



Standards Committee

Date:	Thursday, 29 September 2011
Time:	6.00 pm
Venue:	Committee Room 2 - Wallasey Town Hall

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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

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

2. MINUTES (Pages 1 - 8)

To receive the minutes of the meeting held on 4 July, 2011.

3. SUMMARY OF COMPLAINTS MADE UNDER MEMBERS' CODE OF CONDUCT (Pages 9 - 46)

4. MYSTERY SHOPPING (Pages 47 - 50)

5. LOCAL GOVERNMENT OMBUDSMAN - ANNUAL LETTER AND CURRENT PERFORMANCE (Pages 51 - 64)

6. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

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STANDARDS COMMITTEE

Monday, 4 July 2011

Present: Brian Cummings (Chair)

Councillors	C Blakeley	L Rowlands
	WJ Davies	J Salter
	G Ellis	R Wilkins
	D Roberts	

Deputies Councillors P Gilchrist (In place of A Bridson)
D Mitchell (In place of P Williams)

Independent Members Ken Harrison
(Vice-Chair)

Apologies Independent Members Alex Nuttall Stella Elliott

1 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Councillor D Roberts declared a personal and prejudicial interest in Item No. 7 on the agenda – Review of a recent Standards Complaint (Minute No. 9 refers), by virtue of her being one of the subjects of the complaint. She left the meeting whilst this matter was under discussion.

2 MINUTES

RESOLVED:

That the Minutes of the meeting of the Committee held on 26 January 2011 be confirmed as a correct record.

3 CUSTOMER FEEDBACK - ANNUAL REPORT 2010/2011

The Director of Finance presented the Annual Report 2010/2011 on performance in dealing with customer feedback, which provided an analysis of contacts received over the period 1 April 2010 to 31 March 2011. It highlighted trends and described some of the challenges faced in ensuring that all feedback was recorded and responded to consistently. Feedback was primarily recorded through the Customer Relationship Management (CRM) System (although a separate application (Respond) was used to support the distinct statutory complaints process) and the report informed that each department had a designated co-ordinator to record, assign, progress, chase and update contacts with resolution details. Customer Care Standards had been created to ensure that expected standards were met and their adoption had resulted in a marked improvement in the approach to customer feedback.

Members discussed the System's tracking ability and the need to simplify access to it. The Head of Revenue, Benefits and Customer Services was in attendance at the meeting and informed that he wanted to make CRM easier to use, that a major upgrade would be necessary to achieve this but, hopefully, this could be done. He also explained that once an eight digit number was generated through this System the information would go into officers' mail boxes the following day.

The Committee considered the report in detail and drew attention to the graph at paragraph 4.16 of the report and in particular, its title, Councillor/MP Contacts – Average Working Days to Resolve 01/04/10 - 31/03/11. It was pointed out that, in this instance, the word Resolve meant the department had responded to inform that it was now progressing the matter. It did not mean that the process had been completed. The Head of Revenue, Benefits and Customer Services acknowledged that Respond was a better word to use to describe what was happening and agreed it would be used in future for the purpose of this report.

Concerns were raised over the Department of Adult Social Services (DASS) respond rates which where, on average, 25 working days, when the corporate standard was 10 working days. The Head of Revenue, Benefits and Customer Services reported that this may reflect the depth and complexity of the queries DASS received. However, Members took the view that if this was the case a holding response, acknowledging receipt of the query, at least, should be sent within the 10 working days.

The report also listed a number of service improvements and it was noted that some had come about as a result of complaints received. Members enquired about the use of mystery shoppers and were told that they were used but that they were not external appointments but Council Officers. The Head of Revenue, Benefits and Customer Services agreed to provide Members with a break down of the mystery shopper returns.

RESOLVED: That

- (1) the report be noted; and**
- (2) this Committee expresses its disappointment over the Department of Adult Social Services taking so long to acknowledge queries and considers that it should aim to do this within ten working days which is the corporate standard.**

4 THE FUTURE OF THE STANDARDS REGIME

Further to Minute No. 24 of the Committee's meeting on 26 January 2011, when a report summarising the main provisions of The Localism Bill and the implications for the Standards Committee had been received, Members received a further report by the Director of Law, HR and Asset Management which served to updated them on the future of the Standards regime.

The Director reported that the Government considered it was the right and the responsibility of the electorate to determine who represented it and that the abolition of the Standards regime would restore power to local people. However, until such time as appropriate legislation had been passed, the current statutory framework

remained operative. Subject to Parliament approving the necessary legislation, the changes were summarised as follows:

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

The Committee noted that the Department for Communities and Local Government (DCLG) in its announcement advising that the current standards regime was to be abolished in its entirety had stated that

“councillors will have to register certain personal interests in a publicly available register; this could include anything that could be reasonably regarded as likely to influence or affect their actions, conduct when on business for the authority, or voting.”

The Director set out the transitional arrangements for considering; investigating and determining allegations of misconduct. They would be in place from a fixed date (“the appointed day”) which was still to be determined but would be after the Bill had received Royal Assent. It was noted that this Committee would remain established until the last complaint, which had been in the system up until the appointed day, had been dealt with.

The Government had indicated that it was committed to maintaining high standards of conduct in office and would ensure that, in the absence of a statutory code of conduct, councillors did not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represented. Members noted that they would continue to be required to register and declare personal interests and would not be allowed to use their personal position improperly for personal gain. The Government intended that wilful failure to comply with these requirements would constitute a criminal offence. However, the requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code of conduct would be abolished but local authorities could, if they wished, adopt their own voluntary code of conduct.

The requirement to maintain a standards committee would be abolished but local authorities would be allowed, if they wished, to establish voluntary standards

committees to consider complaints about the conduct of elected and co-opted members. Such committees would, according to councils' local constitutions, be able to censure but would not be able to suspend or disqualify members from council membership.

Members raised concerns that local standards committees may be 'toothless'. However, they also recognised an opportunity to work in partnership, by taking a regional approach and jointly constituting a Standards Committee made up of members, from across all of the Merseyside Authorities. It was also considered appropriate to explore the possibility of producing a Merseyside Members' Code of Conduct to which all of the Merseyside Authorities could sign up. It was also proposed that Neighbouring Authorities could be requested to look into any complaints received about elected Members.

The Director advised the Committee that the proposals for a Merseyside approach to any new Standards regime could be explored once the Localism Bill had been enacted and the regulations that would underpin the new legislation became available.

RESOLVED: That

- (1) the content of the report be noted;**
- (2) the Monitoring Officer be requested to continue to examine the provisions of the Bill and present proposals to a future meeting of the Committee with regard to how the Council may respond to the Bill once it is enacted; and**
- (3) the Director of Law, HR and Asset Management be requested to explore the possibility of constituting a Merseyside Standards Committee, made up of Members from all of the Merseyside Authorities, once the detail of the new legislation and the regulations that would underpin it were known, and bring a report to a future meeting of the Committee.**

5 BRIBERY ACT 2010

A report by the Director of Finance outlined the Bribery Act 2010, and set out the actions required to ensure compliance. The report also set out the sanctions which were applicable to the Council, in the event of a prosecution under the Act.

The Committee noted that a period of consultation had preceded the implementation of the Act, which had initially been planned for 1 April 2011. Following the consultation period the implementation date had been delayed. On 30 March 2011 the Ministry of Justice had published long awaited Guidance relating to the Act and announced that the implementation date would be 1 July 2011.

A draft Ant-Bribery Policy was attached to the report at Appendix 1. This had been prepared in accordance with CIPFA best practice. An action plan had now been prepared to ensure that the Council implemented appropriate actions to comply with the requirements of the Act. This was attached to the report at Appendix 2. Section 1 of the Appendix identified the current situation within the Council; and section 2 identified the actions required.

RESOLVED:

That the report be noted.

6 LETTER FROM JOHN BRACE TO STANDARD COMMITTEE MEMBERS

The Chairman announced that Committee Members had each been handed a letter at the beginning of the meeting, by a member of the public, John Brace. The letter had requested Members' views. It was Members' intention to consider the letter in detail and to provide answers at the next meeting of the Committee.

7 LEGAL ADVICE ON LIFTING THE EXEMPTION ON THE REPORT ENTITLED REVIEW OF RECENT STANDARDS COMPLAINT, ALLOWING IT TO BE CONSIDERED IN THE PRESENCE OF THE PRESS AND PUBLIC

The Director of Law, HR and Asset Management informed the Committee that the report at Item No. 7 on the agenda – Review of a Recent Standards Complaint – had marked on it, in error, a paragraph (7c) of Part 1 to Schedule 12A of the local Government Act 1972 that did not exist. The report was considered exempt because it identified the identity of those who were the subject of complaints. However, as these Members names were already in the public domain, his advice to the Committee was that it could lift the exemption if it thought the public interest would be best served by doing so.

RESOLVED:

That the exemption be lifted in respect of the report at Item No. 7 on the agenda - Review of a Recent Standards Complaint – and it be considered in the presence of the press and public.

8 REVIEW OF A RECENT STANDARDS COMPLAINT

Councillor D Roberts left the room whilst this item of business was under discussion.

A report by the Director of Law, HR and Asset Management summarised the handling of a recent standards complaint (reference SfE 2010/04). The full chronology of what had happened was set out in the report. An administrative error had been made, when the original complaint form concerning three elected Members, had been appended to a covering report (which had accurately summarised the complaint) to the Initial Assessment Panel instead of a second, more detailed, complaint form which had been received and which concerned four Members. The second form had superseded the original complaint form. The Panel had considered this report at its meeting on 8 April 2010 and had adjourned the meeting so that further information could be provided. After considerable delay, the same Initial Assessment Panel of Members had reconvened on 3 March 2011 but, unfortunately, the same mistake had been repeated and the Panel, again, had received the original complaint form. The Panel had decided to refer the complaint to the Standards Board for England who on receipt of it had sought clarity as to the discrepancy between the covering report and the appended complaint form. Only the original complaint form had been on the file and the Standards Board for England

was advised accordingly. It then confirmed its decision, in writing to all concerned, on 6 May 2011.

