



Standards Committee

Date:	Tuesday, 30 June 2009
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. 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 - 8)

To receive the minutes of the meeting held on 30 March, which were received by the Council.

3. ETHICAL GOVERNANCE 2008/09 (Pages 9 - 32)

4. GOVERNANCE OF PARTNERSHIPS (Pages 33 - 50)

5. OMBUDSMAN REPORT-REPORT NO 07/C/03447 (Pages 51 - 56)

6. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

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STANDARDS COMMITTEE

Monday 30 March 2009

<u>Present:</u>	Mr	Brian Cummings (Chair)	
	Councillors	C Blakeley WJ Davies K Hayes AR McLachlan	C Meaden L Rowlands C Teggin P Williams
<u>Deputy:</u>	Councillor	A Bridson	
<u>Independent Member:</u>	Mr	Alex Nuttall	
<u>In attendance:</u>	Councillor	J Green	
<u>Apologies:</u>	Mr	Ken Harrison	

34 DECLARATIONS OF INTEREST

The members of the Committee were asked to consider whether they had a personal or prejudicial interest in connection with any item on the agenda and, if so, to declare it and to state the nature of such interest. No declarations were made.

35 MINUTES

Resolved – That the minutes of the previous meeting, held on 27 January, be approved as a correct record.

36 ETHICAL GOVERNANCE 2008/09 - DRAFT REPORT AND COMMENTS

Further to Minute 22 (1/12/08), Liz Temple-Murray, the Audit Manager, and her colleague, David Brown, presented their draft report following their Review of Ethical Governance within the Authority. She sought the Committee's agreement to the report and asked that any suggested amendments or additions to the proposed Action Plan be submitted to her by the third week in April.

The main conclusions of the report were:

(i) that the Council had a good understanding of the key Ethical Governance issues that it faced and the action needed to promote and maintain the standards. Positive features included -

- the Members' Code of Conduct was generally operating effectively and the behaviour of members and officers was mostly appropriate;
- members and officers worked well together to achieve the Council's common goals;

- the Council had a good approach to promoting equality and diversity in its policies and services;
- both the Leader and Chief Executive were considered to be role models in promoting the Ethical Agenda; and
- the Council was taking active steps to encourage good conduct by members and officers and to improve transparency in the way that it carried out its business.

(ii) that, although the survey findings were encouraging, and in many cases more positive than average, they pinpointed issues where further work and clarity was needed. In particular, the findings suggested that some members and officers could be helped to develop a better understanding of Ethical Governance, which would be helped by greater communication about the ethical framework.

(iii) there were other areas for development including –

- raising the profile of the Council's Standards Committee through pro-active work and ensuring that all members of the Committee had access to the right information to carry out its functions effectively;
- reviewing the level of training for members and officers on the Ethical Agenda;
- creating a culture in which members and officers could make allegations of misconduct by a member or officer without fear of reprisal and be confident in the action that they should take; challenge member recommendations and Council decisions to improve openness and transparency; and be assured that inappropriate behaviour would be suitably dealt with;
- clarifying the use of Council resources for political and non-political purposes;
- raising trust and confidence in Local Government and democracy; and
- increasing awareness of the Whistle-blowing Policy and reinforcing assurances that reporting through that mechanism could be done without fear of reprisal.

The members of the Committee discussed the report and, whilst noting the statistical evidence within it, expressed the view that the inclusion of comments gleaned from the various interviews might better illuminate the Authority's position. With regard to the Standards Committee, the Chair reported that he had recently met with the Chief Executive, and both had agreed that the profile of the Standards Committee should be raised. Members accepted the need for more training, though it was pointed out that generally the level of attendance at training sessions had not been encouraging.

Ms Temple-Murray responded by stating that with regard to bringing forward interviewees' comments, she would need to check whether or not it was possible to do so without revealing their identities. However, she felt no purpose would be served by delaying completion of the report by a further three months. If there were any issues that needed to be acted upon, they could be dealt with separately, albeit within the context of implementation of the Action Plan. A member suggested that the information sought might be particularly helpful in targeting training. Other members agreed that anecdotal evidence would assist in the implementation of the Action Plan. In response, the Director of Law, HR and Asset Management stated that he could report to the next meeting on that basis.

Resolved – That Liz Temple-Murray and David Brown be thanked for their report; the contents be accepted; and, where possible, the Director of Law, HR and Asset Management report back on those comments made by interviewees that would illustrate how the proposed Action Plan might be taken forward.

37 **REGULATION OF INVESTIGATORY POWERS ACT 2000 - USE OF POWERS**

The Director of Law, HR and Asset Management reported on the operation within the authority of the Regulation of Investigatory Powers Act 2000 (RIPA), which governed how public bodies used surveillance methods. The Council, like other local authorities, was entitled to use directed surveillance where doing so was in the public interest for the purpose of preventing or detecting crime or preventing disorder. The Office of the Surveillance Commissioner (OSC) was responsible for overseeing the operation of RIPA, and the Council had to account to the OSC on an annual basis on its use of investigatory powers. The Council had been the subject of two inspections by the OSC, in July 2003 and July 2007, as well as a recent review by its own Internal Audit Section. The Director reported that one of the recommendations of that review had been for the Council's Policy and Procedures on the use of RIPA to be updated.

The Director commented that there had been a large degree of misreporting on the subject of surveillance and he presented a Home Office document that sought to correct some of the misconceptions. The Council had used directed surveillance to support its enforcement activity since the passing of RIPA, and in the year 2007/08 had granted 45 authorisations. Those related to cases investigated by the Wirral Anti-social Behaviour Team (36) and the Trading Standards team (9), and the use of the powers had assisted in legal action to deal with rogue traders and to obtain court orders to tackle anti-social behaviour.

The Director presented a copy of the latest OSC inspection report and outlined the actions taken by the Council in response to the recommendations. He also presented a revised Policy and Procedure on the use of powers under RIPA, which had been considered by the Chief Officers Management Team and would be presented to the next meeting of the Cabinet for approval. He added that the Council would be subject to a further OSC inspection later in the year, which would test the adequacy of the arrangements that were in place.

In response to comments from members, the Director reported that authorising officers had to be satisfied that the use of covert surveillance was as a last resort and had to be proportionate to the harm the Council was seeking to deal with. All responsible/authorised officers of the Council involved in such activity were required to be trained at least every two years and risk assessments would always be undertaken.

Members stressed the need for the RIPA process to be transparent in order to alleviate public concerns about invasion of privacy.

Resolved – That the document “Policy and Procedure on the Use of Powers under the Regulation of Investigatory Powers Act” be endorsed, subject to the further minor amendments now suggested (including the names of responsible officers).

38 PARTNERSHIP GOVERNANCE FRAMEWORK AND TOOLKIT

The Director of Law, HR and Asset Management reported that the Audit Commission had recently carried out a further review of the Council's arrangements in relation to partnerships. It was expected that the Commission's report would highlight the need for the Council to ensure that its partnership arrangements were strong. To assist in that process, a Partnership Governance Framework and Toolkit had been devised in order to guide elected members and officers in their dealings with partnerships. It would also allow the Council's partners to see the key principles and quality standards that it was committed to and how it was putting collaboration and co-operation at the heart of its operations.

The Director commented that, whilst Wirral had a good record in relation to partnership working, it was easy to be drawn into such arrangements without recognising the risks, and the Council had to be certain that all of its arrangements were fit for purpose. The Toolkit provided a structure for entry into partnerships, participation, review and, when necessary, withdrawal. The Toolkit identified a link officer for each partnership with which the Council was currently involved. The Toolkit dealt with principles, and arrangements would have to be tailored for each partnership.

Members discussed the document and commented that a key element of such arrangements would be to establish each partner's share of costs and how each partnership would take decisions. It was also accepted that regular reviews, in order to check on compliance, would be necessary.

Resolved – That, subject to the minor amendments now mentioned (including updating the names and/or titles of responsible officers), the Partnership Framework and Toolkit be endorsed, the Cabinet be advised accordingly and the Council be recommended to approve the documents and incorporate them into the Constitution.

39 REGISTERING OF GIFTS AND HOSPITALITY

Further to minute 18 (30/9/08), the Director of Law, HR & Asset Management reported on the current position in relation to the registering of offers of gifts and hospitality. On a motion by Councillor Blakeley, duly seconded, it was –

Resolved – That

- (1) the Committee welcomes the report;**
- (2) in the interests of clarity, and to avoid any confusion, the Committee requests that the Director of Law, HR and Asset Management writes to all Chief Officers and Heads of Service informing them NOT to record any gifts or hospitality on behalf of elected members in any registers, and requesting that the information in the letter be cascaded down to all officers.**
- (3) the Committee requests that the Director of Law, HR and Asset Management writes to all elected members reminding them of their sole and individual responsibility to:**

(a) register gifts and hospitality in the register of member's interests, which is held within the Legal and Member Services Section (informing members that the ModGov system for the recording of gifts and hospitality is not, as yet, enabled and should not be used until such time that it is enabled);

(b) notify only the Monitoring Officer, or his nominee, in writing of gifts and hospitality, in accordance with the Code;

and includes with that letter -

- a copy of the Standards Board factsheet in relation to gifts and hospitality;
- information that it is best practice also to register gifts and hospitality that are declined;
- notification that, in order to avoid any confusion as to whose responsibility it may be to register gifts and hospitality, Council officers, other than the Monitoring Officer or his nominee, are being instructed NOT to record any gifts or hospitality on behalf of elected members in either the central register of gifts and hospitality, or in any departmental registers that may be active (and which are intended for officers to register any interests or gifts that they have personally received).

