on penalties and sanctions should be prepared to inform internal and external stakeholders of the consequences of non compliance.
  - e. A review mechanism needs to be put in place to monitor compliance and ensure that any changes to the bribery risk are identified.
- 4.6. Details of how these aims will be achieved are set out in the attached action plan.

## **5.0 RELEVANT RISKS**

- 5.1 Failure of the Council to have a fully embedded culture of zero tolerance to bribery which could lead to the prosecution of the Council under section 7 of the Act with the potential sanction of an unlimited fine, prohibition from certain trading opportunities and consequential adverse publicity.

## **6.0 OTHER OPTIONS CONSIDERED**

- 6.1 No other options considered. Wirral Council must comply with the requirements of the Bribery Act

## **7.0 CONSULTATION**

- 7.1 CIPFA, especially the Better Governance Forum, has been consulted throughout the process regarding current best practice.

## **8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 8.1 There are none arising directly from this report.

## **9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 9.1 There are none arising directly from this report.

## **10.0 LEGAL IMPLICATIONS**

- 10.1 There are none arising from this report.

## **11.0 EQUALITIES IMPLICATIONS**

11.1 There are none arising from this report.

## **12.0 CARBON REDUCTION IMPLICATIONS**

12.1 There are none arising from this report.

## **13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

13.1 There are none arising from this report.

### **FNCE/95/11**

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### **APPENDICES**

1. Anti Bribery Policy
2. Bribery Act Compliance Action Plan

### **REFERENCE MATERIAL**

**The Bribery Act Guidance - Ministry of Justice, March 2011**

### **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>None</b>	



## **Anti Bribery Policy**

### **1.0 Policy Statement - Anti Bribery**

- 1.1 Bribery is a criminal offence. Wirral Council will neither pay bribes nor offer improper inducements to anyone for any purpose, nor accept bribes or improper inducements.
- 1.2 To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.
- 1.3 Wirral Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance towards bribery. Anti-bribery compliance is to be embedded in every aspect of Council operations.

### **2.0 Objective of this policy**

- 2.1 This policy provides a coherent and consistent framework to enable Council employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.
- 2.2 It is the responsibility of all personnel, including those permanently employed, temporary agency staff and contractors; and Members to:
  - act honestly and with integrity at all times and to safeguard the Council resources for which they are responsible
  - comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities

### **3.0 Scope of this policy**

- 3.1 This policy applies to all Council activities. For partners, joint ventures and suppliers, the Council will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 3.2 Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

3.3 This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

#### **4.0 The Council commitment to action**

4.1 This Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging all employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Providing information to all employees to report breaches and suspected breaches of this policy
- Including appropriate clauses in contacts to prevent bribery.

#### **5.0 Bribery**

5.1 Is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

#### **6.0 The Bribery Act**

6.1 There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7)

6.2 The Bribery Act 2010

([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1)) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

## **7.0 Penalties**

7.1 An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a Magistrates Court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both
- On conviction in a Crown Court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

7.2 Organisations are liable for these fines and if guilty of an offence under Section 7 are liable to an unlimited fine.

## **8.0 Bribery is not tolerated by Wirral Council**

8.1 It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.

## **9.0 Facilitation payments**

9.1 Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

## **10.0 Gifts and hospitality**

10.1 This policy is not meant to change the requirements of the Gifts and Hospitality Policy. This makes it clear that:

10.2 With the exceptions listed below, an employee should refuse any personal gift (including cash) offered to him/her or to a member of his/her family by any person who has, or seeks, dealings with the Authority, and the offer should be reported to the Chief Officer of the department concerned.

Exceptions:



1. A trivial gift of promotional character given to a wide range of people and not uniquely to the employees. These gifts are usually given at Christmas time and include calendars, diaries, desk charts, flow charts, tape measures, scales and other articles of use in the office or for the job.
2. Trivial gifts on the conclusion of any courtesy visit to a factory or firm of a sort normally given by that firm.