On 9 May 2011 the complainant enquired why the Standards Board for England had made no reference to his complaint about the fourth Councillor. On consideration of this, the error had become apparent. The Director informed of the steps he had taken to rectify the mistake and retrieve the situation and the involvement of and advice received from the Standards Board for England. The Initial Assessment Panel had been convened again on 8 June 2011 and considered the revised complaint. It was referred to the Standards Board for England and although a decision had been promised within five working days, it was still awaited.

The Director apologised to the Committee for the Initial Assessment Panel receiving the wrong documentation and agreed that the administration of the Panel had not been at an acceptable standard. He informed that he had also apologised to the four Members who were the subjects of the complaint and to the complainant.

Councillor L Rowlands raised concerns as the mistake had been made twice and asked what process had been put in place to ensure it did not happen again and what improvements would be made. The Director informed that future reports would be cleared by himself or the Head of Legal and Member Services, before they were published in an agenda.

Councillor D Mitchell told the Committee that there had been a similar situation in another Council department in recent times. As a consequence there had been an independent review which had led to matters being dealt with in stringent chronological order. This meant staff carried out regular checks when completing tasks and he hoped a similar process could now be put in place to avoid mistakes.

RESOLVED:

That the content of the report and the action the Director of Law, HR and Asset Management would be taking in future to prevent similar mistakes from occurring, be noted.

9 URGENT BUSINESS - DELAYS IN CONSIDERING STANDARDS COMPLAINTS

Councillor C Blakeley was extremely unhappy and put on record his discomfort and distress over the amount of time it was taking to deal with Standards complaints. He referred to one complaint that was now 19 months old and still not resolved and to another where it had taken 15 weeks to appoint an investigating officer.

The Director of Law, HR and Asset Management informed that Councillor Blakeley's criticism was valid and fairly made and had been raised on numerous occasions. He knew he must find the necessary resources to progress the complaints that were in the system.

Councillor Blakeley told the Committee that the Scrutiny Programme Board had agreed, at its meeting on 9 June 2011, to undertake a piece of work on the

processes around Standards complaints and to look at how they should flow through the system and avoid blockages.

Mr K Harrison enquired whether the Director had sufficient staff to deal with Standards complaints or if there a problem in that the existing staff were not capable of the work involved. The Director informed that the problem was in part staff capacity and in part other conflicting priorities. However, he promised to ensure Standards complaints were given a higher priority from now on. Councillor C Blakeley proposed enlisting the help of other authorities to speed up the Standards complaints process.

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WIRRAL COUNCIL

STANDARDS COMMITTEE

29 SEPTEMBER 2011

SUBJECT:	SUMMARY OF COMPLAINTS MADE UNDER THE COUNCIL'S MEMBERS' CODE OF CONDUCT
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW, HR AND ASSET MANAGEMENT
RESPONSIBLE PORTFOLIO HOLDER:	THE LEADER OF THE COUNCIL
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to provide a summary of all the complaints made against Wirral Members which have alleged that the Council's Members' Code of Conduct has been breached.
- 1.2 Due to legal and confidentiality reasons, the level of detail provided in the summary, which is set out in Appendix 1, has been restricted.

2.0 RECOMMENDATION/S

- 2.1 The Committee is recommended to:
 - (a) Note the summary of the complaints received by the Council, set out at Appendix 1 to this report, in relation to alleged breaches of the Council's Members' Code of Conduct;
 - (b) Require the information set out in Appendix A to be updated for and reported to all future meetings of this Committee; and
 - (c) Consider adopting the amended draft Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members, as set out in Appendix 2, with immediate effect, to ensure that there is in place a clear timescale for progressing complaints.

3.0 REASON/S FOR RECOMMENDATION/S

- 3.1 The Committee has previously expressed serious concern about the time it has taken to deal with the complaints against Wirral Members alleging that the Council's Members' Code of Conduct has been breached.

- 3.2 This issue was considered by the Scrutiny Programme Board on 8 September 2011 (see below) when it was resolved, amongst other things, *‘That the Standards Committee be recommended to put in place proper timescales and a monitoring regime for dealing with complaints’*.
- 3.3 Committee is recommended to consider adopting a Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members with immediate effect. This will ensure that there is in place a clear timescale for progressing complaints.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 The Local Government and Public Involvement in Health Act 2007 (“the Act”) provides, among other things, for a revised ethical framework for local government. The implications of the Act were reported to the Council’s Standards Committee on 28 January and 31 March 2008.
- 4.2 The relevant provisions were brought into force on 8 May 2008 by the Standards Committee (England) Regulations 2008 (“the Regulations”).
- 4.3 The Act made a number of key changes to the ethical framework under which local authorities were required to operate. These are:
- Standards Committees would be responsible for receiving allegations made against Members and deciding whether any action should be taken (referred to as ‘local assessment’).
 - Standards Committees must be chaired by an independent member.
 - Standards Committees would report periodically to the Standards Board for England now Standards for England (“SfE”).
 - The SfE will be responsible for monitoring and ensuring the effectiveness of local arrangements, including supporting authorities which are experiencing difficulties and driving up their performance.
- 4.4 Annual Council on 14 July 2008 approved the requisite changes to the Council’s Constitution, namely amendments to the Standards Committee’s Terms of Reference which also included new terms of reference for Initial Assessment, Review and Hearings Panels as required under the Act.
- 4.5 Members of this Committee have expressed dissatisfaction with delays in dealing with Standards complaints. In response to this, on 26 January, 2011 I submitted a report to this Committee, seeking approval for a Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members. The aim of the local protocol was to improve the manner in which allegations and complaints are handled and processed.

- 4.6 Members of the Committee expressed concern that delays in dealing with standards complaints were unacceptable for all parties concerned. However, Members were of the view that the timescales within the draft Local Protocol were not sufficiently clear and that there was a need for 'non-complex' complaints to be dealt with within six months of receipt of the complaint.
- 4.7 Members further questioned, notwithstanding any amendments required, whether adoption of a Local Protocol should be deferred whilst clarity on the implications of the current Localism Bill was provided. Members also suggested that officers should explore possible collaborative working arrangements concerning standards matters with neighbouring local authorities. In the light of these considerations, Committee resolved:

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

- 4.8 Given subsequent uncertainties as to the future of the Standards regime under the Localism Bill this Local Protocol has not been referred back to this Committee. However, given continuing Member concern about delay, this Committee is recommended to consider adopting a Local Protocol with immediate effect. This will ensure that there is in place a clear timescale for progressing complaints. The draft Local Protocol is attached at Appendix 2. The revision (shown as Track Changes) inserts a new paragraph 2.2 to reflect this Committee's comments on the original document.
- 4.9 On 9 June 2011, the Council's Scrutiny Programme Board requested that details be provided at the next Board meeting of all complaints received in pursuance of the revised ethical framework. This information was provided to the Board on 8 September 2011 in table form, substantially as in Appendix A. The draft Minutes of that meeting record that it was resolved:
- (1) That the Scrutiny Programme Board is alarmed and disappointed to note the amount of time it is taking to determine Standards complaints, with some complaints taking almost two years to complete, and believes that this is unfair to both complainants and to those complained against.**
 - (2) That the Scrutiny Programme Board is also concerned about the amount of time being taken from the registration of a complaint to allocating to an Initial Assessment Panel and notes that, in one reported case this was in excess of 16 weeks.**
 - (3) That the Scrutiny Programme Board is aware that individual Members of the Council as well as the Standards Committee have made repeated representations to the Director of Law, HR and Asset Management and his Department about their concerns because of delays and have asked for the process to be speeded up.**

(4) That the Scrutiny Programme Board notes that despite repeated requests to the Director of Law, HR and Asset Management, no apparent improvements have been made to the way in which Standards complaints are being handled and unacceptable delays are still being allowed to occur.

(5) That the summary of complaints received by the Council, set out in the appendix to the report now submitted, in relation to alleged breaches of the Council's Members' Code of Conduct, be noted.

(6) That the Standards Committee be recommended to put in place proper timescales and a monitoring regime for dealing with complaints.

The Board also requested some additional information which was incorporated in a revised table. This was circulated electronically after the meeting and is incorporated in Appendix 1 to this report. Committee will

4.10 Committee previously suggested that officers should explore possible collaborative working arrangements concerning standards matters with neighbouring local authorities. Discussions have taken place at officer level with Chester and Cheshire West Council and two current matters (three complaints) are being investigated by a solicitor from that authority.

5.0 RELEVANT RISKS

5.1 Given the purpose of this report is to provide information to the Committee, no relevant risks are identified.

6.0 OTHER OPTIONS CONSIDERED

6.1 Given the purpose of this report is to provide information to the Committee, no other options were considered.

7.0 CONSULTATION

7.1 Given the purpose of this report is to provide information to the Committee, no consultation issues are relevant.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 There are no such implications arising.

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

9.1 There are no such implications arising.

10.0 LEGAL IMPLICATIONS

10.1 There are no such implications arising.

11.0 EQUALITIES IMPLICATIONS

11.1 There are no such implications arising.

11.2 Equality Impact Assessment (EIA)

- | | |
|---------------------------------------|-----|
| (a) Is an EIA required? | No |
| (b) If 'yes', has one been completed? | N/A |

12.0 CARBON REDUCTION IMPLICATIONS

12.1 There are no such implications arising.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 There are no such implications arising.

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APPENDICES

Appendix 1: Summary of Complaints made under the Council's Members' Code of Conduct.

Appendix 2 Amended Draft Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members.