(4) the Committee also requests that the Director notifies all those elected members who are appointed to Joint Boards or outside bodies (that have a code of conduct in operation) of their responsibility to record any gifts or hospitality accepted or declined with both the Council and their Joint Board / outside body.

(5) the Committee further requests that the Director arranges with some urgency:

(i) training sessions on the Code of Conduct in order to ensure elected members are fully aware of the requirements of the Code and their responsibilities in complying with it;

(ii) training sessions on the ModGov system in order that, when it is enabled, elected members will be able to use it efficiently, effectively and with confidence for all aspects of the system and particularly with regard to the facility to record accepted or declined gifts and hospitality.

40 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

Resolved – That the Director book five places for this event - one for a member of each of the political groups, one for an independent member and one for the Director, with an extra place for an independent member if any of the political groups is not able to provide a nominee.

41 NORTH WEST INDEPENDENT MEMBERS FORUM

The Committee's attention was drawn to the North-West Independent Members' Forum, which met regularly at different venues around the north-west.

Resolved – That this Committee’s independent members be encouraged to participate in the Forum.

42 **EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

Resolved - That, under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraph of Part I of Schedule 12A (as amended) to that Act.

43 **STANDARDS BOARD DECISION NOTICE**

The Director of Law, H.R. and Asset Management reported on a complaint against a councillor that, for appropriate reasons, had been referred to the Standards Board for England by the Initial Assessment Panel. The Board's decision had been that it would take no further action.

Resolved - That the decision be noted.

44 **OMBUDSMAN COMPLAINT - COMPENSATION (MS R)**

The Chair agreed to consideration of this matter as urgent other business in view of the need to avoid any further delay in settling the compensation in the case.

The Director of Adult Social Services reported on the circumstances of a case involving care services for a young adult that had been the subject of a complaint to the Local Government Ombudsman. There had been a number of elements to the complaint, only one of which had been upheld, namely that there had been an unacceptable delay in the allocation of a social worker. As a result, the Ombudsman had recommended that a sum of compensation be paid to the parent to reflect the personal impact on her and her son for the lack of services for four years, the failure to provide respite care and the loss of social work support for a significant time. The money was considered to be equivalent to what the Council had not spent on the young man’s care, even though he had been assessed as requiring services.

The Committee discussed the basis of the proposed compensation and sought information of what steps were being taken to ensure that such circumstances would not occur again.

Resolved –

(1) That the basis for the proposed compensation be accepted and a sum of £30,000 be paid to Ms R.

(2) That the Committee notes the implementation of the Action Plan drawn up following the Stage 2 complaint.

(3) The Committee notes that the issue of transition from child care to adult care is an issue that both the Children’s Services and Lifelong Learning and the Social Care, Health and Inclusion Overview and Scrutiny Committees are proposing to review and requests that the results of their scrutiny be reported to this committee.

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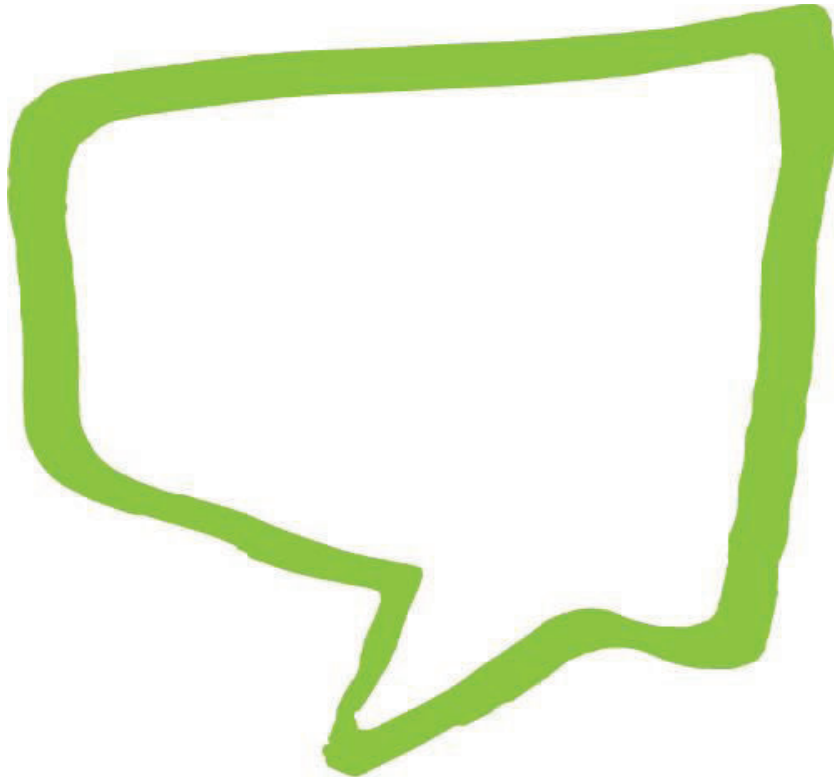
Ethical

Governance

Wirral Council

Audit 2008/09

June 2009



Contents

Summary report	3
Detailed report	7
Appendix 1 – Standards Committee - terms of reference	20
Appendix 2 – Action Plan	21

Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

Summary report

Introduction

- 1 Confidence in local democracy is a cornerstone of our way of life. It can only be achieved when elected and co-opted members of local authorities are seen to live up to the high standards the public has a right to expect from them.
- 2 In recent years there has been an increased emphasis on standards and conduct in public life. The findings of the Committee on Standards in Public Life, the Local Government Act 2000 and the introduction of the Standards Board for England (SBE) are all factors in the current weighting being given to the need for strong ethical governance in local councils. This was also reinforced by the Chief Executive of the SBE in his November 2006 letter to local authority Chief Executives where he stressed the roles of Chief Executives and leading members in influencing organisational culture and supporting the ethical environment.
- 3 High ethical standards are the cornerstone of good governance. They are an integral part of good corporate governance arrangements and can lead to increased confidence in local democracy and better public services. Setting high ethical standards is an important building block for councils in developing their community leadership role and improving services to the community. Councils are also becoming involved in increasingly complex partnerships and poor ethical standards may adversely affect these arrangements.
- 4 Ethical governance is an area of great interest to the national and local press, particularly when things go wrong. Local authorities and individual members face a number of risks, including investigation for alleged breaches of the Code of Conduct, sometimes leading to the disqualification of members, loss of confidence and trust in individual members, councils and local democracy and poor decision making.
- 5 On average nationally, one member a week was removed from office in 2006. Other sanctions have included formal censure and suspension from using council facilities. Issues included bullying behaviour, misuse of council resources, bringing a council into disrepute and using the position as a member for personal gain. The high number of disqualifications has now reduced but it is important that the spotlight stays on high ethical governance standards. The economic recession, for example, has placed added pressure on members and officers to proactively manage the Council's finances and other resources, particularly where costs and demands for services are increasing.
- 6 One of the common aspects of governance failures is not the absence of frameworks, controls and arrangements but the absence of appropriate behaviours and values amongst members and officers. This audit therefore looks at Wirral Council's compliance with statutory requirements and also at behaviour, culture and values.

Background

- 7 This work is based on the requirements of Part III of the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007. Every local authority is required to adopt a Members' Code of Conduct that sets out the rules governing the behaviour of its members. A new model Code of Conduct was issued by the government in April 2007. Wirral Council adopted the revised Code in its model form in May 2007. The Code covers areas of individual behaviour such as members not abusing their position or not misusing the Council's resources. In addition, it includes rules governing disclosure of interest and withdrawal from meetings where members have relevant interests. Members must also record their financial and other interests.
- 8 All councils were required to establish, by May 2002, a Standards Committee to promote and maintain high standards of conduct for members. One of their roles is to create a sense of 'ethical well-being' in the authority. A new locally based system for dealing with complaints about local authority members' conduct came into force in May 2008. The new framework gives Standards Committees responsibility for the initial assessment of all allegations that a member of their authority may have breached the Code of Conduct. It also gives them responsibility for any subsequent investigations, decisions and sanctions. This is except where cases cannot be handled locally because of their highly sensitive nature.
- 9 Wirral Council has 66 councillors. The Conservative Group is the largest party with 24 seats; Labour has 21 and the Liberal Democrat Group has 20, with 1 Independent councillor. A Leader and Cabinet of Labour and Liberal Democrat Councillors govern the Council. The governance arrangements also include ten Overview and Scrutiny Committees and a Standards Committee whose terms of reference cover the model framework.
- 10 The Council's net revenue budget (2008/09) was £298.7 million. Services are delivered by seven departments: Adult Social Services; Children and Young People; Corporate Services; Finance; Law, Human Resources and Asset Management; Regeneration; and Technical Services.

Audit approach

- 11 The aim of this work is to assess how far:
 - the Council complies with Part III of the Local Government Act 2000 and the relevant sections of the Local Government and Public Involvement in Health Act 2007;
 - the Council ensures that the Standards Committee has access to the right information and support to enable it to do its job properly;
 - members and officers understand and are aware of ethical issues;
 - members abide by the Code of Conduct; and
 - members and officers have training needs in this area.

Summary report

12 This work covers four key lines of enquiry.

- Balancing rules and trust: supporting the genuine motivation of people while ensuring that those who do breach the rules are challenged.
- Independent overview: monitoring, developing and promoting the Council's approach to the ethical agenda and how far this is delivering improvement.
- Leadership: encouraging good conduct in the Council, including in relation to the equalities and diversity agenda.
- Transparency: ensuring transparency in the way that the Council carries out its business.