10.3 Similarly employees should be cautious about the acceptance of Hospitality or Entertainment, as detailed in the Gifts and Hospitality policy' which states that:

Special caution is needed where the host is a private individual or seeking to do business with the Authority or to obtain a decision from it or has been involved with the Authority commercially. It is important to avoid any suggestion of undue influence and therefore in these circumstances hospitality/entertainment should normally be avoided with the exception of modest refreshments provided during discussions/negotiations. Any hospitality/entertainment received should be registered.

## **11.0 Staff responsibilities**

11.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

11.2 You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

11.3 As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **12.0 Raising a concern**

12.1 This Council is committed to ensuring that all employees have a safe, reliable, and confidential way of reporting any suspicious activity. Each and every member of staff can raise concerns.

12.2 All employees have a responsibility to help detect, prevent and report instances of bribery. Anyone who has a concern regarding a suspected instance of bribery or corruption, should report it

12.3 There are multiple channels through which concerns can be raised. Please refer to the Confidential Reporting (Whistleblowing) policy <http://wbcnet.admin.ad.wirral.gov.uk/Personnel/Confidential%20Reporting.htm>



12.4 Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, action will be taken as soon as possible to evaluate the situation. The Council has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

12.5 Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. The Council will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

12.6 The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

12.7 If you have any questions about these procedures, please contact

Internal Audit Counter Fraud Team

**0151 666 3492**

**Other relevant policies**

Fraud and Corruption Policy

<http://wbcnet.admin.ad.wirral.gov.uk/Personnel/Documents/Anti%20Fraud%20and%20Corruption%20policy%20June%202010.doc>

Anti Money Laundering Policy

[http://wbcnet.admin.ad.wirral.gov.uk/Personnel/money\\_laundering.htm](http://wbcnet.admin.ad.wirral.gov.uk/Personnel/money_laundering.htm)

Confidential Reporting (Whistleblowing) Policy

<http://wbcnet.admin.ad.wirral.gov.uk/Personnel/Confidential%20Reporting.htm>

Gifts and Hospitality Policy

<http://wbcnet.admin.ad.wirral.gov.uk/Personnel/Conduct.htm#GIFT>

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**Bribery Act Compliance Action Plan**

**Section 1 : Current Situation**

**Governance framework currently in place**

All officers and Members of the Council are bound by policies which ensure that all actions are lawful, transparent, ethical and accountable. The Policies and Procedures which make up this framework include

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<p>A Constitution, which includes the following:</p> <ul style="list-style-type: none"> <li>• Members' Code of Conduct;</li> <li>• Standards Committee Terms of Reference;</li> <li>• Council Procedure Rules;</li> <li>• Scheme of Delegation of Functions to Cabinet Members;</li> <li>• Executive Procedure Rules;</li> <li>• Overview and Scrutiny Board and Committees Terms of Reference;</li> <li>• Overview and Scrutiny Procedure Rules;</li> <li>• Scheme of Delegation of Functions to Officers;</li> <li>• Budget and Policy Framework Procedure Rules;</li> <li>• Contract Procedure Rules;</li> <li>• Officer Employment Procedure</li> </ul>	<p>Various strategies and policies, including</p> <ul style="list-style-type: none"> <li>• Anti-fraud and Corruption Policy;</li> <li>• Corporate Procurement and Commissioning Strategy;</li> <li>• Sustainable Procurement Policy and Guidance;</li> <li>• Whistle-blowing Policy;</li> <li>• Investment Strategy;</li> <li>• Enterprise Strategy; and Full Employment Strategy</li> </ul>	<p>Frameworks and Plans, including a:</p> <ul style="list-style-type: none"> <li>• Employment and Enterprise Investment Framework;</li> <li>• Rural Economy Plans; and</li> <li>• Liverpool City Region Employment and Skills Strategy and Commissioning Plan</li> </ul> <p>Other instruments, including:</p> <ul style="list-style-type: none"> <li>• Terms and Conditions for the Supply of Goods;</li> <li>• Terms and Conditions for Services;</li> <li>• Partnership Toolkit;</li> <li>• Guide for suppliers/How to do business with Wirral MBC;</li> <li>• The Chest, the North West's Local Authority Procurement Portal;</li> <li>• Small Business Friendly</li> </ul>
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<p>Rules;</p> <ul style="list-style-type: none"> <li>• Officer Code of Conduct;</li> <li>• Protocol on Member/Officer Relations; and</li> <li>• Code of Corporate Governance</li> </ul>		<p>Concordat; and</p> <ul style="list-style-type: none"> <li>• Wirral Compact (agreement with the Local Voluntary and Community Sector and Wirral MBC);</li> </ul>
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<b>Section 2: Actions required to comply with the 6 principles set out in the Ministry of Justice Guidance</b>		
Principle	What is required	How this will be achieved
Principle 1-Proportionate Procedures	Adequate, Proportionate Anti Bribery policies and procedures need to be in place, which articulate the Council's anti bribery stance.	<ul style="list-style-type: none"> <li>• Obtaining Council Approval for the Anti Bribery Policy</li> <li>• Scrutinising existing Policies and Procedures to ensure compliance (in particular with regard to Procurement and Recruitment)</li> <li>• Scrutinising Council documents to ensure compliance with anti bribery stance (e.g. tender documents/ PQQs / planning documents/ recruitment documents etc</li> <li>• Risk assessment of all bribery risks within the Council to ensure that policies and procedures specific to risk areas are adequate.</li> </ul>