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards Committee	26 January 2011
Scrutiny Programme Board	9 June 2011
	8 June 2011

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Summary of Complaints Received about Members' Conduct

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2008/01		Failed to treat others with respect Bringing office into disrepute	10 July 2008	Referred for Investigation	20 March 2009	30 March 2009	16 July 2009	Completed 1. Apology required. Apology provided 20 July 2009. 2. 5 day suspension.
SfE 2008/02	15 August 2008	Failed to treat others with respect Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage	10 September 2008	Referred for Investigation (Weightmans)	30 April 2009	7 August 2009 No Further Action		Completed (No further action)

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2009/01	3 February 2009	Conflict of interest Failure to declare Personal and Prejudicial interest	25 February 2009	No Further Action				Completed (No further action)
SfE 2009/02/03	7 April 2009	Failure to declare Personal and Prejudicial interest	29 April 2009	Referred for Investigation Complainant failed to co-operate, so investigation was delayed	16 February 2010	24 February 2010 IAP decided Steps Other than an Investigation (Training Required)		Completed Training re Declarations of Interest and Register of Interests. (Training completed)
SfE 2009/04	14 July 2009	Failed to treat others with respect Bringing office into disrepute	28 August 2009	Referred for Investigation	10 February 2010	25 March 2009 Referred for a Final Hearing	2 and 22 November 2010	Completed Verbal Apology at Council

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2009/05	4 November 2009	Conflict of interest Failure to declare Personal and Prejudicial interests Failed to treat others with respect	25 January 2010	Referred for Investigation	20 October 2010		2 November r 2010	Completed (No further action) (Complainant failed to co-operate with Investigation)
SfE 2009/06	21 December 2009	Failed to treat others with respect	25 January 2010	Referred for investigation – 25 January 2010 External investigator appointed		Scheduled for 3 October 2011. Cost of investigation to date - £2,726.60		

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2010/01	5 January 2010	Breached a confidence Failed to treat others with respect	25 January 2010 8 April 2010	Deferred for further information No Further Action		29 July 2010 Standards Review Panel No Further Action		Completed (No further action)
SfE 2010/02	6 January 2010	Failed to treat others with respect Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage	25 January 2010	Referral for Investigation External Investigator appointed	17 September 2010 External Costs of investigation - £6,038.60		20 December 2010 – No Further Action	Completed (No further action)
SfE 2010/03	6 January 2010	Failure to declare Personal and Prejudicial interest	25 January 2010	No Further Action				Completed (No further action)

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2010/04	9 February 2010 26 February 2010 – superseded previous complaint form	Conflict of Interest Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage	8 April 2010 3 March 2011 8 June 2011	Deferred for further information Initial Referral to Standards for England for consideration Referred back to Standards for England for consideration				Standards for England determined No Further Action
SfE 2010/05	30 March 2010	Failed to treat others with respect Bringing office into disrepute	29 July 2010	Referred for Investigation	11 February 2011	3 March 2011 Arrangements are in the process of being made for a hearing (Subject Cllr no longer a Councillor)		

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2010/06	6 January 2010	Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage	8 October 2010 31 January 2011	Decision deferred No Further Action			Review Panel 23 March 2011 – No Further Action	Completed No further action)
SfE 2010/07	30 September 2010	Failed to treat others with respect Bringing office into disrepute	20 January 2011	No Further Action				Completed (No further action)

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2011/01	10 February 2011	Failed to treat others with respect Bringing office into disrepute	3 March 2011	Referred for Investigation – External Investigator Appointed No Interim invoice yet rendered				
SfE 2011/02 linked to 2011/01 above	11 February 2011	Failed to treat others with respect Bringing office into disrepute	3 March 2011	Referred for Investigation – External Investigator appointed No Interim invoice yet rendered				

Number	Date of Complaint	Nature of Complaint	IAP Date	Outcome of IAP	Final Report Completed	Consideration Hearing of Final Report (Outcome)	Final Hearing	Outcome/ Current Position
SfE 2011/03	4 May 2011	Failed to treat others with respect Bringing office into disrepute Used position improperly to confer on or secure an advantage or disadvantage	25 August 2011	Referred for investigation on 26 August 2011. External Investigator appointed No Interim invoice yet rendered				
SfE 2011/04	5 August 2011	Failed to treat others with respect Bringing office into disrepute	22 August 2011	No further action				Completed (No further action)

Local Protocol

on

Local Assessment and Investigation of Allegations of Misconduct by Members

REVISED DRAFT –September 2011

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1. Interpretation

- 1.1 'Member' means the member of the Council who is the subject of the allegation unless stated otherwise or the context so requires. 'Member' includes all elected members of Wirral Council and all non-elected co-opted members of any committee (including the Standards Committee and any Overview and Scrutiny committee) (or any sub-committee) irrespective of whether they have any voting rights and also the member's nominated representative.
- 1.2 'Monitoring Officer' means the employee appointed to this role by the Council pursuant to section 5 of the Local Government and Housing Act 1989 ('the 1989 Act'). (The Monitoring Officer has responsibility for ensuring that the Council acts lawfully and properly in everything it does.) 'Monitoring Officer' includes any Deputy Monitoring Officer appointed by the Monitoring Officer, whether generally or for a specific purpose, in accordance with the 1989 Act.
- 1.3 'Investigator' means the Monitoring Officer or other person nominated by the Monitoring Officer to investigate a complaint.
- 1.4 'The Committee Services Officer' means an officer of the authority responsible for supporting the Standards Committee/Panel discharge of its functions and recording the decisions of the Standards Committee/Panel.
- 1.5 'Legal Advisor' means the officer responsible for providing legal advice to the Committee/Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- 1.6 'The Chair' refers to the relevant person presiding at the Standards Committee/Panel.

2. Introduction and Summary

- 2.1 This Protocol has been developed in accordance with the guidance issued by Standards for England ('SFE'). It should be read in conjunction with the "Local Assessment of Complaints" guidance published by Standards for England and The Standards Committee (England) Regulations 2008.
- 2.2 It is important that complaints are dealt with in a fair, efficient, effective and timely manner. This Protocol set out clear timescales for each stage of the complaints process. Normally complaints will be determined within six months from first receipt of the complaint, although complex cases, or other exceptional factors (for example, the long term illness of a key witness), may lead to this timescale being exceeded. Where it becomes apparent that a complaint may take more than six months to resolve, the Chair of the Standards Committee and Group spokespersons will be kept advised of the reasons for the delay and the likely timescales for completion of the matter.

3. What Can Be Dealt With Under This Local Protocol

- 3.1 Complaints about the behaviour of a Member must be made in writing (by letter or email) using the official form obtainable from Committee Services (or the Council's website), and addressed to the Monitoring Officer. In line with the requirements of the Equality Act 2010 (and other related legislation), the Council can make reasonable arrangements to assist people if they have a disability that prevents them from making a complaint in writing.

- 3.2 In order to avoid unnecessary use of public resources, the complainant must specify on the form what the subject member is alleged to have said or done, any corroborating evidence or details of people who will be able to provide it, and a copy of any documentary evidence the complainant needs to rely on.
- 3.3 Complaints must be about a Member breaking any part of their Council's Code of Conduct. This includes:
- Unlawfully discriminating against someone.
 - Failing to treat people with respect.
 - Bullying.
 - Doing something to prevent those who work for the Council from being unbiased.
 - Revealing information that was given in confidence, or stopping someone getting information they are entitled to by law.
 - Damaging the reputation of their office or Council.
 - Using their position improperly to their own or someone else's advantage or disadvantage.
 - Misusing the Council's resources.
 - Allowing the Council's resources to be misused for the activities of a registered political party.
 - Failing to register financial or other interests.
 - Failing to reveal a personal interest at a meeting.
 - Taking part in a meeting or making a decision where the member has an interest that is so significant that it is likely to affect his or her judgment.
 - Failing to register any gifts or hospitality they have received in their role as a member, worth over £25.00.

4. What Cannot Deal With Under This Local Protocol

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

5. Acknowledging Receipt of a Complaint

- 5.1 Within five working days of receiving a complaint against a member, the complainant shall be sent an acknowledgement of their complaint.

6. Anonymous Complaints

- 6.1 Further action will not be taken in respect of anonymous complaints unless to do so would be in the public interest. For example, if an allegation is made of a criminal nature and evidence is provided to support the allegation, the matter may be referred to the Police.
- 6.2 Details of the allegation will be retained by the Monitoring Officer for future reference and monitoring purposes.

7. Pre-Assessment Reports and Enquiries

- 7.1 Where a complaint is not about an allegation of member misconduct or there is insufficient information provided on the complaint form, the Monitoring Officer will inform the complainant of this issue within five working days of receipt of the complaint form. The Monitoring Officer may carry out a preliminary investigation in accordance with SFE guidance, to assist a decision (in consultation with the Chair of the Standards Committee).
- 7.2 Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he/she may approach the member complained against and ask whether the member admits, denies or otherwise wishes to comment on the alleged breach and whether he/she would be prepared to offer an apology or undertake other remedial action.
- 7.3 The Monitoring Officer will decide (and if considered appropriate in consultation with the Chair of the Standards Committee) whether to refer the complaint to the Initial Assessments Panel or to respond to the complainant explaining why the matter is not being taken further. In reaching decisions on the assessment, the Monitoring Officer will take full account of Standards for England Guidance and decided case law.

8. Access to Meetings and Decision Making

- 8.1 In accordance with Regulation 8 of The Standards Committee (England) Regulations 2008, meetings of the Initial Assessments Panel and Review Panel will not be open to the public and are not subject to the notice and publicity requirements of Part 5A of the Local Government Act 1972. The press, Members, officers (except the Monitoring Officer, Legal Advisor and Committee Services Officer), members of the public and complainant are not permitted to attend meetings of the Initial Assessments Panel and Review Panel. Meetings of the Standards Hearing Panel will also not be open to the public unless the Standards Hearing Panel agrees to lift the exclusion.
- 8.2 Agendas and papers for meetings of the Initial Assessments Panel, Review Panel and Standards Hearing Panel will normally be sent to the Monitoring Officer, Committee Services Officer and Members of the relevant Panel at least four clear working days before the date of the meeting. There is no legal entitlement to copies of agendas, reports and associated documents, minutes and background papers of meetings of the Initial Assessments Panel, Review Panel and Standards Hearing Panel in accordance with Regulation 8, but such information will be available to the member complained about once the Monitoring Officer is satisfied that sufficient investigation or other action has been undertaken and that the potential prejudice to any investigation or the public interest in withholding the information no longer applies.

8.3 In accordance with the Standards Committee (England) Regulations 2008, a summary of an Initial Assessments Panel, Review Panel and Standards Hearing Panel decision will normally be available to the public upon request. However if the member complained has not been found to breach the Members' Code of Conduct, that member has the right to request that the decision not be published. All decisions and information relation to them will be kept for six years from the date of the decision of the Sub-Committee.