13 The work comprised:

- an electronic survey of members, senior managers and Democratic Services officers in the Council; and
- an assessment of how well the Council's ethical governance arrangements are working - including document review, interviews and focus groups.

Main conclusions

14 The Council has a good understanding of the key ethical governance issues that it faces and the action needed to promote and maintain standards. Positive features include:

- the Members' Code of Conduct is generally operating effectively and the behaviour of members and officers is mostly appropriate;
- members and officers work well together to achieve the Council's common goals;
- the membership of the Standards Committee complies with the legislation - the Chair and Vice-chair are independent members;
- the Council has a good approach to promoting equality and diversity in its policies and services;
- both the Leader and Chief Executive are considered to be role models in promoting the ethical agenda; and
- the Council is taking active steps to encourage good conduct by members and officers and to improve transparency in the way that it carries out its business.

- 15 Although the survey findings are encouraging - and more positive than the average in many areas - they also pinpoint issues where further work and clarity is needed. In particular the findings suggest that some members and officers could be helped to develop a better understanding of ethical governance in the Council. For example, members and officers have different perceptions about how members abide by the Code of Conduct and the extent to which communication between them is constructive. The survey results suggest that greater communication about the ethical framework and a wider understanding of each other's role would strengthen working relationships and improve delivery of the ethical agenda.
- 16 Other areas for development include:
- raising the profile of the Council's Standards Committee through proactive work and ensuring that all members of the Committee have access to the right information to carry out all its functions effectively;
 - reviewing the level of training for members and officers on the ethical agenda;
 - creating a culture in which members and officers can:
 - make allegations of misconduct by a member or an officer without fear of reprisal and be confident in the action they should take;
 - challenge member recommendations and council decisions to improve openness and transparency; and
 - be assured that inappropriate behaviour is suitably dealt with.
 - clarifying the use of council resources for political and non-political purposes;
 - raising trust and confidence in local government and democracy; and
 - increasing awareness of the Whistleblowing Policy and re-enforcing assurances that reporting through this mechanism can be done without fear of reprisal.
- 17 The Council also needs to consider whether it is satisfied with results that are more generally positive than the other comparator councils or whether it aspires to higher standards.
- 18 An action plan has been agreed with council officers (Appendix 2) to address the issues arising from this review. The report and action plan are presented to the Standards Committee to agree the content and comment on the action plan before being finalised. The report, survey results and action plan provide the members of the Standards Committee with a baseline assessment of where the Council is now and a positive framework for strengthening ethical governance arrangements to result in increased confidence in local democracy and better outcomes for local people.

Detailed report

Balancing rules and trust

- 19 The Members' Code of Conduct is generally operating effectively. Our surveys show that around 90 per cent of members report that they 'always or usually' abide by the Code. Officers' perception is much less - at 67 per cent - although a third of officers don't know.
- 20 The behaviour of members and officers is mostly appropriate and consistent with findings from other surveys. Around 85 per cent of members, compared with 68 per cent of officers report that members perform their duties with honesty, integrity and impartiality. A small number of complaints about members' behaviour also suggest that the Code is generally working effectively. Only in isolated instances have allegations been made that - if substantiated - could reasonably be regarded as behaviour bringing their office or authority into disrepute.
- 21 The relationship amongst members is similar to that in other councils. Forty nine per cent of members say that members always or usually trust each other and 39 per cent say 'sometimes'. Sixty eight per cent of members say that they treat other members fairly. Occasionally insulting comments are made by members about other members in a public meeting. It is important that members recognise a balance between proper, political debate and forthright exchange of views and how their behaviour is perceived.
- 22 The behaviour of officers is generally appropriate and well regarded. The Council has approved a code of conduct for officers. This code covers honesty, integrity, impartiality and objectivity; accountability; respect for others; personal interests; openness; and the use of the internet and electronic mail facilities. Our survey found that 88 per cent (above average) of members and 96 per cent (average) of officers say that officers perform their duties with honesty, integrity, impartiality and objectivity. Eighty four per cent of officers say that officers always or usually trust each other. Where behaviour is allegedly not appropriate action is generally taken, including internal or external investigations.
- 23 The Council has integrated the Members' Code of Conduct in its equality policies and schemes. The Code - in line with the model Code and the ten general principles of public life - requires members not to do anything which may cause the Council to breach any of the equality enactments. They should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. These principles are reflected in the Council's Equality and Diversity Policy and Strategy.

- 24 The trust between members and officers is about average. Both groups agree on how fairly officers treat members but how members treat officers, uphold their impartiality and listen to their advice is perceived differently. The Council has adopted a protocol on member and officer relations. In particular it defines the roles of officers and members, officer advice to party groups, briefings for Cabinet and committees and members' access to information. Our survey also found that:
- 63 per cent of members and 59 per cent of officers say that officers and members trust each other but a quarter say only 'sometimes';
 - 88 per cent of members compared with 76 per cent of officers say that members always or usually listen to the advice of officers;
 - 85 per cent of members compared with 76 per cent of officers say that members treat officers fairly; and
 - 88 per cent (above average) of members and 76 per cent of officers (above average) say that members always or usually uphold the officers' impartiality.
- 25 Appropriate confidences are mainly considered to be kept by officers and members but to varying degrees. Seventy five per cent of members compared with 59 per cent of officers say that they are always or usually kept by members. Seventy six per cent of members and 84 per cent of officers say that they are kept by officers. However, occasional leaks of confidential information to the media do occur. In certain circumstances such disclosure of, for example, a potential development can create a risk of public anxiety and compromise negotiations with the Council.
- 26 Members and officers work well together to achieve the Council's common goals. But, again, working together and amongst each other are perceived differently:
- 64 per cent (above average) of members and 79 per cent (average) of officers say they work well together to achieve common goals, but 31 per cent of members say 'sometimes';
 - 44 per cent (below average) of members and 52 per cent (above average) of officers say that members always or usually work well together, but 44 per cent of members and 32 per cent of officers say 'sometimes'; and
 - 70 per cent (average) of members and 90 per cent (average) of officers say officers work well together to achieve common goals.

Whilst members will have differing political opinions and priorities, a high level of collaboration means that it is more likely that councils will improve outcomes and the quality of life for local people.

Detailed report

- 27 Members are not totally convinced that they make allegations of member or officer misconduct appropriately or can do so without fear of reprisal. Our survey found that understanding was similar to that in other councils and that always or usually:
- 61 per cent of members make allegations of member misconduct appropriately;
 - 56 per cent make such allegations without fear of reprisal but 23 per cent don't know; and
 - 54 per cent of members consider that they can make an allegation of officer misconduct without fear of reprisal but 32 per cent don't know.
- 28 These findings are consistent with how confident officers consider that they can make an allegation of member misconduct without fear of reprisal. Officers are more confident (79 per cent) about making an allegation about misconduct by another officer than by a member making such an allegation against another member (56 per cent). However, 34 per cent of officers don't know if they can make an allegation of member misconduct without fear of reprisal.

Recommendation

R1 Emphasise to members and officers that they can:

- make allegations of misconduct by a member or an officer without fear of reprisal; and
- be confident in the actions they should take as individuals if they become aware of such misconduct.

Independent overview

- 29 The Standards Committee is operating appropriately and members are keen to develop arrangements to ensure it operates more proactively. Guidance, information and training are provided for councillors on the Committee but have been limited for Independent members.
- 30 The membership of the Standards Committee complies with the requirements of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. It has 12 members including 3 independent members - 2 of which are the Chair and Vice-chair of the Committee - and 3 members from each political party. Independent members are important for increasing public confidence in local government. They bring a wider perspective from their own experiences and can provide a clear signal that the Committee acts fairly, impartially.

- 31 Independent members were appointed following an advertisement in a local newspaper. In addition, vacancies were drawn to the attention of local people who receive the Wirral Governor newsletter, are on the Older People's Parliament distribution list and are members of the Wirral Council for Voluntary Services and the Chamber of Commerce. Applicants were asked to declare any political interests - this is good practice and helps to increase public confidence in the fairness of the Committee. They were interviewed by the spokespersons of all three political parties and the Council approved their recommendation. The recruitment process helps to attract members with a keen interest in standards in public life and a wish to serve the local community and uphold local democracy.
- 32 The terms of reference of the Standards Committee are included in the Council's Constitution, which is published on its website. They include:
- promoting and maintaining high standards of conduct by members;
 - assisting them to observe the Members' Code of Conduct, advising the Council on the adoption or revision of the Code and monitoring its operation;
 - advising, training or arranging training for members on the Code;
 - dealing with reports from a case tribunal, the Monitoring Officer and Local Government Ombudsman; and
 - monitoring and reviewing the operation of whistleblowing procedures.
- 33 The terms of reference of the Standards Committee are set out in full at Appendix 1. The Constitution also details the terms of reference and membership of the Standards Initial Assessment, the Standards Review and the Standards Hearings panels. It specifies the assessment criteria - for considering whether or not a complaint should be investigated or no further action should be taken - and the protocol for dealing with complaints of an alleged breach of the Members' Code of Conduct.
- 34 The Committee's governance role also includes, for example, receiving reports from the Local Government Ombudsman and advising the Council on the appointment of independent members. Giving the Committee wider-reaching responsibilities is a positive step. It also provides a workload which is regular and interesting and should aid the retention and recruitment of independent members.