Principle 2- Top level commitment	Top level Political and Executive commitment to the anti bribery stance of the Council which is cascaded internally to all officers and Members and externally to all suppliers/agents and others must be in evidence.	<ul style="list-style-type: none"> <li>• Political endorsement for the Anti Bribery Policy and this action plan</li> <li>• Internal and external communication of the anti bribery stance of the Council through various media such as the Team Brief process, the Intranet, One council magazine etc.</li> <li>• Promotion of the Anti Bribery policy</li> </ul>
Principle 3- Risk Assessment	A periodic informed and documented assessment of the Council's exposure to the internal and external risk of bribery on its behalf by persons associated with the Council must be undertaken.	<ul style="list-style-type: none"> <li>• Chief Officers to identify areas within their area of operation which may be vulnerable to the risk of Bribery</li> <li>• Due diligence enquiries to inform risks associated with third parties</li> <li>• Accurate and appropriate documentation of the risk assessment and its conclusions</li> <li>• Periodic revisiting of risk assessments by Chief Officers to ensure new and emerging risks are anticipated.</li> </ul>
Principle 4- Due Diligence	The Council must apply due diligence procedure taking a proportionate and risk based approach in respect of persons who perform or will perform services for or on behalf of the Council	<ul style="list-style-type: none"> <li>• Third party intermediaries to be identified and documented by Chief Officers (e.g. Partnerships/ suppliers/ agency staff)</li> <li>• Proportionate due diligence to be</li> </ul>

	<p>in order to mitigate identified bribery risks.</p>	<p>applied to all those identified to ensure that their stance against bribery accords with that of the council.</p> <ul style="list-style-type: none"> <li>• All new associated persons to be subject to due diligence (eg new suppliers/ employees/agency staff)</li> </ul>
<p>Principle 5- Communication (including Training)</p>	<p>The Council needs to ensure that the anti Bribery policies and procedures are embedded and understood throughout the organisation through internal and external communication including training that is proportionate to the risks faced.</p>	<ul style="list-style-type: none"> <li>• Online fraud awareness training which includes details of anti bribery procedures to be rolled out to all online employees.</li> <li>• Face to face training to be provided to relevant employees and Members.</li> <li>• Communications channels identified in principle 2 (above) to be employed.</li> <li>• Staff/Members and others to be encouraged to report any suspicions of actual bribery or susceptibility to bribery through appropriate channels to appropriate officers of the council.</li> <li>• Staff/Members and others to be encouraged to make any suggestions for improvement of bribery prevention procedures to appropriate officers of the council.</li> </ul>