9. Confidentiality

9.1 The member will (unless otherwise stated in this Local Protocol) be sent a summary of the complaint within five working days of receipt unless the Monitoring Officer believes that this would be likely to:

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

9.2 Requests for the complainant's name or details of the complaint to be kept confidential will not automatically be granted. The complainant shall be informed of Monitoring Officer's decision within five working days of receipt of any such request. If a complainant's request for confidentiality is not granted, the complainant may, if considered appropriate by the Monitoring Officer, in consultation with the Chair of the Standards Committee, be afforded the opportunity to withdraw their complaint.

9.3 However, where the matter complained about is very serious, the complaint will proceed. In these exceptional circumstances the complainant's identity may become known or have to be given out, even if the complainant has requested confidentiality.

9.4 Where a request is made for confidentiality, the member complained against will not be notified of the receipt of the complaint against them until after the Monitoring Officer has considered the complaint and the request for confidentiality considered. In all other cases the Committee Services Officer will inform the Member complained against within five working days of receipt of the complaint unless the Monitoring Officer advises otherwise on grounds detailed in paragraph 9.1 above.

10. Referrals to the Initial Assessment Panel

10.1 The Initial Assessment Panel will be made up of one Independent Member of the Standards Committee and two Wirral Councillors. The selection of the two Wirral Councillors shall be in accordance with the relevant provisions Council's Constitution. The Initial Assessments Panel must be chaired by an Independent Member of the Standards Committee.

- 10.2 In order to avoid unnecessary use of public resources, the Initial Assessments Panel must be satisfied that there is some degree of likelihood that appropriate evidence may be found and that the complaint, if proven, might be a breach of the Code or local protocol. The complainant must provide sufficient information to enable the Initial Assessments Panel to conclude that there is prima facie evidence of a breach of the Code. The Initial Assessments Panel should, when considering a complaint, consider whether the complaint is vexatious, malicious, politically motivated, 'tit-for-tat', or made at least six months after the event (unless the pattern of behaviour complained about has been recently repeated or the evidence relied upon is predominantly documentary).
- 10.3 The Initial Assessments Panel will meet within twenty working days of the complaint being received and will consider any request for confidentiality or withdrawal of the complaint. It will then reach one of the following decisions in respect of the complaint:
- (a) Refer the complaint to the Monitoring Officer of the Council for investigation or other action.
 - (b) Refer the complaint to Standards for England.
 - (c) Decide that no action should be taken in respect of the complaint.
- 10.4 When a matter is referred for investigation or other action, it does not mean that the Initial Assessments Panel (or, on appeal, the Review Panel) has made a decision on the merits of the complaint, or whether there has been a breach of the Code of Conduct. It simply means that Initial Assessments Panel believes the alleged conduct, if proven, may amount to a failure to comply with the Code (or local protocol) and that some action should be taken in response to the complaint. The Initial Assessments Panel will only take into account information in the agenda papers or provided by the Monitoring Officer in reaching its decision.

Referral of a Complaint to the Monitoring Officer for Investigation

- 10.5 Where a matter is referred to the Monitoring Officer for investigation, the Monitoring Officer shall determine the person to undertake that investigation and the appropriate manner of that investigation. The Monitoring Officer shall have regard to all relevant considerations, including: the views of the Initial Assessments Panel; the seriousness of the allegations; the extent to which allegations are supported by any evidence; the Council's financial position; and the public interest.
- 10.6 An investigation may be undertaken by: the Monitoring Officer, in person or another person appointed by the Monitoring Officer, including; a Deputy Monitoring Officer; another appropriate officer (having regard to the nature of the allegations); a Monitoring Officer, or Deputy Monitoring Officer, at another local authority; or by an external investigator of appropriate experience and standing.
- 10.7 Within five working days of a Initial Assessments Panel decision that a matter be investigated the Monitoring Officer will:
- a) begin to investigate the matter personally; or
 - b) appoint an Investigator and instruct him/her to conduct an investigation of the allegation and to report their findings to the Monitoring Officer and subsequently to the Initial Assessments Panel.

- 10.8 The Monitoring Officer may appoint another person (or other persons) to assist him/her or the Investigator in the conduct of his/her functions.
- 10.9 A local investigation will be carried out having regard to the guidance provided by SFE and normally completed (i.e. a final report produced) within twelve weeks from the date the Initial Assessments Panel resolves that an allegation of a breach of the Code of Conduct or a local protocol should be investigated. The timescale for investigation may take longer when dealing with complex complaints or where there are large numbers of witnesses. In such cases the Monitoring Officer will ensure that the process is dealt with in a timely manner; concluded as soon as reasonably practicable; and that the complainant, complained about Member and Chair of the Standards Committee are kept informed as to progress.
- 10.10 The Monitoring officer shall ensure that an investigation is conducted in a manner that is appropriate to the seriousness of the complaint and compliant with natural justice and human rights. The Monitoring Officer shall have regard to all relevant considerations, including: the extent to which allegations are supported by any evidence; the Council's financial position; and the public interest.

Referral of a Complaint to the Monitoring Officer for Other Action

- 10.11 When the Initial Assessments Panel considers a new complaint, it can decide that action other than an investigation should be taken and it can refer the matter to the Monitoring Officer to carry this out. It may not always be in the interest of good governance to undertake or complete an investigation into an allegation of misconduct. The Initial Assessments Panel must consult the Monitoring Officer or the Legal Advisor before reaching a decision to take other action.
- 10.12 The suitability of other action is dependent on the nature of the complaint. Certain complaints that a member has breached the Code of Conduct may indicate that there is a wider problem. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way to resolve matters that are less serious. This may be the simplest and most cost effective way of getting the matter resolved, helping the Council work more effectively and of avoiding similar complaints in the future.
- 10.13 The Initial Assessments Panel can decide that the other action should be applied to the member complained against or that working practices or policies should be amended in light of the issues raised. Other action may be appropriate if it appears that members have a poor understanding of the Code or authority procedures. Evidence of this may include:
- (a) a number of members failing to comply with the same paragraph of the Code;
 - (b) officers giving incorrect advice;
 - (c) failure to adopt the Code; or
 - (d) inadequate or incomplete protocols for use of authority resources.

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

- (a) a pattern of allegations of disrespect, bullying or harassment;
- (b) factionalised groupings within the Council;
- (c) a series of 'tit-for-tat' allegations; or
- (d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures.

10.14 The Initial Assessments Panel will take a practical approach to considering other action, taking into account the needs of the Council. It will be made clear to everyone involved in the process that the decision to refer a matter for other action is made as an alternative to investigation. Where other action is agreed no conclusion or decision will be made on whether the member complained against failed to comply with the Code of Conduct or local protocol.

10.15 Complaints that have been referred for other action will not be referred back to the Initial Assessments Panel if the other action is perceived to have failed. This would be unfair to the member complained against and a case may be jeopardised if it has been discussed as part of the mediation process.

10.16 The following are some examples of alternatives to investigation:

- (a) arranging for the member complained against to attend a training course;
- (b) arranging for the member complained against and the complainant to engage in a process of conciliation; or
- (c) instituting changes to the Council's procedures if they have given rise to the complaint.

10.17 Within three months of the date the direction for 'other action' was received, the Monitoring Officer will submit a written report to the Initial Assessments Panel giving details of the action taken or proposed to comply with the direction. If the Initial Assessments Panel is not satisfied with the action specified in the report, it shall give a further direction to the Monitoring Officer. If the Initial Assessments Panel is satisfied with the action specified in the report it will give written notice to that effect to the complainant, member complained against.

Decision to Take No Action

10.18 The Initial Assessments Panel may decide that a complaint will not be investigated or referred for other action for one or more of a number of reasons which could include those listed in paragraph 4. In addition, the Initial Assessments Panel may decide not to investigate the complaint because:

- the complainant has not provided adequate evidence, and there is insufficient likelihood of adequate evidence being found, which might indicate a breach of the Code to justify the use of resources involved in an investigation.

- the complaint is not serious enough to justify the use of resources involved in an investigation;
- the complaint appears to be simply malicious, politically motivated or tit-for-tat;
- the complaint has already been investigated and there is no significant new information; or
- the length of time that has elapsed since the alleged conduct took place and the complaint was made was too long ago to merit any action being taken.

Referral of a Complaint to Standards for England ('SFE')

- 10.19 Sometimes there will be issues in a case, or public interest considerations, which make it difficult for the Council to deal with a complaint fairly and speedily. In these cases the Initial Assessments Panel may wish to refer a complaint to SFE. The reasons for doing this are set out in SFE guidance. If the Initial Assessments Panel decides to refer a matter to SFE it should decide which paragraphs of the Code of Conduct it believes the allegation refers to and the reasons why it cannot be dealt with locally.
- 10.20 SFE may accept such cases for investigation, take no action, or refer cases back to the Council's Standards Committee. SFE will normally inform the Monitoring Officer within ten working days whether they will accept a case or whether they will refer it back to the Standards Committee, with a reason for doing so. There is no right of appeal against the SFE's decision.
- 10.21 If SFE decides not to investigate a case referred to them, they may offer guidance or give a direction to the Standards Committee, which may assist them in making their decision. They may also refer the matter with a direction to the Monitoring Officer to deal with.
- 10.22 Within three months of the date the direction for 'other action' was received by the Monitoring Officer, he/she will submit a written report to the Ethical Standards Officer (ESO) giving details of the action taken or proposed to comply with the direction. If the ESO is satisfied with the action specified in the report he/she will give written notice to that effect to the complainant, member complained against. If the ESO is not satisfied with the action specified in the report, he/she may require the Monitoring Officer to arrange for a statement to be published in at least one local newspaper giving:
- (a) details of the direction given by the ESO;
 - (b) the ESO's reasons for being dissatisfied; and
 - (c) the Monitoring Officer's response to the ESO's reasons for being dissatisfied.
- 10.23 In exceptional circumstance, SFE may decide to take no further action on a complaint referred to them by the Initial Assessments Panel. This is likely to be where circumstances have changed so much that there would be little benefit arising from investigation or other action, or because they do not consider the complaint discloses a breach of the Code of Conduct.
- 10.24 If SFE refers a complaint back to the Standards Committee, the Initial Assessments Panel will meet within 20 working days of receiving the referral, and decide what action should be taken next. The Initial Assessments Panel will make one of the following decisions:
- (a) not to take any further action;

- (b) refer the matter to the Monitoring Officer for local investigation; or
- (c) refer the matter to the Monitoring Officer for some other form of action,

As the Initial Assessments Panel initially decided that the matter was serious enough to be referred to Standards for England for investigation, it is likely that it will still think that it should be investigated. However, if the circumstances of the complaint have changed since the original decision, it may be reasonable to make a different decision. The complainant and the member complained against will be notified in writing of the Initial Assessments Panel's decision and the reasons for that decision, normally within five working days of the meeting.