Detailed report

- 35** Members of the Standards Committee demonstrate a commitment and willingness to maintain and enhance ethical standards across the Council. But much work needs to be done to raise awareness of the Committee. Opportunities exist for development particularly in explaining how its role supports the ethical agenda and ensuring the required standards of behaviour by members and officers. Our survey shows that more than three quarters of officers and members say that the work of the Committee adds value to the Council:
- 39 per cent of members and 52 per cent of officers don't know if it is making a positive difference to the way people outside the Council view the organisation; and
 - 22 per cent of members and 40 per cent of officers don't know if the Standards Committee or Monitoring Officer monitors member behaviour against the Members' Code of Conduct.
- 36** Further opportunities exist for the Committee to be proactive. It could, for example, undertake an assessment of standards in the Council and consider the effectiveness of the codes of conduct and complaints and whistleblowing policies. Its work has largely been to receive officers' reports and - in a few instances - to consider alleged inappropriate behaviour by members. However, the Chair is currently attending Council and committee meetings to observe member behaviour. This is a positive step. It is intended that the Monitoring Officer will discuss with the Chair if any action is needed to improve compliance with the Code. Periodic ethical audits highlight any systemic weaknesses.
- 37** The Committee does not have a workplan, nor does it produce an annual report on the ethical health of the Council and on its work. It does not consider how, for example, the work of internal audit and scrutiny and select committees, reports on complaints and whistleblowing cases and from external bodies like the Audit Commission, could inform its own agenda. A work programme prevents ethics slipping off the agenda. The Committee can provide a useful structure for learning from the experiences and cases in other authorities. In particular it can provide support to officers when faced with a highly politicised environment.

Recommendation

R2 Raise the profile of the Standards Committee by:

- developing a work programme and action plan;
- undertaking an annual assessment of standards of conduct of members and officers and taking action as appropriate;
- learning from and using the findings of the allegations it receives, reviews, determinations and reports from the Local Government Ombudsman, internal and external audit, complaints and whistleblowing to plan and evaluate its work; and
- communicating its work to a wider public.

- 38 Standards, codes of conduct and ethical protocols are regularly reviewed or updated following new legislation or revised national guidance. The terms of reference of the Standards Committee were amended in July 2008 and the member and officer protocol was amended in 2007. The revised Members' Code of Conduct allows greater participation by members with prejudicial interests. Other changes included:
- allowing the disclosure of confidential information if it is reasonable and in the public interest to do so, and if disclosure is made in good faith and in compliance with the reasonable requirements of the Council;
 - strengthening the obligation to have regard to any relevant advice given by the Monitoring Officer and the Section 151 Officer; and
 - adding a new personal interest where it is likely to affect the interests of any person from whom at least £25 worth of gift or hospitality has been received.
- 39 The Standards Committee has a limited role in ensuring that members and officers receive appropriate guidance, including training and information on the requirements of the ethical agenda. One of its terms of reference is 'to advise, train or arrange to train councillors' but training and guidance on ethical behaviour are provided by officers. Members have received written statements and guidance of how they should perform their duties, the ethical standards to which they are required and expected to adhere and examples of possible transgressions that could precipitate problems. A commentary on the Code is included in the Members Handbook.
- 40 Members of the Standards Committee are provided with guidance issued by the SBE. Training has included a presentation from the Monitoring Officer, a question and answer session and a seminar on constitutional issues and the Member's Code of Conduct. The Chair of the Standards Committee and the party spokespersons have attended the SBE Annual Conference. However, our survey found the majority of officers don't know if guidance and training on ethics and conduct is mandatory or included in induction for members. Similarly, half of members don't know if such guidance is included in induction for officers.
- 41 Training and guidance for independent members of the Standards Committee has been limited. As a result they are not as well-informed and supported as they could be to fulfil their roles effectively.

Recommendation

- R3** Review the level of training for members and officers on the ethical agenda and:
- use information obtained through feedback and monitoring processes of individuals/groups/panels/committees and from other sources to plan training, development and support for individual members, groups of members and members of the Standards Committee and for officers; and
 - introduce for independent members an induction programme that includes training on the members' and officers' codes of conduct and the function of the Standards Committee and attendance at meetings of, for example, Cabinet, overview and scrutiny, planning and licensing committees and the full Council.

- 42** The Council has the resources needed for carrying out local investigations supported, where appropriate, by an external, independent case officer. Processes are in place to:
- receipt and assess complaints such as the alleged inappropriate behaviour of a member;
 - review decisions to take no action over complaints;
 - consider the Monitoring Officer's final investigation reports considering determination hearings; and
 - consider whether any allegation of misconduct should be referred to the SBE for investigation.

Leadership

- 43** Overall members are seen as a focus for positive change. Sixty six per cent (average) of members and 51 per cent (above average) of officers say so, although 29 per cent of members and 27 per cent of officers say 'sometimes'.
- 44** An integrated approach to equality, diversity and human rights is reflected in decision making, policies and practices for both service delivery and employment. The Council is developing a new Single Equality Scheme and action plan, which incorporates all six equality strands. It uses its statutory duties well to promote equality. Equal opportunities and human rights implications are considered in reports to members. Work is in progress to achieve level 3 of the Equality Standard for Local Government ('achieving') and the Council is due to be externally assessed in March 2009.

- 45 Progress towards equal opportunities in employment is demonstrated by the Council's workforce profile. The percentages of the top-paid five per cent of staff who are women or who have a disability are amongst the highest 25 per cent of councils. However, top earners and all employees from an ethnic minority community and employees with a disability are below the medians. Our survey also found that:
- over 90 per cent of members and officers say that the Council seeks to meet the needs of its diverse communities;
 - 69 per cent of members, compared with 81 per cent of officers say that the Council seeks to attract officers from diverse backgrounds, although almost a quarter of members don't know; and
 - 73 per cent of members and 81 per cent of officers say that the Council ensures that staff are appropriately skilled to meet the needs of its diverse communities.
- 46 Members and officers have a different perception and understanding about guidance that is provided on equalities and human rights issues. Eighty nine per cent of members, compared with 64 per cent of officers, say that the guidance is appropriate, but 31 per cent of officers don't know if it is appropriate. Although 93 per cent of officers compared with 65 per cent of members say that appropriate guidance is provided for officers, 32 per cent of members don't know.
- 47 Communication of ethical standards is considered to be good. But again members and officers do not have a full understanding about the information that each receives to promote high standards:
- 73 per cent of members and 86 per cent of officers say that the Council's approach to promoting high ethical standards is encouraging appropriate behaviour;
 - 83 per cent of members and 62 per cent of officers say that the importance of high ethical standards is always or usually communicated to members; and
 - 66 per cent of members and 90 per cent of officers say that it is communicated to officers, but 32 per cent of members don't know.
- 48 The Council's Chief Executive is considered to be a positive role model and proactive - by 88 per cent of members and 92 per cent of officers - in promoting the ethical agenda both inside and outside the Council. Eighty three per cent of members and 85 per cent of officers say that the Chief Executive always or usually promotes the importance of the ethical agenda. These figures are above average. He sets high personal standards, promotes appropriate behaviour and takes action where an issue could potentially undermine the reputation of the Council.

Detailed report

- 49 The Leader of the Council is also considered to be a positive role model. Sixty per cent of members and 81 per cent of officers replied 'always or usually' to this question. The Cheshire Lines Public Interest Report - published by the Audit Commission in 2005 - followed a request by the Leader for a review of the events surrounding the acquisition and subsequent development of this building and to make appropriate recommendations to improve the Council's procedures. Sixty one per cent of members and 71 per cent of officers say that the Leader always or usually promotes the importance of the ethical agenda. All these findings are above average
- 50 The Monitoring Officer gives proactive advice both to individual members and corporately. Both the Monitoring Officer and Deputy Monitoring Officer and other officers are available to advise them at all reasonable times. Seventy eight per cent of members and 66 per cent of officers say that the Monitoring Officer promotes the ethical agenda but a third of officers don't know. Providing guidance proactively helps to avoid potential infringements and resolve misunderstandings.
- 51 The Council could do more to promote confidence and trust in local government and local democracy beyond treating users of services fairly. A high percentage of members (95 per cent) and officers (73 per cent) say that members always or usually treat users of Council services fairly. Eighty seven per cent of members and 94 per cent of officers say that officers treat users fairly. Our survey found:
- 46 per cent (average) of members and 66 per cent (above average) of officers say that the Council's approach to promoting high ethical standards is helping to build public confidence in the Council but 22 per cent of members don't know; and
 - 68 per cent (above average) of members and 62 per cent (above average) of officers say that the importance of high ethical standards is communicated to local communities, but 20 per cent of members and 28 per cent of officers don't know.
- 52 Partners are not convinced that the importance of ethical standards is communicated to local partnerships. Three out of five partners who responded to the survey replied 'never' and one replied 'don't know'. In contrast 68 per cent (above average) of members and 66 per cent (average) of officers say that it is communicated to local partnerships although 22 per cent of members and 25 per cent of officers don't know. The partners were less complimentary about how the Council encourages good conduct.

Recommendation

- R4** Ensure that information on the Council's ethical governance arrangements and its expectations about high ethical standards by all is widely disseminated, both internally and externally.