		<ul style="list-style-type: none"> <li>• External communication of the council's anti bribery stance to suppliers/agents/others.</li> <li>• Internal and external communication of sanctions to be imposed in respect of bribery and rules governing recruitment, procurement and tendering.</li> </ul>
<p>Principle 6- Monitoring and Review</p>	<p>The Council monitors and reviews procedures designed to prevent bribery by persons associated with the council and makes improvements where necessary.</p>	<ul style="list-style-type: none"> <li>• Staff surveys questionnaires and feedback forms to be utilised to monitor understanding</li> <li>• Chief Officers to undertake periodic risk assessments of bribery risks.</li> <li>• Internal audit to review and assess actions taken by Chief officers and make appropriate recommendations for improvement.</li> </ul>

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## WIRRAL COUNCIL

### STANDARDS COMMITTEE

4 July 2011

<b>SUBJECT:</b>	<b>REVIEW OF A RECENT STANDARDS COMPLAINT</b>
<b>WARD AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW HR &amp; ASSET MANAGEMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>CORORATE RESOURCES</b>
<b>KEY DECISION?</b>	<b>NO</b>

#### 1. EXECUTIVE SUMMARY

- 1.1 This report provides a summary of the handling of Mr Morton's standards complaint.
- 1.2 Whilst specific details of the complaint cannot be confirmed, the purpose of the report is to provide a chronology of the complaint. The complaint in question has recently received press attention and was made by Mr Martin Morton.

#### 2.0 RECOMMENDATION

- 2.1 That the Panel considers and notes the chronology outlined in respect of Mr Morton's complaint and considers any action to be taken in relation to the administration of standards complaints.

#### 3.0 REASON FOR RECOMMENDATION

- 3.1 The Standards Committee is entitled to review and consider how effective the Council administers standards complaints and make changes as considered necessary.

#### 4.0 BACKGROUND

- 4.1 The Standards Committee on 30 June 2008 approved the process for dealing with complaints that allege that members and/or co-opted members have acted in breach of the Code of Conduct for members. The committee approved the terms of reference of this Panel (Appendix 1); the criteria to be used at the initial assessment stage (Appendix 2); and the protocol for dealing with complaints (Appendix 3).

- 4.2 The complaint by Mr Morton was initially submitted to the Monitoring Officer on 9 February 2010; however a second complaint form was submitted on 26 February 2010 which superseded the original complaint form.
- 4.3 Mr Morton's complaint was referred to the Council's Standards Committee's Initial Assessment Panel on 8 April 2010. That Panel comprised the Independent Chair of the Standards Committee, Mr Brian Cummins, and two Members of the Council's Standards Committee.
- 4.4 In line with normal Council practice, a covering report was prepared for the Initial Assessment Panel on 8 April 2010. The covering report set out, in seven paragraphs, the details of Mr Morton's complaint and referred to the substance of Mr Morton's second, revised complaint form.
- 4.5 Mr Morton's revised complaint form should have been appended to the covering report for the 8 April 2010 meeting of the Initial Assessment Panel. It was not. Instead, in error, Mr Morton's original complaint form was appended.
- 4.6 On 8 April 2010, the Initial Assessment Panel adjourned its consideration of Mr Morton's complaint so that further information could be provided, which was considered necessary before a decision could be made. For a number of reasons, there was then considerable delay in the progression of this matter.
- 4.7 Eventually, it was agreed that the matter should be considered further and a meeting of the Initial Assessment Panel was reconvened for 3 March 2011.
- 4.8 The Initial Assessment Panel meeting on 3 March 2011 was provided with a redated copy of the earlier covering report and the earlier appendix (i.e. Mr Morton's original complaint form). Thus, the earlier error was repeated and the Initial Assessment Panel again received the wrong version of Mr Morton's complaint form.
- 4.9 On 3 March 2011, in view of the complexity and political sensitivity of the matter the Initial Assessment Panel referred Mr Morton's complaint to Standards for England.
- 4.10 Standards for England were sent a copy of the covering report and the complaint form on 31 March 2011.
- 4.11 Standards for England then sought clarification from the Head of Legal & Member Services as to the discrepancy between the covering report and the appended complaint form.
- 4.12 The Head of Legal & Member Services reviewed the complaint file but found only Mr Morton's original complaint form on the file. Standards for England were advised in accordance with this fact.
- 4.13 Following officers' clarification, Standards for England considered Mr Morton's original complaint and confirmed its decision in respect of the same in writing to all parties concerned on or around 6 May 2011.