11. Notification of Initial Assessments Panel Decision and Right of Review

- 11.1 If the Initial Assessments Panel decides not to refer a complaint for investigation or other action, the Committee Services Officer will write to the complainant and the member complained against to explain why, normally within five working days. The complainant has a right to appeal to the Review Panel about a decision by the Initial Assessments Panel not to refer the complaint for investigation or other action. This must be done within 30 working days of receipt of the Initial Assessments Panel's decision. Further information is set out in paragraph 12 below.
- 11.2 If the Initial Assessments Panel decides to refer the complaint for investigation or other action the Committee Services Officer will within five working days write to the complainant and the member complained against to explain why.

12. Review Panel

- 12.1 If a complainant is dissatisfied with the Initial Assessments Panel's decision, he/she may appeal, in writing, to the Review Panel. The protocol requirements applicable to the Initial Assessments Panel shall apply to the Review Panel.
- 12.2 The Review Panel will normally be made up of one Independent Members of the Standards Committee and two Wirral Councillors. These must be different Independent and elected members to those who sat on the original Initial Assessments Panel. The Review Panel must be chaired by an Independent Member of the Standards Committee.
- 12.3 The Review Panel will review a decision of the Initial Assessments Panel to take no action. The Review Panel must also take into account any additional relevant evidence submitted to it by the complainant, member complained about or anybody else (e.g. the Monitoring Officer).
- 12.4 Within five working days of receiving a request for a review of the Initial Assessments Panel's decision the Committee Services Officer will write to the complainant and member complained against to acknowledge receipt of the request for review.
- 12.5 The Review Panel will reach one of the following decisions within twenty working days of the receipt of a request for a review:
 - (a) Uphold the original decision of the Initial Assessments Panel not to refer the complaint for investigation or other action.

- (b) Overturn the decision of the Initial Assessments Panel and refer the complaint to the Council's Monitoring Officer for investigation or other action.
- (c) Overturn the decision of the Initial Assessments Panel and refer the complaint to Standards for England for investigation.

13. Notification of Review Panel Decision

- 13.1 The Committee Services Officer will write to the complainant, member complained against and advise them of the Review Panel's decision and reasons for their decision, normally within five working days of the meeting.

14. Investigation Reports

- 14.1 When an investigation has been completed, the Initial Assessments Panel will consider the investigation report and may ask the Investigator questions (but will not interview witnesses or take representations) in deciding one of the following actions:
 - (a) it accepts the investigating officer's findings of no failure to observe the Code of Conduct or local protocol; or
 - (b) the matter should be referred for consideration at a hearing before the Standards Hearing Panel; or
 - (c) the matter should be referred to the First Tier Tribunal for determination.
- 14.2 The Initial Assessments Panel may only make a finding under paragraph 14.1(c) if it has decided that the action it could take against the member would be insufficient if a finding of failure was made and if the President or Deputy President of the First Tier Tribunal (Standards for England) has agreed to accept a referral.

15. Standards Hearing Panel

- 15.1 Where the Initial Assessments Panel refers an investigation report to the Standards Hearing Panel, the Standards Hearing Panel will hold a formal hearing into the matter.
- 15.2 The Standards Hearing Panel will normally be made up of two independent members of the Standards Committee and three Wirral Councillors. The quorum for the Panel is three members including at least one Independent Member of the Standards Committee. The Standards Hearing Panel must be chaired by an Independent Member of the Standards Committee. As the Initial Assessments Panel and Review Panel make no findings of fact in respect of the complaint, members who sat on the Initial Assessments Panel or Review Panel have not automatically predetermined matters and may sit on the Standards Hearing Panel.
- 15.3 The Standards Hearing Panel has the power to issue one or more sanctions including power to suspend or partially suspend a member for up to six months and to restrict a member's access to Council buildings or resources. The process for dealing with this is set out in this Protocol.

16. Conflicts of Interest

- 16.1 Members and officers shall not take part in meetings of the Initial Assessments Panel, Review Panel or Standards Hearing Panel where any of the following circumstances apply:
- (a) The complaint is likely to affect the well-being or financial position of that member or officer or the well-being or financial position of a friend, family member of person with whom they have a close association.
 - (b) The member or officer is directly or indirectly involved in the case in any way.
 - (c) A family member, friend or close associate of the member or officer is involved in the case.
 - (d) The member or officer has an interest in any matter relating to the case. For example, it concerns a member's failure to declare an interest in a planning application in which the member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.
- 16.2 An officer acting as legal adviser in the above panel process must not be involved in the investigation of that matter.

17. Roles of Investigator and the Panels

- 17.1 The function of the Investigator is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the / Panels, to enable the Panels to come to an informed decision as to whether the member has failed to comply with the Council's Code of Conduct for Members or local protocol.
- 17.2 It is essential that the Investigator at all times acts in a manner that is completely impartial and fair to all parties.
- 17.3 The Panels shall act in an inquisitorial manner seeking the truth in relation to the conduct of the member on the balance of the information available to it.
- 17.4 The Panels may commission further investigation/s or request additional information where it needs to do so in order to come to a decision.

18. Confidentiality of Information gathered during an Investigation

- 18.1 Information gathered during an investigation will be treated as confidential until it is reproduced in the form of a final report. People who are involved in the investigation or who are interviewed will be asked to maintain confidentiality and members will be reminded of their obligation under paragraph 3(a) of the Code of Conduct not to disclose information they have received in confidence.
- 18.2 If a draft report is issued on the outcome of the investigation it will be marked "confidential", to preserve the integrity of any further investigation that may need to be carried out.

19. Production of Documents, Information and Explanations

- 19.1 In the course of the investigation, the Investigator (and any person authorised on his/her behalf) may make such enquiries of any person (and/or request any person to provide any document, information or explanation), as he/she thinks necessary for the purposes of carrying out the investigation.
- 19.2 In the event of a member failing to assist the Investigator, the matter may be referred to the Ethical Standards Officer who has legal powers to compel assistance to be given which if not complied with, are punishable by a level 3 fine (currently £1,000).

20. Interviews

20.1 Timescale

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

20.2 Requesting attendance

In the course of the investigation the Investigator may request any person to attend and appear before him/her or otherwise provide advice or information for the purpose of paragraph 19, as he/she thinks necessary for the purposes of carrying out the investigation. The Investigator will request members and other persons to provide responses within five working days of receipt of the request.

20.3 Representation

Any person who appears before the Investigator may arrange to be accompanied (at their own expense) by one friend/adviser provided that they are not someone who is a witness.

20.4 Notes of interviews

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

21. Refer Back to Standards for England

- 21.1 At any stage prior to the completion of the investigation, the Investigator may (after consulting the Monitoring Officer, if separate) suspend his/her investigation and refer the matter, together with any supporting information, to Standards for England for an Ethical Standards Officer to consider.
- 21.2 When a matter is referred to an Ethical Standards Officer (ESO), they are required to respond to the request within 21 days of receipt and may:
- (a) direct that the matter be referred to an ESO for him/her to undertake an investigation, in which case the Monitoring Officer concerned will terminate the investigation; or

- (b) direct that the Monitoring Officer concerned continue his/her investigation in accordance with The Standards Committee (England) Regulations 2008 in which case the Monitoring Officer concerned will continue his/her investigation and may not make any further request under paragraph 5 of the Regulations in respect of that matter.

22. Investigator's Report

- 22.1 The Investigator will decide whether it is appropriate to produce a draft report or to produce a final report without first producing a draft report; a draft report will only be produced in the case of unusually lengthy or complex investigations. In either event, the Investigator may wish to confirm the accuracy of parts of the report directly with the parties and/or any other persons interviewed during the investigation.
- 22.2 The draft report will be marked "confidential" and "draft". It will also make clear that the draft report does not necessarily represent the Investigator's final findings and that a final report will be presented to the Initial Assessments Panel once the Investigator has considered any comments received on the draft report.
- 22.3 The Investigator will then send a copy of his/her draft report to the member and the person making the allegation and will normally request that they send any comments on the draft report to him/her within ten working days.
- 22.4 Within five working days after the expiry of that period (or such extended period as the Investigator may allow), the Investigator will reconsider his/her draft report in the light of any comments received and will produce and send to the Monitoring Officer a final report.

23. Meetings of the Initial Assessments Panel and the Standards Hearing Panel

- 23.1 The Standards Committee (England) Regulations 2008 allow for the investigation report to be considered as exempt information. The Regulations also allow for the member complained about to require that the authority does not publish a notice stating that the sub-committee has found that there has been no failure to comply with the Code. In the event of a finding of no failure to comply with the Code, arrangements will be made to publish such a notice, unless the member complained about requests at the end of the meeting that such a notice be not published. In view of this legal option available to the member complained about, the investigation report will be treated as exempt information in accordance with Regulation 8(6) unless and until a decision is made that it should be referred to a hearings sub-committee.
- 23.2 If a decision is made by the Initial Assessments Panel that the investigation report should be referred to the Standards Hearing Panel, in accordance with the statutory procedures it will cease to be regarded as exempt information unless the Initial Assessments Panel resolves that the subject member's interest in limiting publication of an improper allegation yet to be determined by the Standards Hearing Panel should outweigh the public interest in transparent decision making.
- 23.3 Regulation 8(6) of the Standards Committee (England) Regulations 2008 allows the consideration of the investigation report to be considered as exempt information.