Transparency

- 53** The Council's Publication Policy and Access to Information Procedure Rules are included in the Constitution and are published on its website and Intranet. The website includes an introduction to the Freedom of Information Act, classes of information and individuals' rights. The wide availability through the website - with free access available at the borough's libraries - means that the public do not need to make a specific request under the Act.
- 54** The members' and officers' codes of conduct and Standards Committee papers can also be accessed via the website. Alternatively users can obtain information at the Council's one stop shops and information points across the borough:
- 82 per cent of members and officers say that the public can access the Members' Code of Conduct, but 18 per cent of members and 28 per cent of officers don't know; and
 - 53 per cent of members and 70 per cent of officers say that the public can access the Officers' Code of Conduct, but 30 per cent of officers don't know;
- 55** Member protocols are generally clear. Members must, when using or authorising the use by others of the Council's resources (for example, ICT equipment), act in accordance with its reasonable requirements. They should do whatever they are able to do to ensure that the Council uses its resources prudently and lawfully:
- 92 per cent per cent of members compared with 72 per cent of officers say that council policies on the use of its resources by members are clear; and
 - 92 per cent of members compared with 65 per cent of officers say that the guidelines for members on their personal conduct are clear;
- 56** The use of council resources is not entirely clear. For example, the Members' Code of Conduct states that such resources should not be used improperly for party political purposes. Thirty five per cent of members and 20 per cent of officers say that members usually or sometimes use the Council's resources for party political purposes. Members would benefit from clear guidance on what constitutes improper use in such circumstances.

Recommendation

- R5** Clarify the circumstances in which the use of council resources would constitute improper use for party political purposes within the Members' Code of Conduct.

Detailed report

- 57 The register of member interests is kept up to date and complete. Members are aware of the need to make appropriate disclosures of gifts, hospitality and pecuniary interests. They make appropriate disclosures in the register which is regularly reviewed. An annual reminder - to be replaced by a quarterly reminder - is sent to members to complete the information. They are also required to make a declaration even if there is 'no change' to their circumstances. Progress is being made in implementing and making available an electronic version of the register that is directly accessible via the Council's website. It is important that such disclosures are registered to avoid any perception by members of the public that decision makers could be unduly influenced when making a decision concerning a particular organisation.
- 58 Members are proactive in declaring personal and prejudicial interests at meetings. The Members' Handbook contains an explanation that a dispensation can be sought, allowing them to take part in meetings where they have a prejudicial interest. The minutes of Council, Cabinet and committee meetings show that interests are regularly declared by members and the rules appear to be well understood. They are recorded in the minutes and a record of each member's declaration is accessible on the website. No allegations of impropriety have been made with regard to the declaration of interests.
- 59 Not all members and officers are confident about challenging inappropriate behaviour although most say that the process for reporting is clear:
- 72 per cent (average) of members say that they feel able to challenge other members' inappropriate behaviour, but 20 per cent say 'sometimes';
 - 45 per cent of officers say that officers feel able to challenge members' inappropriate behaviour, but 37 per cent don't know;
 - 76 per cent of members (above average) say that they feel able challenge officers' inappropriate behaviour; and
 - 69 per cent (above average) of officers say that officers feel able to challenge other officers' inappropriate behaviour.
- 60 Most members and officers do not consider that inappropriate behaviour by members is addressed. Only 43 per cent (below average) of members and 28 per cent (average) of officers say that such behaviour is suitably dealt with. Officers are more confident (77 per cent) than members (47 per cent) that inappropriate behaviour by officers is tackled. Members and officers have differing views on how bullying is tolerated in the Council:
- 60 per cent (below average) of members and 67 per cent (average) of officers say that bullying by members is not tolerated, but 29 per cent of members say 'sometimes'; and
 - 71 per cent (above average) of members and 88 per cent (above average) of officers say bullying by officers is not tolerated.

- 61** The Council listens to and learns from constructive challenge, internally or externally, from the public or from official bodies. Ombudsman's reports and actions arising are reported to the Standards Committee. External and Internal Audit reports and actions arising are reported through the Corporate Governance Group and the Audit and Risk Management Committee as appropriate. However, one in five members and officers consider that members only sometimes respond to constructive, external criticism. Furthermore, less than half of members and officers say that the Council learns from other councils to ensure that its ethical arrangements are appropriate.
- 62** Communication between members is mostly open and constructive. Seventy six per cent of members say that communication between members is open and 63 per say that it is constructive, although a third say that it is only sometimes constructive. Over 82 per cent of officers say that communication between them is open and constructive. Members and officers agree that communication between each other is open but members (84 per cent) consider that it is more constructive than officers (70 per cent). About one in five say that communication is sometimes open and constructive.
- 63** Members are more confident than officers and partners about challenging member recommendations. Two thirds of members and officers say that there is a culture in the Council which allows members to challenge Council decisions without fear of reprisal. But only 55 per cent of officers say that the culture allows officers to challenge without fear of reprisal compared with 65 per cent of members. More than a fifth of officers and members replied 'don't know' to these questions and to how the culture allows the public and partners to challenge council decisions without fear of reprisals - only one out of five partners gave a positive response to this question.

Recommendation

- R6** Consider the implications of the survey results relating to communication between officers and members, challenging member recommendations and council decisions and tackling inappropriate behaviour to create a culture of openness and transparency.

- 64** The Council's complaints system is accessible via the website and through One Stop Shops and Information Points. The website details the procedure for dealing with complaints about schools, social services, other council services and councillors. Users can download and complete a form to complain about an alleged breach of the Members' Code of Conduct. Members and officers both say that they treat complaints from the public seriously but their perceptions are different:
- 97 per cent of members and 85 per cent of officers say that members take complaints from the public seriously; and
 - 87 per cent of members and 99 per cent of officers say that officers take complaints from the public seriously.

Detailed report

- 65 The Council's Whistleblowing Policy is accessible to members and officers but it is not widely publicised to users. It cannot be easily accessed via the website - it is in fact included in a report to the Cabinet meeting of 3 April 2008. Following an internal governance review and subsequent comments by the Audit Commission a revised policy was introduced in 2008. The policy gives employees clear guidance on how to proceed if they have a concern and provides for more named officers within the Council that they will be able to approach in order to discuss their concerns.
- 66 During the last year the Audit Commission received details of an individual's concerns about contracts and charging in adult social services. Our review under the Public Interest Disclosure Act found the individual's concerns to be largely justified and we highlighted the failure of the Council's own systems for dealing with complaints and such concerns, including the whistleblowing procedure. A culture where employees can disclose allegations of malpractice internally is more likely to uphold the reputation of the Council, maintain public confidence and result in better outcomes for local people, than either such malpractice being disclosed to the public or it otherwise continuing to fester and harm the organisation.
- 67 But our survey did highlight some concerns about confidence in the whistleblowing arrangements. A third of members and officers don't know if the policy is being used appropriately or without fear of reprisal. This is a major gap in knowledge and weakens the ethical framework and the Council's approach to ensuring high standards of ethical governance.

Recommendation

- R7** Increase awareness of the Whistleblowing Policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.

Appendix 1 – Standards Committee - terms of reference

The terms of reference of the Standards Committee are:

- promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- assisting the Councillors and co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- advising the Council on the adoption or revision of the Members' Code of Conduct;
- monitoring the operation of the Members' Code of Conduct;
- advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- granting dispensations to Councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
- monitoring and reviewing as necessary the operation of whistleblowing procedures;
- considering reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its members;
- to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Authority;
- approve the payment of compensation involving sums in excess of £5,000 (or less, if considered appropriate) to settle complaints of maladministration; and
- establishing such sub-committees as are required or allowed by the Standards Committee (England) Regulations 2008 to deal with the initial assessment, review and hearing of complaints made alleging 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.

Appendix 2 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
9	R1 Emphasise to members and officers that they can: <ul style="list-style-type: none"> • make allegations of misconduct by a member or an officer without fear of reprisal; and • be confident in the actions they should take as individuals if they become aware of such misconduct. 	3	Director of Law, HR and Asset Management	Yes	To be addressed as part of the training to be delivered in response to R3 below.	September 2009
11	R2 Raise the profile of the Standards Committee by: <ul style="list-style-type: none"> • developing a work programme and action plan; • undertaking an annual assessment of standards of conduct of members and officers and taking action as appropriate; • learning from and using the findings of the allegations it receives, reviews, determinations and reports from the Local Government Ombudsman, internal and external audit, complaints and whistleblowing to plan and evaluate its work; and • communicating its work to a wider public. 	2	Director of Law, HR and Asset Management	Yes		December 2009

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
13	R3 Review the level of training for members and officers on the ethical agenda and: <ul style="list-style-type: none"> use information obtained through feedback and monitoring processes of individuals/groups/panels/committees and from other sources to plan training, development and support for individual members, groups of members and members of the Standards Committee and for officers; and introduce for independent members an induction programme that includes training on the members' and officers' codes of conduct and the function of the Standards Committee and attendance at meetings of, for example, Cabinet, overview and scrutiny, planning and licensing committees and the full Council. 	3	Director of Law, HR and Asset Management	Yes	Both the Standards Committee and members and officers generally have identified the need for training on the ethical agenda.	September 2009
15	R4 Ensure that information on the Council's ethical governance arrangements and its expectations about high ethical standards by all is widely disseminated, both internally and externally.	2	Director of Law, HR and Asset Management	Yes		December 2009
16	R5 Clarify the circumstances in which the use of council resources would constitute improper use for party political purposes within the Members' Code of Conduct.	2	Director of Law, HR and Asset Management	Yes	Guidance to be disseminated to all Members.	September 2009
18	R6 Consider the implications of the survey results relating to communication between officers and members, challenging member recommendations and council decisions and tackling inappropriate behaviour to create a culture of openness and transparency.	2	Director of Law, HR and Asset Management	Yes	To be addressed as part of the training to be delivered in response to R3 above.	September 2009
19	R7 Increase awareness of the Whistleblowing Policy and re-enforce assurances that reporting through this mechanism can be done without fear of reprisal.	3	Director of Law, HR and Asset Management	Yes	Need to raise awareness with all managers as well as Members.	September 2009

