

CONSTITUTION AND STANDARDS COMMITTEE

Thursday, 30 September 2021

Present:

Councillor	P Gilchrist (Chair)	
Councillors	T Anderson (In place of P Hayes)	K Greaney
	C Cooke	S Williams
	T Cox	M McLaughlin
	C Jones	P Stuart
	S Foulkes	J Robinson (In place of J Williamson)

11 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Janette Williamson and Councillor Paul Hayes.

12 DECLARATIONS OF INTERESTS

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Councillor Chris Jones declared a personal interest in Item 5 as an employee of the NHS.

13 MINUTES

Resolved – That the accuracy of the minutes of the meeting held on 23 June 2021 be agreed.

14 PUBLIC AND MEMBER QUESTIONS

The Chair informed the Constitution and Standards Committee that no petitions, public questions, Member questions, or requests to make a statement had been received.

15 DISPENSATION

The Director of Law and Governance introduced the report, which presented to the Committee a request for a dispensation for Members in respect of an Interest under the Members Code of Conduct in relation to the National Health Service (NHS) and the proposed Integrated Care System (ICS).

The Committee was advised that given the proposed changes in the NHS and the transfer of statutory functions from Clinical Commissioning Groups to Integrated Care Boards who would then be able to delegate functions to Local Authorities, Councillors would have a number of complex interests given their involvement through undertaking statutory scrutiny and voting on pooled fund arrangements. It was therefore proposed that the dispensation was warranted on the basis that:

- there would otherwise be so many Members prohibited from participating in matters related to the NHS and the ICS that it would be likely that either or both the transaction of the business of a Committee would be impeded and the political representation would be so upset as to alter the likely outcome of any vote;
- the considerations before the Council concerning the NHS and the ICS are of such a large scale and so encompassing that any personal interest of a Member of the Council is unlikely to have a meaningful impact on the decisions of Ministers, NHS leaders or the wider Council in their dealings with any matter related the management and finances of NHS employers; and
- that any bias introduced by a personal benefit to a Member of the Council related to the NHS and the organisation of the ICS will, therefore, be outweighed by the extent of the public benefit obtained by their contribution as a councillor in the interests of persons living in the authority's area.

A detailed discussion from members ensued where concerns were raised that the absence of a dispensation would impact on the Council's ability to conduct business relating to the ICS. Other members argued that the development of the ICS was still in its infancy and that it was too early to grant a dispensation. Further comments were made in relation to the loss of expertise should the dispensation not be granted, and the requirement for members to still declare an interest with the dispensation should they have a direct bias such as directly negotiating a contract with the Council.

Following the discussion, the Chair adjourned the meeting at 7.00pm.

The meeting resumed at 7.33pm.

It was proposed by Councillor Phil Gilchrist, seconded by Councillor Paul Stuart, that –

“this committee –

- a. Thanks the Director of Law and Governance for setting out the issues facing Members in relation to the National Health Service (NHS) and the proposed Integrated Care System (ICS).

- b. Notes that a number of Members have made and regularly make the appropriate declarations at both Council and Committee meetings.
- c. Recognises the concern that the number of Members making declarations might, in certain circumstances, impact on the balance of and decisions made by the Council and, at this juncture, considers that the likely outcome of potential votes on the NHS and ICS does warrant the granting of a general dispensation relating to interests.
- d. Fully appreciates and underlines the fact that Members should always have full regard to the circumstances in which the development of the ICS and its structures have the potential over time to require specific decisions of this Council which will necessitate the need for greater caution on their part.
- e. Agrees that as greater clarity emerges over the structure of the ICS, with the proposed Board, delegated budgets, along with possible arrangements for scrutiny, the situation will require a further review of the advice provided to members. This should, ideally, be in time for the first meeting of Council in the new municipal year when new members will have received advice at induction and all members will have considered how the allocation of committee places might have a bearing on any interests.
- f. It is essential that, in receiving a dispensation, Members remain aware of perceptions that the public may have of their conduct and their remarks. They should, therefore, ensure that they are aware of this and should ensure that they act in the wider public interest at each and every occasion. If they assess that they are in doubt about how closely involved they might be they should seek further advice in sufficient time.

Accordingly, this Committee requests that officers undertake a review, which needs to be completed early in the next Municipal Year.”

The motion was put and carried unanimously.