24. Rights and Responsibilities of Members and the Investigator

- 24.1 No member, including the member complained about, has any right to address the Initial Assessments Panel or Review Panel. No member may address the Standards Hearing Panel other than in accordance with the procedures laid down in accordance with the Standards Committee (England) Regulations 2008 and Standards for England Guidance.
- 24.2 The Investigator will seek to interview the member complained about and the complainant.
- 24.3 Depending upon the seriousness of the allegations and the available evidence, the Investigator may also interview other persons named by the member complained about or the complainant whom the Investigator considers could reasonably further assist the investigation. Neither the member complained about nor the complainant may seek to interview such other persons themselves.
- 24.4 The member complained about or the complainant may supply the Investigator with any documents they would like the Investigator to examine as part of the investigation, or the contact details of people they would like the Investigator to interview.
- 24.5 The complainant and the complained-about Member will normally be interviewed face-to-face by the Investigator. Other witnesses may be interviewed by telephone or invited to make written submissions, as the Investigator considers appropriate. The complained-about Member will normally be given an opportunity to comment upon all evidence submitted by the complainant (or others) to substantiate the complaint.
- 24.6 It is a breach of the Code of Conduct to attempt to intimidate the Investigator or members of the Standards Committee, or any witness, potential witness or any other person in relation to the complaint. No attempt should be made to communicate with members of the Standards Committee about any matter relevant to the investigation.
- 24.7 Anyone seeking to participate in the investigation will be directed to the Monitoring Officer or the Investigating Officer in the first instance.

To avoid misunderstanding, any communication of this nature should be made in writing wherever possible.

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

25. Processing the Investigator's Report

- 25.1 Within three working days from receipt of the Investigator's report the Committee Services Officer will write to the complainant and the members complained about:
 - (a) enclosing a copy of the report; and

- (b) informing them of the date of the Initial Assessments Panel at which it will be considered.

25.2 The Initial Assessments Panel will consider the report and make a finding that:

- (a) it accepts the Investigator's finding of no breach or
- (b) the matter should be referred to the Standards Hearing Panel or the Local Government Standards Tribunal.

25.3 Within three days after the Initial Assessments Panel's decision, the Committee Services Officer will

- (a) give written notice of the decision to:
 - (i) the member complained about;
 - (ii) the Investigator; and
 - (iii) the complainant; and
- (b) if the decision is to accept that no breach has been committed, arrange for a notice to be published in at least one newspaper circulating in the Borough of Wirral (unless the member concerned is found not to have committed any breach of the Code of Conduct and/or local protocol(s) and requests that it is not published) stating that the Standards Committee has found that there has not been a failure on the part of the member whom the finding of no failure relates to, to comply with the Code of Conduct for Members (and/or local protocols).

25.4 If the Initial Assessments Panel has referred the matter to the Standards Hearing Panel, the Committee Services Officer will, within three working days, write to the member complained about asking them to complete the forms prescribed by SFE and return them to the Committee Services Officer within ten working days. If the member does not reply, a reminder will be sent allowing a further five working days to reply, after which, if no reply, it will be assumed that the member does not dispute the findings of fact and does not wish to participate in the hearing.

25.5 Within three working days of receipt of the completed forms, the Committee Services Officer will write to the Investigator asking them to complete a further form within five working days.

26. Pre Hearing

26.1 Pre-Hearing Process

Within five working days of the receipt of the completed form from the Investigator by the Committee Services Officer, a Pre-Hearing discussion will be held between the Monitoring Officer (or other legal advisor to the Standards Hearing Panel if the Monitoring Officer is the Investigator or unable to attend) and the complainant to deal with the procedural issues.

26.2 Pre-Hearing Process Summary

Once the Pre-Hearing discussion has taken place, the Monitoring Officer will address the issues raised and prepare a Pre-Hearing Process Summary setting out the following details:

- (a) The findings of fact in the Investigator's report that are agreed.
- (b) The findings of fact in the Investigator's report that are not agreed.
- (c) Whether or not the member and/or the Investigator will attend or be represented.
- (d) The names of any witnesses who will be asked to give evidence.
- (e) An outline of the proposed procedure for the hearing.
- (f) Any other matters the Monitoring Officer considers appropriate.

The Monitoring Officer will send a copy of the Pre-Hearing Process Summary to the member complained against, the complainant(s) and the members of the Standards Hearing Panel within five working days after the conclusion of the Pre-Hearing Meeting.

- 26.3 Should the member complained against or complainant(s) intend to raise any procedural issue or point of order at the meeting of the Standards Hearing Panel, then the member or complainant(s) must provide full written details of the same (together with any supporting documents or evidence to be relied upon) to the Monitoring Officer at least seven days prior to the Standards Hearing Panel meeting.

27. Consideration of Investigator's Report

- 27.1 Within fifteen working days of circulation of the Pre-Hearing Process Summary, the Standards Hearing Panel will meet to consider the allegations. The agenda for the meeting will normally be despatched at least seven working days before the date of the meeting. The Monitoring Officer may disclose a copy of the Investigator's report to the complainant prior to the despatch of the Standards Hearing Panel agenda (but may remove any confidential information from the documents).
- 27.2 If the member complained against or complainant(s) intend to raise any procedural issue or point of order at the meeting of the Standards Hearing Panel under paragraph 26.3 above, the Monitoring Officer, in consultation with the Chair, shall have the right to postpone the Standards Hearing Panel to another date. In such circumstances a further agenda shall be despatched at least seven clear working days before the date of the meeting.
- 27.3 The member against whom the allegation(s) may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Standards Hearing Panel another person. **Note:** the member must meet the cost of such representation.
- 27.4 The Standards Hearing Panel may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Standards Hearing Panel will be shared with the member and the Investigator if they are present. The Standards Hearing Panel may adjourn to hear legal advice but this advice will then be repeated by the legal advisor in the public forum.

27.5 At the Standards Hearing Panel, it will not normally be permitted to raise new disagreements over findings of fact in the final report unless there are good reasons for doing so (for example, new evidence becoming available). It is therefore important that the member complained against raises any such issues of concern on the forms sent to the member by the Committee Services Officer before the hearing.

28. Preliminary Procedural Issues

28.1 Before the Standards Hearing Panel considers the Investigator's report it will consider any procedural issues, including requests for paperwork to be withheld from the public and/or for any part of the meeting to be held in private. The Standards Hearing Panel will then resolve any other issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

28.2 The Standards Hearing Panel may adjourn at any time to require further information or investigation to be carried out (in accordance with the Regulations).

29. Presentation of evidence (Stage 1)

29.1 After dealing with any preliminary issues, the Standards Hearing Panel will then move to consider the Investigator's report.

29.2 The Investigator will be invited to summarise his/her report and make any necessary representations to support the relevant findings of fact in the report. With the Standards Hearing Panel permission, the Investigator may call any necessary supporting witnesses to give evidence. The Standards Hearing Panel may give the member complained against and complainant(s) an opportunity to challenge any representations and evidence put forward by the Investigator and his/her witnesses.

29.3 The Standards Hearing Panel may then give the complainant(s) an opportunity to make representations to support his or her version of the facts and, with the permission of the Standards Hearing Panel, call any witness(es) to give evidence. The Standards Hearing Panel may give the member complained against the opportunity to make representations in relation to any representations and/or evidence presented by the complainant(s) or the complainant(s) witness(es). The member complained against is not entitled to cross-examine the complainant(s) or the complainant(s) witness(es).

29.4 The Standards Hearing Panel may then give the member complained against an opportunity to make representations to support his or her version of the facts and, with the permission of the Standards Hearing Panel, call any witness(es) to give evidence. The Standards Hearing Panel may give the complainant(s) the opportunity to make representations in relation to any representations and/or evidence presented by the member complained against or his/her witness(es). The complainant(s) is not entitled to cross-examine the complainant(s) or the complainant(s) witness(es).

29.5 At any time, the Standards Hearing Panel may question any party or any witness and may allow the Investigator to challenge any evidence put forward by any party or witness.

29.6 If the member complained against disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement during the Pre-Hearing process, he or she must give good reasons for not mentioning it before the hearing.

If the Investigator is not present, the Standards Hearing Panel will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the Standards Hearing Panel will then:

- (a) continue with the hearing, relying on the information in the Investigator's report;
- (b) allow the member to make representations about the issue, and invite the Investigator to respond and call any witnesses as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if he or she is not already.

29.7 The complainant(s) may be invited to make any final submissions to the Standards Hearing Panel.

29.8 The member complained against will be given the opportunity to make final submissions to the Standards Hearing Panel.

29.9 Following final submissions, the Standards Hearing Panel will consider all the representations and evidence presented and deliberate in private having regard to all relevant guidance and advice..

29.10 The Standards Hearing Panel may, at any time, seek clarification on any representations or evidence presented during the meeting.

30. Did the Member fail to follow the Code of Conduct for Members (or Local Protocol)? (Stage 2)

30.1 Following consideration and deliberation, the Chair of the Standards Hearing Panel will announce the Standards Hearing Panel's findings of fact. The Standards Hearing Panel will also confirm whether or not, based on the facts it has found, the member complained against has failed to follow the Council's Members' Code of Conduct (or local protocol).

31. If the Member has not failed to follow the Code of Conduct for Members (or Local Protocol)

31.1 If the Standards Hearing Panel decides that the member complained against has not failed to follow the Code of Conduct (or local protocol), the Standards Hearing Panel will move on to consider whether it should make any recommendations to the authority.

32. If the Member has Failed to Follow the Code of Conduct (or Local Protocol) (Stage 3)

32.1 If the Standards Hearing Panel decides that the member complained against has failed to follow the Code of Conduct (or local protocol), the member will be invited to provide any mitigation he/she would like the Standards Hearing Panel to take into account before determining whether:

- (a) whether or not the Standards Hearing Panel should impose a sanction; and if so

- (b) what form any sanction should take in accordance with the statutory powers available to the Standards Hearing Panel.

32.2 When deciding on a sanction, the Standards Hearing Panel will make sure that it is reasonable and in proportion to the member's behaviour. Before deciding what sanction to set the Standards Hearing Panel will consider the criteria on sanctions approved by the Standards Committee.

32.3 The Standards Hearing Panel will consider whether or not to impose a penalty on the member complained against and, if so, what the penalty should be in private. On their return, the Chair will then announce the Standards Hearing Panel's decision.

33. Recommendations to the Council

33.1 After considering any verbal or written representations from the Investigator, the Standards Hearing Panel will consider whether or not it should make any recommendations to the Council, with a view to promoting high standards of conduct among members.