The Audit Commission

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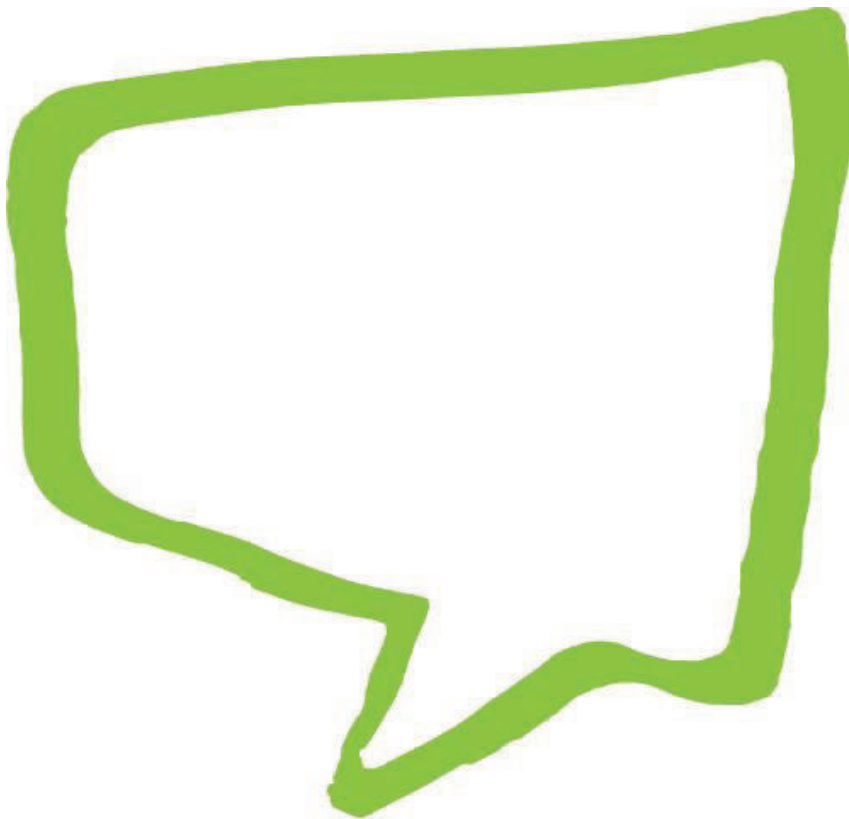
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Governance of Partnerships

Wirral Council

Audit 2008/09

June 2009



Contents

Introduction	3
Background	5
Audit approach	6
Main conclusions	7
Detailed report	9
Appendix 1 – Action Plan	15

Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

Introduction

- 1 Partnership working is a key undertaking for all modern organisations. The Audit Commission publication 'Governing Partnership' asserts that strong corporate governance is needed to support partnerships effectively, and to create a clear and shared focus on users and on value for money.
- 2 It recommends that public bodies should:
 - know the partnerships they are involved in, and how much money and other resources they invest in them;
 - review each partnership to strengthen accountability, manage risks and rationalise working arrangements;
 - establish clear criteria against which partnerships can be evaluated to determine that they help to achieve partners' corporate objectives cost- effectively;
 - take hard decisions to scale down their involvement in partnerships if the costs outweigh the benefits, or if the added risks cannot be managed properly;
 - agree and regularly review protocols and governing documents with all partners; and
 - tell service users and the wider public about how key partnerships work, where responsibility and accountability lie and how redress can be obtained through joint complaints procedures.
- 3 There is no single definition of 'partnership'. The word is often used loosely to describe a number of different types of groupings from a long term relationship with a supplier to a networking or knowledge sharing forum. It is also used more precisely to describe partnerships which are statutory, resulting from top down Government initiatives and others which are developed locally, perhaps to meet the requirements of, or to obtain access to Government funding streams.
- 4 In 'Governing Partnerships' the Audit Commission defines 'partnerships' as an agreement to work collectively between two or more independent bodies to achieve a common objective. This definition encompasses a wide range of collaborative arrangements, varying in size, service area, membership and function. They include voluntary and statutory partnerships, executive and non-executive partnerships, strategic service delivery partnerships, and strategic partnering for private sector procurement including Private Finance Initiative (PFI), Public Private Partnerships (PPP) and joint ventures. Some partnerships attract dedicated funding, others do not. Some are strategic, others operational in focus. Some are limited companies, others are charitable trusts, and still more are unincorporated associations.

- 5 Research shows that effective partnership working is very difficult, time consuming and during the outset, difficult to achieve. In particular, partnerships require more commitment and a higher level of time from senior managers than is needed for delivery through mainstream programmes. There is a risk that:
 - if this leadership is not provided, partnerships will not achieve their objectives, and partners will not accept responsibility; and
 - even where there is leadership, the results may take undue effort if accountability is unclear or systems ineffective.
- 6 There is no 'one size fits all' governance structure for partnerships. Governance arrangements in partnerships should be proportionate to the risks involved. The right balance needs to be struck between the need to protect the public pound and ensure value for money, with the innovation and flexibility that exists when organisations collaborate. The governance of partnerships should promote good internal accountability between partners and better external accountability to service users. Shared responsibility should not mean diminished accountability.
- 7 The Government has established Local Area Agreements (LAAs) in local authority areas to encourage public, private and community and voluntary sector bodies to pool their efforts and financial resources in order to improve services and quality of life for local people. This initiative builds on the experience of partnership working that has developed over recent years, particularly through Local Strategic Partnerships.

Background

- 8** The Council is involved in a significant number of partnerships, often with the additional responsibilities of 'accountable body' status which brings added risks, raising the importance of strong governance further. Our Annual Audit and Inspection Letter 2007/08 highlighted a number of areas where the Council works well with partners to deliver better outcomes for local people.
- 9** Our previous review of partnerships during 2005 found there was scope to strengthen the Council's corporate arrangements for establishing, monitoring and control of partnerships. An action plan was agreed in October 2006 to strengthen the Council's arrangements.
- 10** In previous audit years we have undertaken work relevant to partnership working; reviews of Social Services, Budgetary Control and Working in Partnership, and Health Improvement. These reviews have identified improvement opportunities and have been included within this review as a follow up of all our work with this area.
- 11** The Council and its partners negotiated and agreed Wirral's first LAA with Government Office in March 2006. This has recently been re-visited. In addition to a set of outcomes, indicators and targets, the agreement sets out plans to develop governance, financial management and performance management arrangements within the partnership.
- 12** Following our previous audit, 'Probity in Partnerships', the Executive Board decided on 4 October 2006 that the Head of Legal & Members Services within Corporate Services be appointed as the officer with overall responsibility for partnership issues. In September 2008, the new Director of Law, Human Resources and Asset Management took over this responsibility with the Head of Legal Services as the lead officer.

Audit approach

- 13** Our review has considered whether the recommendations from our previous work have been implemented. Also, we have considered whether relevant aspects of the VFM Conclusion and Key Lines of Enquiry (KLOEs) within the Use of Resources (UoR) assessment for 2009 are likely to be satisfied. Where appropriate we have used supporting guidance contained in the Audit Commission report 'Governing Partnerships'.
- 14** As agreed in our Audit & Inspection Plan for 2007/08 we have undertaken a review of aspects of the Council's partnership working. This is to inform our UoR work which supports the VFM Conclusion. Our approach included using two current partnerships - Connexions and Integrated Community Equipment Services - as 'tracers' to review arrangements and a follow-up of governance and financial management issues previously identified across the LAA and in our previous work.
- 15** Our work involved:
- a review of a sample of existing partnerships;
 - document reviews; and
 - interviews with key officers.

Main conclusions

- 16** The Council generally works well with partners and there are some examples of positive outcomes noted in our previous reports.
- Wirral Local Strategic Partnership demonstrates a number of key strengths.
 - Good use of partnerships to provide access to public services that are helping to improve the quality of life for local people and enables local people to access services at a single point of contact.
 - Some excellent work is being done by the Council and its partners around youth sport and leisure to promote positive attitudes and behaviour.
 - The Council and its partners have been successful in attracting and supporting new business in the borough, and strategic frameworks for driving economic regeneration and tackling worklessness are now in place.
 - Good progress has generally been made in reducing crime and anti-social behaviour.
 - The Council and its partners are effective in balancing the borough's housing market and responding to the needs of homeless people.
 - The Council and its partners have made good use of intelligence and adopted a robust and systematic approach to identify local priorities which is embedded in the sustainable community strategy formally adopted in March 2009.
 - Wirral Local Strategic Partnership has a good understanding of local cohesion issues.
 - There is a genuine commitment to addressing health inequalities through partnership working, and good use is being made of available data to identify priorities for action.
- 17** However, the Council needs to do further work to strengthen its corporate arrangements for governing partnerships. Action has been taken since we reported our previous work and since our fieldwork and the Council is making progress. Most importantly action is currently on-going to roll out the recently approved Partnership Toolkit. Internal Audit has also carried out work which maps the proposed arrangements within the toolkit against best practice and the toolkit has been updated to reflect this.
- 18** At the time of our fieldwork, the Council's definition of a 'partnership' was not clear and roles and responsibilities with regard to the governance of partnerships still needed to be clarified. Officers expect this to be addressed by the implementation of the Partnership Toolkit.
- 19** A clear corporate picture of the partnerships the Council is involved in and how much money and other resources it invests in them is being developed but was not available at the time of our fieldwork. Some partnerships are being reviewed to strengthen accountability, manage risks and rationalise working arrangements but this is not consistent across the Council.