- 4.14 On 9 May 2011 the Complainant made enquiries of officers as to why Standards for England made no reference to his complaint against a particular Councillor. Upon consideration of this issue the error in relation to the original complaint form being appended to the report became apparent.
- 4.15 Following discussions with Standards for England between 10 May and 16 May 2011, Standards for England advised that they did not see any reason why the Council should not reconvene the same Initial Assessment Panel and invite that Panel to consider Mr Morton's revised complaint form.
- 4.16 An Initial Assessment Panel was therefore convened as soon as practicably possible, on 8 June, which duly considered Mr Morton's revised complaint.
- 4.17 The matter at the time of writing this report is still ongoing and no Council steps or actions are outstanding in relation to Mr Morton's complaint.

## **5.0 RELEVANT RISKS**

- 5.1 The administration of standards complaints should be dealt with as efficiently as possible to ensure matters are concluded quickly and closure of issues secured for both complaint and the subject member(s) involved.
- 5.2 It is recognised that unnecessary delays can be frustrating and can cause distress to the parties involved.

## **6.0 OTHER OPTIONS CONSIDERED**

- 6.1 The process for the administration of standards complaints is prescribed by legislation and therefore alternative processes have not been considered. Officers are however reviewing existing arrangements so as to significantly improve the time taken for standards complaints to be processed and ensure errors are not made.

## **7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 7.1 There are no implications for Voluntary, Community and Faith groups arising from this report.

## **8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 8.1 There are not financial implications arising from this report save as to say that any proposed changes to the manner in which standards complaints are processed shall be met from existing approved budgets.

## **9.0 LEGAL IMPLICATIONS**

- 9.1 The legal implications are set out within this report.

## **10.0 EQUALITIES IMPLICATIONS**

10.1 There are no specific discrimination issues arising from this report.

#### **11.0 CARBON REDUCTION IMPLICATIONS**

11.1 There are no carbon reduction implications in this report.

#### **12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

12.1 There are no planning and community safety implications in this report.

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#### **APPENDICES**

None

#### **REFERENCE MATERIAL**

No reference material has been used in the preparation of this report.

## WIRRAL COUNCIL

## STANDARDS COMMITTEE - INITIAL ASSESSMENT PANEL

## Appendix

## Wirral Standards Committee – Terms of Reference of Panels (Sub-Committees)

Wirral Council is required to establish sub-committees of its Standards Committee to exercise certain functions under the Standards Committee (England) Regulations 2008. The terms of reference for the panels which will do so are set out below. Each panel shall be a sub-committee of the Standards Committee. Members of each panel must be a member of the Standards Committee.

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**A. Terms of Reference of the Standards Initial Assessment Panel**


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- 1 The Standards Initial Assessment Panel will, subject to paragraph 2 below, initially assess all written complaints received by Council's Monitoring Officer on the appropriate Complaints Form.
  2. The Standards Initial Assessment Panel will only have jurisdiction to consider written 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.
  3. The Standards Initial Assessment Panel after consideration of a complaint may:-
    - i). decide that no action should be taken in respect of the allegation;
    - ii) ask for additional information from the complainant on the allegation before concluding the initial assessment;
    - iii). if applying the assessment criteria it considers an investigation should be carried out, refer the allegation to the Council's Monitoring Officer, with an instruction that he arranges for an investigation of the allegation or directs that he arranges training, conciliation or such other appropriate action as might be permitted by the relevant legislation;
    - iv). If, applying the matters set out in the Protocol for Dealing with Complaints it is appropriate, refer the allegation to the Standards Board for England for investigation; or
    - v). where the allegation is in respect of a person who is no longer a member of the Council, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other authority,
- and shall authorise the Monitoring Officer to take all reasonable steps to implement its decision(s), with reasons, and to notify the person making the allegation and the member concerned of that decision.