34. The Written Decision

34.1 The Standards Hearing Panel will announce its decision on the day and provide a short written decision on that day. A full written decision prepared by the Committee Services Officer and approved by the Monitoring Officer and Chair of the Standards Hearing Panel will be published within ten working days.

34.2 Following the closure of the hearing, the Committee Services Officer will prepare a formal written notice of the Standards Hearing Panel's determination for approval by the Monitoring Officer and Chair and will arrange for the distribution and publication of that notice within five days (in accordance with the Regulations).

34.3 The notice comprises a formal written notice which must:

- (a) State that the Standards Hearing Panel has found either:
 - (i) That the member had not failed to comply with the Code of Conduct or local protocol; or
 - (ii) That the member had failed to comply with the Code of Conduct or local protocol but that no action needs to be taken in respect of the failure; or
 - (iii) That the member had failed to comply with the Code of Conduct or local protocol and the sanction imposed.
- (b) Specify the details of any such failure.
- (c) Give reasons for the Standards Hearing Panel reaching that finding.
- (d) Specify any sanction which the Sub-Committee has imposed on the member.

- (e) State that the member may apply for permission to appeal against the finding (where the Standards Hearing Panel has found that there had been a failure to comply with the Code of Conduct or local protocol) and provide the address to write to and relevant time limit.

34.4 The formal written notice must be sent to:

- (a) The member concerned.
- (b) The Investigator concerned.
- (c) The Standards Committee (as the determination was made by the Standards Hearing Panel).
- (d) The Standards Committee of any other authority of which the member is also a member.
- (e) The complainant.
- (f) One or more newspapers circulating in the area of the authority (unless the Standards Hearing Panel finds that there has not been a breach the member requests that the notice is not sent to the press).

35. Failure to Comply with the Requirements of this Protocol

35.1 Failure by a member to comply with the reasonable requirements of the Investigator, or this protocol, may result in a further complaint being made to the Monitoring Officer and may be referred to the Standards Committee. This will be a breach of paragraph 20 of the Code of Conduct for Members. Officers are also required to comply with the reasonable requirements of the Investigator and this Protocol. Any failure to do so may result in disciplinary action being taken against the individual concerned.

36. Modification of Procedure

36.1 The Chair of the Standards Committee, on the advice of the Monitoring Officer or Legal Advisor, after consulting the complained about Member and complainant, may vary the application of the procedure and practice detailed in this Protocol in any particular instance where the Chair is satisfied that such a variation is necessary in the interests of fairness; any such variation will be recorded in writing and signed by the Chair, with reasons given for the variation, and filed on the case file.

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**WIRRAL COUNCIL
STANDARDS COMMITTEE
29 SEPTEMBER 2011**

SUBJECT:	MYSTERY SHOPPING
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR JEAN STAPLETON
KEY DECISION?	NO.

1.0 EXECUTIVE SUMMARY

- 1.1 The Standards Committee on 4 July 2011 (minute 3) asked for details of the mystery shopper work undertaken to assess the quality of service at the Call Centre, Libraries and One Stop Shops. This report details the work undertaken and the results.

2.0 RECOMMENDATION

- 2.1. That Members note the report.

3.0 REASON FOR RECOMMENDATION

- 3.1 To allow Members to be aware of the work and results of the mystery shopper exercise that was undertaken to assess service quality and identify improvements.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 All services need to know how they are seen by users and this can be achieved in a number of ways from asking users directly to having a review of the services in place from the perspective of the service user. This is sometimes undertaken as mystery shopping. This involves a person not known to the service using the service and assessing the experience of all aspects of the service against pre set criteria. These will reflect the quality and experience of the service user.
- 4.2 Mystery Shopping provides a key element of the programme for ongoing improvement. The first Mystery Shopping exercise was undertaken from December 2010 to February 2011. The areas assessed were Libraries, One Stop Shops and the Call Centre.
- 4.3 Services were assessed on over 60 criteria including quality of service provided, response times and internal and external building maintenance. The assessment takes place on general information not case specific as this is assessed via direct public feedback such as surveys and complaints.

- 4.4 The Call Centre and One Stop Shop services were generally rated as 'Good' or 'Excellent'. Staff was viewed as friendly and polite, and willing to go the extra step to provide great service. Where knowledge of specific areas was lacking it was found that there was generally good use of the Council website to provide information. Where the posting out of documentation was requested, all relevant documents were received within five working days, and adequate information explaining how to complete them was supplied.
- 4.5 The Library service was rated as either 'Good' or 'Average'. While the resources offered by each Library in terms of book stock and IT vary greatly depending on the size of the Library, overall staff knowledge of services requires some development.
- 4.6 A number of areas for staff development included:
- More signposting of the Council website as the first port of call for information enquiries and for downloading documents.
 - Timescales need to be provided wherever possible and explanations of 'what happens next'.
 - Further promotion of other services that might remove the need for customers to repeat visit.
- 4.7. Key environmental concerns included:
- The external condition of Library buildings was often poor, with a lack of street signage.
 - Quiet study areas could often be small and in some cases untidy.
 - Leaflet racks were often untidy.
 - Accessibility was poor in places, with the smaller Libraries in particular, not offering easy access for disabled users.
- 4.8. The issues and concerns detailed above now form part of the customer service development work over the coming year.
- 4.9. While this was the first exercise to include Libraries it was the second for the One Stop Shops and it built on the lessons learnt in the original exercise. The One Stop Shops also take part in the periodic Wirral Partnership Homes (WPH) mystery shopping work and are assessed in the role as the WPH public contact points. The most recent assessment of interaction with the customer was given a satisfaction rating of 96.3%.
- 4.10. The work undertaken has been considered successful and we now plan a rolling exercise of mystery shopping across sections which will focus on the customer care standards.

5.0 RELEVANT RISKS

5.1 By not using this type of quality check we could lose an important opportunity to improve service delivery and the quality of public contact.

6.0 OTHER OPTIONS CONSIDERED

6.1 Use of commercial organisations was considered but they are costly.

7.0 CONSULTATION

7.1 None was undertaken.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 None arising from this report.

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

9.1 There are none arising directly from this report.

10.0 LEGAL IMPLICATIONS

10.1 There are none arising directly from this report.

11.0 EQUALITIES IMPLICATIONS

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

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 None.

FNCE/192/11

REPORT AUTHOR:

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APPENDICES

None.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards Committee	4 July 2011

**WIRRAL COUNCIL
STANDARDS COMMITTEE
29 SEPTEMBER 2011**

SUBJECT:	LOCAL GOVERNMENT OMBUDSMAN – ANNUAL LETTER AND CURRENT PERFORMANCE
WARD/S AFFECTED:	<i>ALL</i>
REPORT OF:	<i>DIRECTOR OF FINANCE</i>
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR JEAN STAPLETON
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 The Local Government Ombudsman (LGO) produces an annual letter on the performance of each local authority. It sets out the number of complaints made to the LGO about the Authority, the outcomes, how they have been dealt with and response times. This report sets out the contents of the 2010 -11 letter and the current performance in this financial year on response times.

2.0 RECOMMENDATION

- 2.1. That Committee notes the report.

3.0 REASON FOR RECOMMENDATION

- 3.1 To ensure performance continues to be monitored.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 The LGO annual letter for Wirral was published in June 2011 and a copy is attached in Appendix 1 of this report. It is also available for public scrutiny on the Council website.
- 4.2 The statistics provided by the LGO include the number of enquiries and complaints received by the LGO Advice Team who operate a *triage* service to initially assess contacts as suitable for consideration (primarily to confirm the Council has had the opportunity to fully consider the complaint) before issuing advice or referring onto the Investigative Team. These contacts are broken down into *LGO defined* service areas, which do not align with the Council departmental structure.
- 4.3 The letter also confirms any decisions made by the Investigative Team in the reporting period, which may affect complaints originally received outside of the current reporting period and so the number of complaints received/decisions made may not correspond exactly.

- 4.4 Further analysis displays the average time taken to respond to written enquiries and offers comparison with average responses by other types of authority within the LGO's remit. Average days are measured in *calendar* days as opposed to working days.
- 4.5 To provide local context, the statistics recorded through the Customer Relationship Management (CRM) system are also offered for the same reporting period in this report, with some additional analysis evaluating performance between departments.
- 4.6 Comparative data is also provided in this report summarising Wirral performance against other Merseyside local authorities i.e. Halton, Knowsley, Liverpool, St Helens and Sefton.
- 4.7 In previous years the LGO letter contained summaries of specific complaint outcomes and highlighted any particular investigations which raised concerns in quality of service provision or the handling of complaints. This reporting element does not feature in the letter format this year.