- 20** With the exception of the LAA, our review found limited evidence of monitoring and evaluation of the contribution of partnerships to the achievement of the Council's and partners' objectives and value for money. Information is currently not sufficient for robust decision making and reporting to members.
- 21** A basic corporate framework with integrated supporting arrangements still needs to be established and launched effectively throughout the Council, with partners, service users and the wider public. A Partnership Risk Management Toolkit has been established. This is based on a proprietary package purchased externally and tailored to Wirral's circumstances.
- 22** There are also continuing significant capacity issues which have delayed action to improve the framework and maintain existing systems which could cause further delays if not addressed promptly.

Detailed report

Corporate framework

- 23** The Council still needs to strengthen the corporate arrangements for the governance of partnerships. The definition of a partnership is not clear, and, roles and responsibilities need to be clarified. The Council does not have a clear corporate picture of the partnerships it is involved in and how much money and other resources it invests in them. Some partnerships have been reviewed to strengthen accountability, manage risks and rationalise working arrangements but this is not consistent across the Council. The review found limited evidence of monitoring and evaluation of whether partnerships continue to achieve the Council's and partners' objectives and value for money and information is currently not sufficient for robust decision making and reporting to members. A basic corporate framework with integrated supporting arrangements still needs to be established.
- 24** Since our previous work in 2005 the Council has established a list containing details of its current partnerships. The Partnership Index was created in 2007 but only lists basic details such as organisation name, internal contact, external contact, address or comments. The Index is not routinely kept up to date although it is supported by a questionnaire for each partnership completed by the lead officer within departments or details obtained direct from the partnership. There is no process to routinely keep the Index and questionnaires up to date nor to determine whether new partnerships have been established. The Index and questionnaires are only held in hardcopy form, hence information is not readily available and on-going maintenance and access to data is made more difficult than if held electronically.
- 25** The Partnership Index is supported by a further document entitled the Partnership Analysis. This list holds details of complexity, governance risks, finance, impact of failure, and overall assessment of risk. The Partnership Analysis is still a working document and not yet complete. For instance there are no details recorded to show what action is being taken to mitigate risk. Also, there is no supporting guidance on criteria and scoring to ensure standards are adequate and help to provide consistency. Hence, the current risk assessments are subjective.
- 26** The risk associated with partnerships is included in the Council's corporate risk register. The Deputy Chief Executive is recorded as the responsible officer. This is not consistent with the decision of the Executive Board to appoint the Head of Legal & Members Services as the officer with overall responsibility for partnership issues, as stated above. An action plan is in place to address the corporate risk associated with partnerships, with the Head of Legal Services responsible for most actions. Timescales in the action plan are recorded as on-going (rather than showing an agreed completion date) or have not been met.

- 27** Since our last review a Partnership Risk Management Toolkit has been established. This is based on a proprietary package purchased externally and tailored to Wirral's circumstances. The Toolkit was placed on the intranet around 18 months ago with details included in the 'News Bulletin'. However, there was no proactive action to launch or support the toolkit, such as targeted training for officers and members. Also, the toolkit does not support the Partnership Analysis.
- 28** Senior officers in the Law, HR and Asset Management Directorate fully recognise the need for more work to develop the Council's arrangements for governance of partnerships and acknowledge that progress has been slow due to lack of capacity, an issue that is also having an adverse impact on the maintenance of existing systems.
- 29** Action is being taken to develop the partnership arrangements further and we are awaiting details of the new Partnership Toolkit. As part of this work the Council is looking at other councils' arrangements with a view to identifying good practice which can be tailored to Wirral's circumstances. Once the arrangements have been agreed they will be placed on the Council's intranet site to provide easy access and enable easy updating. Internal Audit has also carried out work which maps the proposed arrangements within the toolkit against best practice and the toolkit is being updated to reflect this.
- 30** Following our previous review, the Executive Board decided on 4 October 2006, that periodic checks be carried out to ensure partnerships comply with the Council's governance requirements, including standing orders, ethical framework, declarations of interest etc. To date these compliance checks have not been routinely undertaken. The intention is to undertake these checks as part of an annual review of the partnership register once the Partnership Toolkit is implemented.

Recommendations

- R1** Establish a Corporate Framework for governing partnerships, including the following.
- Roles and responsibilities of corporate and service based officers and councillors.
 - Establishing effective links between Council departments particularly the Legal Department (governance), Finance Department (risk and financial accounting) and Corporate Services (corporate policy).
 - Establishing effective links between the Partnership Toolkit and the Partnership Risk Management Toolkit as well as the Council's overall governance and risk management arrangements, such as the risk register and standing orders.
 - Policy and guidance for relevant officers, including those in service departments.
 - Developing clear criteria against which partnerships can be evaluated to determine that they help to achieve the Council's and partners' corporate objectives cost effectively.
 - Review and challenge of partnerships to ensure value for money is achieved and risks are manageable.
 - Developing appropriate reporting processes, including reporting to members, partners, service users and the wider public.
 - Ensuring the current Internal Audit work is completed on a timely basis and includes mapping the proposed implementation of a partnership toolkit against good practice.
- R2** Launch the Corporate Framework with relevant training and support for officers and members and ensure all stakeholders are aware of where responsibility and accountability lie.
- R3** Create a partnership database to ensure the following are satisfied.
- Completeness of details of existing partnerships.
 - Accurate and up to date records including review of protocols and governing documents with partners.
 - All relevant information captured, in compliance with good practice.
 - Facility to enable drill down to supporting records, including risk assessment and accounting treatment.

Roles and responsibilities

- 31** Roles and responsibilities for partnerships and the governance of those partnerships are not clear and need to be re-assessed. There are also continuing significant capacity issues which have delayed action to improve the corporate arrangements and maintain existing systems which could cause further delays if not addressed promptly.

- 32** Following our previous review, the Executive Board nominated the Head of Legal & Members Services within Corporate Services as the officer with overall responsibility for partnership issues. In October 2006, the Executive Board also approved an action plan and subsequently agreed in principle to the creation of additional resources. However, these resources were not obtained and capacity issues have continued. In particular, the Head of Legal and Member Services left the Council in 2007 and although there were interim arrangements to cover the post, there were no additional resources until recently.
- 33** In September 2008, the corporate centre was reorganised and a new Director of Law, Human Resources and Asset Management was appointed. The Head of Legal Services transferred from Corporate Services to the new directorate, taking the responsibility for governance of partnerships with him.
- 34** The Council should consider whether the roles and responsibilities assigned by the previous Executive Board remain fit for purpose. There should be clear leadership for governance of partnerships within the Corporate Team, in conjunction with support from key officers within corporate policy services, finance and legal. Partnerships must help to achieve the Council's and partners' corporate priorities and ensure value for money, and it is vital that clear roles and responsibilities for corporate and service officers and clear leadership are established within the new framework.
- 35** All corporate work related to governance of partnerships is channelled through the Head of Legal Services and other departments rely on Legal Services to take responsibility for governance of partnerships. This is despite Partnership Guidance and a Checklist being issued to all Chief Officers in December 2006. This included a series of self-assessment questions, including governance. The guidance was not comprehensive or supported by targeted training for officers or members and compliance with the guidance has not been reviewed and refreshed.
- 36** Legal Services are aware of the need for better awareness and guidance so that there is less reliance on them by lead officers. However, resources and capacity to address this work have not been sufficient which has resulted in delay. It was planned to have a partnership toolkit and updated register in place by the end of October 2008 but this was not completed. A revised target date of 9 February 2009 was planned for presenting proposals to the Council but was not achieved. Revised timescales are now being agreed.
- 37** The Head of Legal Services and other senior members of the team involved in partnerships will shortly be leaving the Council and it is important to ensure that there is sufficient capacity and continuity going forward to avoid a repeat of the previous delay.

Recommendation

- R4** Review the adequacy of the capacity to establish and take forward robust corporate arrangements and provide subsequent maintenance and support once established.
- R5** Review whether the roles and responsibilities assigned by the previous Executive Board remain fit for purpose and establish clear corporate leadership.

Local Area Agreement (LAA)

- 38** The Council's most significant partnership is in connection with the LAA. The Council has recognised the need to review the governance arrangements for the LAA. At the LAA Programme Board in June 2008, the Head of Policy and Performance and the Head of Legal Services were asked to undertake the review and this is now in progress.
- 39** Training has been carried out for partnership risk management associated with the LAA. This included partnership and governance fundamentals, and the role of risk management in good governance.

Recommendation

- R6** Ensure the review of the governance arrangements for the LAA is completed in line with the requirements of the LAA Programme Board in June 2008.

Service department arrangements

- 40** As part of the review we chose two current partnerships for testing the arrangements for governance of partnerships - Connexions and the Integrated Community Equipment Service (ICES). We also followed up three previous Audit Commission Reports that required working with partners: Probity in Partnerships; Social Services Budgetary Control; and Working in Partnership - Health Improvement.
- 41** The partnership arrangements regarding Connexions were rolled over in April 2008 pending implementation of new arrangements from September 2009. A specification for service delivery based on a commissioning model is currently being drafted. The Lead Officer is placing reliance on Legal Department to ensure governance arrangements are satisfactory.
- 42** The Lead Officer for Connexions is involved in the departmental risk assessment exercise but was not consulted on the specific assessment of risk associated with Connexions. Proposed changes to current arrangements could increase risk due to the new model for service delivery.
- 43** The governance arrangements for the Integrated Community Equipment Service (ICES) partnership are historic. These arrangements were not fully reviewed when a

two year rollover from 1 April 2007 was agreed by Cabinet. This was to allow time for an alternative service delivery model to be assessed as part of a 'retail market model' pilot exercise. As with Connexions the Lead Officer is placing reliance on the Legal Department to ensure governance is satisfactory. The Lead Officer for ICES is not consulted on the specific assessment of risk associated with the ICES.