The importance of members not becoming complacent as a result of the granting of the dispensation was stressed and the Director of Law and Governance undertook to send a note to all members advising them of the outcome and emphasising that their legal duty under the Code of Conduct remained. It was therefore –

Resolved – That this committee –

- a. **Thanks the Director of Law and Governance for setting out the issues facing Members in relation to the National Health Service (NHS) and the proposed Integrated Care System (ICS).**
- b. **Notes that a number of Members have made and regularly make the appropriate declarations at both Council and Committee meetings.**
- c. **Recognises the concern that the number of Members making declarations might, in certain circumstances, impact on the balance of and decisions made by the Council and, at this juncture, considers that the likely outcome of potential votes on the NHS and ICS does warrant the granting of a general dispensation relating to interests.**
- d. **Fully appreciates and underlines the fact that Members should always have full regard to the circumstances in which the development of the ICS and its structures have the potential over time to require specific decisions of this Council which will necessitate the need for greater caution on their part.**
- e. **Agrees that as greater clarity emerges over the structure of the ICS, with the proposed Board, delegated budgets, along with possible arrangements for scrutiny, the situation will require a further review of the advice provided to members. This should, ideally, be in time for the first meeting of Council in the new municipal year when new members will have received advice at induction and all members will have considered how the allocation of committee places might have a bearing on any interests.**
- f. **It is essential that, in receiving a dispensation, Members remain aware of perceptions that the public may have of their conduct and their remarks. They should, therefore, ensure that they are aware of this and should ensure that they act in the wider public interest at each and every occasion. If they assess that they are in doubt about how closely involved they might be they should seek further advice in sufficient time.**

Accordingly, this Committee requests that officers undertake a review, which needs to be completed early in the next Municipal Year.

16 MEMBERS ALLOWANCE SCHEME

The Head of Democratic and Member Services introduced the report of the Director of Law and Governance, which provided an update in respect to the work of the Independent Remuneration Panel and requested the Committee

to refer to Council for decision a proposed change to the Members Allowances Scheme to incorporate a Special Responsibility Allowance for the Independent Member of the Audit and Risk Management Committee.

Members were advised that the proposal was for the Independent Member of the Audit and Risk Management Committee to receive a Special Responsibility Allowance of £30 per meeting or 3 hours to align with that already received by the Independent Members of Constitution and Standards Committee. Furthermore, an update was provided on the work of the Independent Remuneration Panel, where it was reported that the Panel had held a further meeting to consider the Special Responsibility Allowance for leaders of smaller groups and the potential for a Special Responsibility Allowance for Vice-Chairs. An additional meeting in October 2021 was to be scheduled and it had been hoped that a resolution would be made at that meeting in order for the Panel's recommendations to be reported back to Constitution and Standards Committee in November 2021.

Resolved – That

- (1) the Independent Remuneration Panel's recommendation to amend the Members Allowance Scheme to include a Special Responsibility Allowance for the Independent Member of the Audit and Risk Committee be referred to Council.**
- (2) the progress made to date by the Independent Remuneration Panel be noted and that a further update report, including any further recommendations made by the Panel, be submitted to a future meeting of the Committee.**

17 **COMMITTEE SYSTEM REVIEW**

The Chair summarised the report of the Director of Law and Governance which provided the Committee with an update on a proposal previously discussed by the Governance Working Group for that Group to undertake a review of the implementation of and continued operation of the Committee System, as well as providing details of an offer from the Local Government Association as part of their Sector Led Improvement Programme to support the Council in efforts to support the effective working of the Committee System.

Resolved – That

- (1) it be noted that the Governance Working Group would undertake a review on the implementation of and continued operation of the Committee System with a view to submitting an outcomes report and recommendations to a future meeting of the Committee.**

(2) the offer to the Council of support from the Local Government Association as part of their Sector Led Improvement Programme be noted.

18 GOVERNANCE WORKING GROUP UPDATE

The Chair summarised the report of the Director of Law and Governance which provided the Committee with an update on the activities of the Governance Working Group during the 2021/22 Municipal Year.

Members discussed the reference to the cross over in Terms of Reference of Committees in the report, specifically the issue of Active Travel between Economy, Regeneration and Development Committee and Environment, Climate Emergency and Transport Committee where it was reported that conversations were still ongoing between the Chairs.

Resolved – that the report be noted.

19 NEW MODEL CODE GUIDANCE

The Director of Law and Governance introduced the report which provided the Committee with the newly published supporting guidance for the New Model Code, which was aimed to help understanding and consistency of approach towards the implementation of the code. The Committee was advised that since Wirral Council had adopted the new Code of Conduct, the Local Government Association had issued an update to the New Model Code to correct some minor errors in the original version, and that a further report and recommendation would be presented to the Committee in due course. It was however reported that the guidance could still be presented as was.

It was moved by Councillor Gilchrist, seconded by Councillor Tom Anderson, that a covering note be produced to accompany the guidance to advise members of the minor amendments to be undertaken on the Code of Conduct. The motion was agreed by assent. It was therefore –

Resolved – That the New Model Code guidance be distributed to all Councillors with a covering note to advise of the minor amendments to be undertaken to the Code of Conduct.