COUNCIL PERFORMANCE

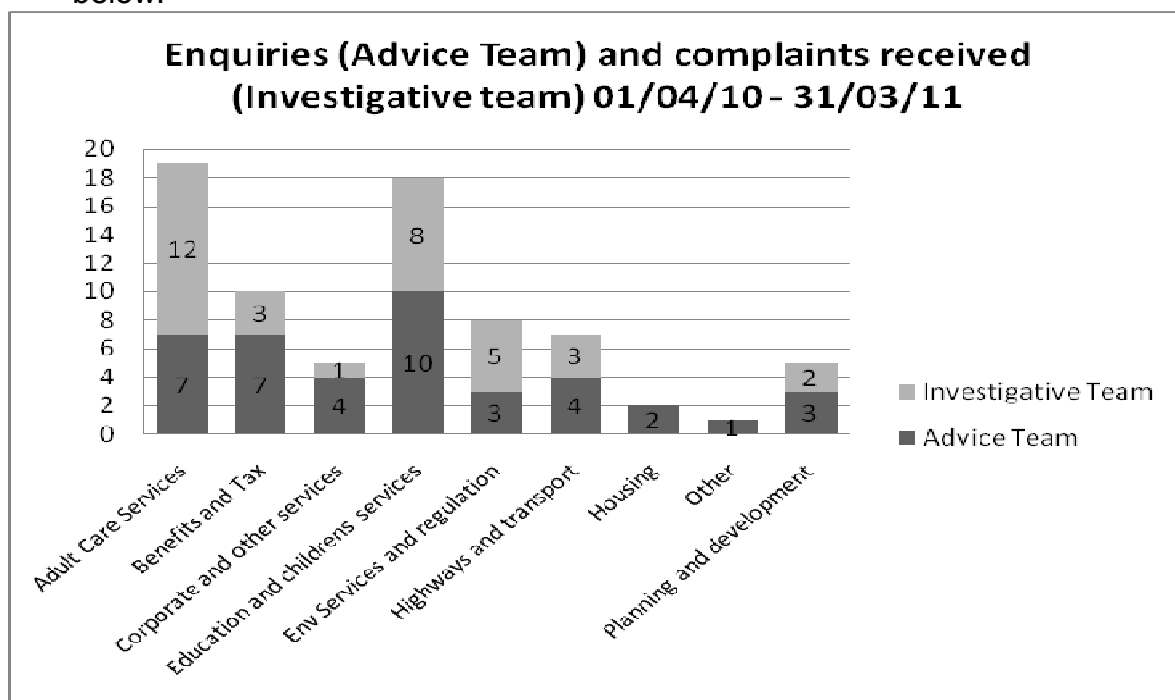
Response times to first enquiries

- 4.8. The Council is recorded by the LGO as responding to written (or *first*) enquiries in an average of 20.2 days against a target of 28 days. This compares to an average of 26.8 days reported for the 2009/2010 reporting year.
- 4.9. The LGO reports that 64% of other metropolitan authorities were able to respond to first enquiries within 28 days or less, compared to 70% for 2009/2010.
- 4.10. It can be seen that Wirral has improved response rates by 6.6 days from the previous year while the general trend among other metropolitan authorities was one of falling performance.

Enquiries and complaints received by the Advice/Investigative Teams

- 4.11. The LGO reported that the Advice Team received 24 *premature* complaints (i.e. that the Council had not had sufficient time to consider through the corporate/statutory complaint process) and 17 contacts that advice only was given. There were a total of 8 cases *resubmitted* to the Investigative Team (previous premature complaints that had since been through the Council complaint process) and 30 *new* cases forwarded directly.

4.12.A breakdown across the LGO defined service areas is offered in the table below:



4.13 Decisions made in the reporting period do not necessarily compare to complaints received by the Investigative Team.

4.14 The LGO reported that the following decisions (34 in total) were made in 2010/2011:

- two local settlements i.e. decisions by letter discontinuing the investigation because action had been agreed by the Council and accepted by the LGO as a satisfactory outcome for the complainant
- eight cases where no maladministration was found i.e. decisions by letter discontinuing an investigation because the LGO found no, or insufficient, evidence of maladministration
- 17 cases where the LGO used discretion i.e. decisions by letter discontinuing an investigation in which the LGO has exercised general discretion not to pursue the complaint, usually due to no or insufficient injustice to warrant pursuing the matter further
- seven cases where the LGO decided the matter was outside its jurisdiction

LGO contacts recorded in CRM

4.15 The LGO service split does not necessarily align directly with the Wirral departmental structure and so supplementary analysis is offered from the CRM system.

4.16 The Council has a designated coordinator within the Finance Department to receive any contacts received from the LGO, log in CRM, monitor progress in support of the departmental customer feedback coordinator and liaise with the LGO/department/Legal Services as necessary. Contacts received are entered in CRM as *requests for information* (i.e. first informal contact from the LGO asking for background information); *follow-up enquiries* (i.e. relating to a previous contact and requiring further clarification) and *new investigations* (i.e. LGO confirms formal investigation proceedings started).

4.17 Analysis taken from the CRM across *all* LGO contacts (not restricted to first enquiries as highlighted in the annual letter) is as follows:

- Across all departments:
 - 63 contacts received relating to 53 individual LGO cases
 - Average of 16 days across all departments to respond to contacts
 - Average of 14 days to respond to requests for information (51 in total)
 - Average of 26 days to respond to follow-up enquiries (10 in total)
 - Average of 23 days to respond to new investigations (2 in total)
- By department:
 - Corporate Services took an average of 14 days to respond to their LGO contacts (5 in total) with one request for information concerning corporate policy taking 28 days to respond
 - CYPD contacts (14 in total) ranged over Anti-social behaviour team (3); Children's social care (4) and Schools (7) and included 5 follow-up enquiries
 - CYPD took an average of 9 days to respond to Schools related contacts (target of 14 days)
 - CYPD took an average of 26 days to respond to non-school related contacts though this included a single request for information which took 125 days to respond
 - DASS contacts all concerned Care services (22) apart from a single enquiry regarding Finance and Performance and included 5 follow-up enquiries
 - Care services took an average of 19 days to respond with the 4 contacts which took over 28 days to respond having an average of 50 days taken
 - The single DASS Finance and Performance contact took 95 days to respond
 - The Finance Department received 3 contacts relating to Revenues and a single contact for the Miscellaneous Income section with an average of 8 days taken to resolve these contacts
 - LHRAM had 2 contacts for Environmental Health and a single contact for Licensing, taking an average of 15 days to respond
 - One of the Environmental Health contacts was classified as a new (formal) investigation and took 28 days to respond
 - Technical Services had 14 contacts, taking an average of 7 days to respond with the Planning service being the most popular service area (5 contacts received)

- Of the 14 contacts received, a new investigation was instigated for the Sports and Recreation service and took 17 days to respond

Comparison with other Merseyside Authorities

4.18. The LGO publicly releases figures for all local authorities and this provides the opportunity to compare performance with other Merseyside councils in 2010/11:

	Contacts received		First Enquiries		Decisions reached			
	Advice Team	Investigative Team	Number received	Average calendar days to respond	Local Settlement (no report)	No Maladm in (no report)	LGO's discretion (no report)	Outside jurisdiction
Halton	15	14	6	29.8	4	5	4	2
Knowsley	18	12	7	21.3	3	5	0	5
Liverpool	97	74	32	16.8	17	22	19	13
Sefton	30	24	8	27.9	7	11	3	3
St Helens	22	18	5	20.8	2	7	2	3
Wirral	41	38	9	20.2	2	8	17	7

4.19 As can be seen from the table, Wirral is second only to Liverpool Council when measured in the average days taken to respond to first enquiries. This compares to coming 'last' in the same comparator table for 2009/2010.

Current performance measured through CRM

4.20 For the period 1 April 2011 – 11 September 2011 the following performance is reported through CRM:

- 35 contacts from the LGO with 31 of these contacts responded to in an average of 13 days* and 4 currently open
- 30 requests for information and 5 follow-up enquiries
- Main service areas experiencing contact are (DASS) Care services (10); (CYPD) Schools (8) and (Finance) Revenues (4)
- Those services responding outside of the standard target of 28 days were:
 - (Corporate Services) Planning – single contact taking 31 day to respond
 - (Finance) Revenues – single contact taking 31 days to respond
 - (DASS) Care Services – single contact taking 39 days to respond

- (LHRAM) Legal and Member Services – single contact taking 43 days to respond
- 4.21 The CRM monitors *all* LGO contacts received to ensure consistent performance rather than isolating LGO defined first enquiries which are highlighted in the annual review letter

FOCUS FOR 2011/2012

- 4.22 Clearly the emphasis will be to maintain the improving performance reported in 2010/2011, in relation to the statistics provided by the LGO, analysis from the CRM system and in comparison with other Merseyside authorities.
- 4.23 LGO contacts are handled as part of the wider corporate approach to customer feedback (i.e. complaints, councillor/MP enquiries, suggestions and compliments), recognising that such interactions provide an opportunity to 'put things right and learn from it'. Being able to evidence *learning outcomes* for the organisation from LGO contacts and wider feedback received will be a priority during 2011/2012.

5.0 RELEVANT RISKS

- 5.1 The ability to maintain the level of improving performance reported through 2010/2011 into 2011/2012 with the reduced staffing resource (post-Early Voluntary Retirement / Voluntary Severance schemes) and wider budgetary restraint impacting on service provision/potential level of complaint.
- 5.2 Ensuring a corporate commitment to identifying organisational learning through the recognition that customer contacts should not be dealt with in isolation but instead should be used in the context of informing future levels of service performance.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 None arising directly from this report.

7.0 CONSULTATION

- 7.1 None arising directly from this report.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 8.1 None arising directly from this report.

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

- 9.1 None arising directly from this report.

10.0 LEGAL IMPLICATIONS

- 10.1 None arising directly from this report.

11.0 EQUALITIES IMPLICATIONS

- 11.1 Equality Impact Assessment (EIA) - Is an EIA required? No.

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 None.

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FNCE/220/11

APPENDICES

LGO Annual Letter and Report 2010/2011.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards Committee (Minute 12)	29 September 2010
Standards Committee (Minute 13)	29 September 2009
Standards Committee (Minute 13)	30 September 2008

24 June 2011

Mr J Wilkie
Chief Executive
Wirral Metropolitan Borough Council
Town Hall
Brighton Street
WALLASEY
Merseyside
CH44 8ED

Dear Mr Wilkie

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

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Anne Seex
Local Government Ombudsman
Michael King
Deputy Ombudsman

Advice Team: 0300 061 0614

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

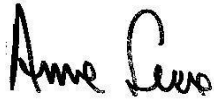
Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

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Mr J Wilkie

If it would be helpful to your Council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink that reads "Anne Seex". The signature is written in a cursive style with a large initial 'A'.

Anne Seex
Local Government Ombudsman

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For further information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	4	3	3	4	3	4	2	0	1	24
Advice given	3	4	1	6	0	0	0	1	2	17
Forwarded in investigative team (resubmitted)	1	1	1	1	0	0	0	0	4	8
Forwarded to investigative team (new)	11	2	0	7	5	3	0	0	2	30
Total	19	10	5	18	8	7	2	1	9	79

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	2	0	0	8	17	7	34

Adult social care decisions made from 1 Oct 2010*

	Out of jurisdiction	Total
2010 - 2011	2	2

*These decisions are not included in the main decisions table above. They use the new decision reasons from 1/10/10.

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	9	20.2
2009 / 2010	29	26.8
2008 / 2009	100	14.3

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Provisional comparative response times 01/04/2010 to 31/03/2011

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0