- 44** The role for follow-up of audit recommendations is now assigned to the Audit and Risk Management Committee which was formed in June 2006. Governance is also monitored by the Corporate Governance Monitoring Group which was set up in 2005. This framework for follow-up has not been used consistently for formally tracking progress on issues raised and for ensuring that all recommendations are considered together at a corporate level.
- 45** Our request for updated action plans and dates of presentation to the Audit and Risk Management Committee were difficult for the Council to respond to. Departments could not provide a timely response for the Probity in Partnerships and Social Services Budgetary Control reports, and we have not yet received an update for all recommendations arising from the 'Working in Partnership, Health Improvements' audit. This demonstrates that there is no effective procedure to ensure members are routinely advised of progress on a consistent basis.

Recommendation	
R7	Ensure lead officers are clear about their responsibility for the risk assessment of partnerships for which they are accountable, taking advice from colleagues where appropriate.
R8	Establish a tracking system to monitor the implementation of audit and other review agency recommendations and ensure all action plans are routinely monitored at corporate level and by members.

Appendix 1 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
11	<p>R1 Establish a Corporate Framework for governing partnerships, including the following.</p> <ul style="list-style-type: none"> • Roles and responsibilities of corporate and service based officers and councillors. • Establishing effective links between Council departments particularly the Legal Department (governance), Finance Department (risk and financial accounting) and Corporate Services (corporate policy). • Establishing effective links between the Partnership Toolkit and the Partnership Risk Management Toolkit as well as the Council's overall governance and risk management arrangements, such as the risk register and standing orders. • Policy and guidance for relevant officers, including those in service departments. • Developing clear criteria against which partnerships can be evaluated to determine that they help to achieve the Council's and partners' corporate objectives cost effectively. • Review and challenge of partnerships to ensure value for money is achieved and risks are manageable. • Developing appropriate reporting processes, including reporting to members, partners, service users and the wider public. • Ensuring the current Internal Audit work is completed on a timely basis and includes mapping the proposed implementation of a partnership toolkit against good practice. 	3	Head of Legal and Member Services	Yes	Partnership Toolkit approved by Cabinet in April 2009.	November 2009

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
11	R2 Launch the Corporate Framework with relevant training and support for officers and members and ensure all stakeholders are aware of where responsibility and accountability lie.	3	Head of Legal and Member Services	Yes	Need to publicise Partnership Toolkit approved by Cabinet in April 2009.	November 2009
11	R3 Create a partnership database to ensure the following are satisfied. <ul style="list-style-type: none"> Completeness of details of existing partnerships. Accurate and up to date records including review of protocols and governing documents with partners. All relevant information captured, in compliance with good practice. Facility to enable drill down to supporting records, including risk assessment and accounting treatment. 	2	Head of Legal and Member Services	Yes	Included in Partnership Toolkit approved by Cabinet in April 2009.	September 2009
13	R4 Review the adequacy of the capacity to establish and take forward robust corporate arrangements and provide subsequent maintenance and support once established.	3	Director of Law, HR and Asset Management	Yes		November 2009
13	R5 Review whether the roles and responsibilities assigned by the previous Executive Board remain fit for purpose and establish clear corporate leadership.	2	Director of Law, HR and Asset Management	Yes		January 2010
13	R6 Ensure the review of the governance arrangements for the LAA is completed in line with the requirements of the LAA Programme Board in June 2008.	2	Deputy Chief Exec and Director of Corporate Services	Yes	Governance review completed and new structure put in place in April 2009.	April 2009
14	R7 Ensure lead officers are clear about their responsibility for the risk assessment of partnerships for which they are accountable, taking advice from colleagues where appropriate.	2	Head of Legal and Member Services	Yes	Need to publicise Partnership Toolkit approved by Cabinet in April 2009.	January 2010
14	R8 Establish a tracking system to monitor the implementation of audit and other review agency recommendations and ensure all action plans are routinely monitored at corporate level and by members.	2	Director of Finance	Yes	Implemented for all Audit commission reports.	January 2010

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WIRRAL COUNCIL

STANDARDS COMMITTEE - 30 JUNE 2009

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

OMBUDSMAN REPORT - REPORT NO 07/C/03447

1. Executive Summary

This report outlines action taken since this matter was last before the Standards Committee on 30 June 2008. The Ombudsman had made a finding of maladministration and injustice against the Council regarding Mr H and his child S. The Committee had authorised the then Acting Monitoring Officer to respond to the Ombudsman stating that the Council would implement the recommendations contained in the Ombudsman's Report.

2.0. Background

2.1 The recommendations in the Ombudsman's report were that the Council should:

- Accept that it has no justifications for its claim not to be responsible for S
- Discuss and agree with the school and S's parents whether there is any additional provision that could be made to help S "catch up" on the year's schooling that he has missed;
- Reserve a sum of money equivalent to the cost of educating S at the school for a year in a fund until he has completed year 11 and then deploy the fund on any additional educational provision that the school and an educational psychologist recommend as being beneficial;
- Pay £1000 to Mr H in recognition of the anxiety, stress, time and trouble caused to him; and
- Make a payment of £655 to Mr H to reimburse what he paid for private tutoring for S during 2007.

2.2 The Council has implemented all these recommendations and the child S is making progress at the school. The Ombudsman and the Deputy Ombudsman had visited the Council on 17 March 2009 and met with the Chief Executive, the Director of Law, HR and Asset Management and the Director of Children's Services. The Ombudsman had expressed concerns about not having had sight of the previous report to Standards Committee before it went into the public domain and discussions took place on 17 March 2009 concerning the findings in the Ombudsman's Report and that the focus in the matter should be on the welfare of the child S.

2.3 The Interim Head of Legal and Member Services reviewed the matter in April 2009 and a copy to the Ombudsman of her letter dated 17 April 2009 is attached to this report as Appendix 1. The Ombudsman has indicated verbally that once the Standards Committee has had sight of the latest correspondence between the Council and the Ombudsman and that the Committee is informed in connection with the progress made by child S, that the Ombudsman is likely to consider that all outstanding issues have been resolved. It is intended that a

separate report will be brought before the Standards Committee concerning the role of the Standards Committee in connection with specific complaints to the Ombudsman.

3. Financial and Staffing Implications

These are set out in paragraphs 2.1 of this report.

4. Equal Opportunities Implications

S has special education needs. The Council has a statutory responsibility to assess the needs of children that reside within its area to assess any special educational needs and arrange provision to meet those needs.

5. Human Rights Implications

The names of the complainant, the children and other adults mentioned in the report are pseudonyms as under the Local Government Act 1974, the Ombudsman shall not use the real names of people in the report nor publish information likely to identify them and the family's right to privacy is respected. There has been widespread media reporting of the Ombudsman's findings but the family have not been identified.

6. Local Agenda 21 Implications

None

7. Community Safety Implications

None

8. Planning Implications

None

9. Anti-poverty implications

9.1 None

10. Local Member Support Implications

None

11. Social Inclusion implications

Authorities need to have regard to guidance on the statutory framework for inclusion of children with special educational needs in mainstream schools

12. Background Papers

12.1 The Ombudsman's report was used in preparing this report

13. Recommendation

- 13.1 That the Committee note that the Council has implemented the recommendations made in the Ombudsman's Report issued on 10 April 2008, having accepted the findings of the Ombudsman and also note the progress being made by child S at the school.

Bill Norman

Director of Law, HR and Asset Management

***Director of Law, HR and
Asset Management***

Town Hall, Brighton Street
Wallasey, Wirral
Merseyside, CH44 8ED
DX 708630 Seacombe

to Anne Seex,
Local Government Ombudsman,
Beverley House,
17 Shipton Road,
York
YO30 5FZ

date 17 April 2009

your ref 07/C/03447/AS/CRB
my ref RAL
service Legal
tel 0151-691 8569 Please ask for Rosemary Lyon
fax 0151-691 8482
email rosemarylyon@wirral.gov.uk

Dear Ms Seex,

COMPLAINT BY MR H

I refer to your meeting at the Council on 17 March 2009 in connection with the above matter. I have recently joined the Council as Interim Head of Legal and Member Services and have reviewed the matter at the request of the Director of Law, HR and Asset Management. I have a background in education law, having previously acted as the principal legal adviser on education matters at a unitary authority.

The Council was under a statutory duty to secure the provision specified in the SENDIST order and focus on the welfare and educational needs of S. Having considered the relevant case law which you helpfully supplied with your letter of 23 April 2008. I agree that a local authority may only challenge an Ombudsman's findings by Judicial Review and confirm that the Council accepts the findings in your Report dated 10 April 2008. There were procedural steps which the Council could have taken to clarify issues of funding between Flintshire and Wirral. I also confirm that the Council has implemented fully the recommendations in your report.

I refer to the Report, which was considered by the Standards Committee on 30 June 2008. The Council agrees that the Report should have been shared with yourself, before being put into the public domain. Consideration is also to be given as to whether the Standards Committee is the appropriate committee to receive reports on the outcome of complaints to the Local Government Ombudsman.

I hope that this letter resolves all outstanding issues and that you do not consider it will be necessary to issue a further report.

Yours sincerely,

Rosemary Lyon
Interim Head of Legal and Member Services

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