4. In the event of there being a local investigation under paragraph 3(iii), the Standards Initial Assessment Panel shall determine, with reasons, whether:
  - i). it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
  - ii). the matter should be referred for a hearing of the Standards Committee; or
  - iii). the matter should be referred to the Adjudication Panel for determination.
5. The Standards Initial Assessment 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 Initial Assessment Panel shall comprise of 3 members. One of whom shall be an independent member of the Standards Committee who shall be the Chair of the Panel and two elected members of the Council who are members of the Standards Committee.
7. **Quorum** - The quorum for a meeting of the Standards Initial Assessment Panel shall be 3 members (with an independent member as Chair) who must be present throughout the course of the meeting.
8. **Frequency of Meetings** - The Standards Initial Assessment Panel will only meet if it needs to initially assess an allegation at that meeting or consider the outcome of an investigation under paragraph 4 above, or consider any application under paragraph 5 above.

## WIRRAL COUNCIL

## STANDARDS COMMITTEE - INITIAL ASSESSMENT PANEL

## Appendix

Wirral Standards Committee Assessment Criteria

In considering whether or not a complaint should be investigated or no further action should be taken then the Initial Assessment Panel will consider the following criteria:

**1) Has the complainant submitted enough information to satisfy the assessment sub-committee that the complaint should be referred for investigation or other action?**

If the answer is no: "The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the Initial Assessment Panel is taking no further action on this complaint."

**2) Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the Initial Assessment Panel wish to refer the complaint to the Monitoring Officer of that other authority?**

If the answer is yes: "Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the standards committee of that authority to consider."

**3) Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?**

If the answer is yes: "The matter of complaint has already been subject to a previous investigation or other action and there is nothing more to be gained by further action being taken."

**4) Is the complaint about something that happened so long ago that there would be little benefit in taking action now?**

If the answer is yes: "The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted."

**5) Is the complaint too trivial to warrant further action?**

If the answer is yes: "The matter is not considered to be sufficiently serious to warrant further action."

**6) Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?**

If the answer is yes: "The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted".

**7) Has the Complaint been submitted anonymously?**

If the answer is yes then the complaint will only be investigated in exceptional circumstances, for example if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.



## WIRRAL COUNCIL

## STANDARDS INITIAL ASSESSMENT PANEL

## Appendix

Protocol for Dealing with Complaints of Breach of Code of Conduct by Members

## 1) Receipt of Complaint by the Monitoring Officer

On receipt of a complaint the Monitoring Officer must consider the Complaint. If the Complaint does not relate to member conduct then the Monitoring Officer will consider whether it should be dealt with through another process, for example the Corporate Complaints procedure. The Monitoring Officer may seek further clarification from the Complainant. If the matter clearly does not relate to the conduct of a member then the Monitoring Officer need not refer it to the Initial Assessment Panel and will notify the Complainant accordingly.

## 2) Further Clarification

If the substance of the Complaint is unclear from the form received the Monitoring Officer may seek clarification from the Complainant. This should not amount to an investigation but should merely be to seek clarification of any issues which are not clear from the Complaint Form.

## 3) Referral to the Initial Assessment Panel

On receipt of a complaint the Monitoring Officer shall arrange for an Initial Assessment Panel to be convened as soon as possible within 20 working days. The Monitoring Officer shall prepare a brief report setting out:

- a) whether the complaint falls within the jurisdiction of the Standards Committee;
- b) the relevant paragraphs of the Code of Conduct which the complaint relates to;
- c) if the complaint is lengthy or complex a summary of the key aspects;
- d) any further information available which might assist the Panel; for example:
  - (i) a copy of the member's declaration of office;
  - (ii) minutes of meetings;
  - (iii) a copy of the members entry in the register of interests;
  - (iv) information from Companies House or the Land Registry; and/or
  - (v) any other relevant documents which are easily obtainable.

## 4) Initial Tests

The Initial Assessment Panel must first consider whether the complaint meets 3 basic tests:

- a) is it a complaint against one or more named members of the authority;
- b) was the named member in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and

c) the complaint, if proven, would be a breach of the Code under which the member was operating at the time.

If the complaint fails **any** of these tests then it cannot be investigated as a breach and the complainant must be notified that no further action will be taken.

5) **Initial Assessment**

The Initial Assessment Panel will consider at the meeting whether or not to take any further action. In considering whether or not to do so it must consider the Assessment Criteria. The Initial Assessment Panel will base its decision purely on the information supplied by the complainant in the Complaint Form and any relevant information contained within the Monitoring Officer's covering report.

The Initial Assessment Panel may:

- a) determine that no further action should be taken;
- b) refer the matter to the Monitoring officer for investigation or alternative action;
- c) refer the complaint to the Standards Board for England ("SBE").

6) **Access to Information/Meetings**

Meetings of the Initial Assessment Panel and the Review Panel are not covered by the Rules on Access to Information that govern other meetings of committees. There is a responsibility to ensure confidentiality of the complainant and the member. For this reason and to ensure that there can be no suggestion of undue process the member who is the subject of the complaint will not be notified of the complaint until after the Initial Assessment Panel has considered the Complaint.

No officer or member of the Initial Assessment Panel shall disclose the existence or details of the Complaint to any other person other than those members or officers present at the Initial Assessment Panel Hearing.

The details of the date and time of meetings of the Initial Assessment and Review Panels will be published on the council's system in the usual way. However, no details of the complainant, the complaint or the member who is subject of the complaint will be published. The only people who will be present during any meeting of the Initial Assessment or Review Panels will be the members of the panels and the Monitoring Officer and/or his representative(s). The complainant and the member who is the subject of the complaint must not be present at any meeting of the Initial Assessment or Review Panel.

There will be no published minutes of the decisions of the Initial Assessment or Review Panels. However, written notifications must be sent to the relevant parties, this is considered further below.

7) **Referral to the SBE**

The Initial Assessment Panel may refer the matter to the SBE. The SBE will accept cases for investigation by an Ethical Standards Officer if it is considered to be in the public interest. The SBE Guidance states that in considering this it will take in to account:

- a) whether the status of the member involved would make it difficult for the complaint to be dealt with locally, e.g. if it is against the leader of the council, a group leader, a cabinet member or a member of the standards committee;
- b) whether the status of the complainant would make it difficult for the complaint to be dealt with locally, e.g. if the complainant is the leader of the council, a group leader, a cabinet member, a member of the standards committee, the Chief Executive, the Monitoring Officer or another senior officer;
- c) if there is a potential conflict of interest for so many members of the standards committee that it could not properly monitor the investigation;
- d) if there is a potential conflict of interest for the Monitoring officer or other officers and that suitable arrangements cannot be put in place to address the conflict;
- e) is the case so serious or complex or involving so many members that it cannot be handled locally;
- f) will the complaint require substantial amounts of evidence beyond that available for the authority's documents, members or officers;
- g) is there a substantial dysfunction in the governance of the authority or its standards committee;
- h) does the complaint relate to long term systemic member/officer bullying which could be more effectively investigated by someone outside of the authority;
- i) does the complaint raise significant or unresolved legal issues on which it would be helpful to gain a national ruling;
- j) might the authority be perceived by the public to have an interest in the outcome of the case, e.g. if the authority might be liable to be judicially reviewed if the complaint were upheld; and
- k) are there exceptional circumstances which would prevent the authority from investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for the investigation.

The Initial Assessment Panel will consider these factors in determining whether or not to refer any complaint to the SBE.

The SBE will normally make a decision on whether to accept a complaint within 10 working days. If the SBE declines to accept a case it will notify the authority setting out reasons why. If it is referred back then the Initial Assessment Panel must consider the Complaint again within 20 working days.

8) **Referral for Alternative Action**

The Initial Assessment Panel may refer the complaint to the Monitoring Officer to take alternative action. The Initial Assessment Panel must consult with the Monitoring Officer before doing so. The alternative action could be training, amendments to Council procedures or some form of mediation/conciliation.

9) **Taking no Further Action**

The Initial Assessment Panel may decide that no further action should be taken. The Initial Assessment Panel might do this on the basis that the complaint, even if substantiated, would not amount to a breach of the code. Alternatively it may conclude that a complaint, even if on the face of it would amount to a breach, should not be investigated. In reaching that decision the Panel must have regard to the assessment criteria.

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