



Standards Committee

Date:	Monday, 18 March 2013
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer: Shirley Hudspeth
Tel: 0151 691 8559
e-mail: shirleyhudspeth@wirral.gov.uk
Website: <http://www.wirral.gov.uk>

AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee are asked to consider whether they have any disclosable pecuniary or non pecuniary interests in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

2. MINUTES (Pages 1 - 8)

To confirm the Minutes of the meeting of the Standards Committee held on 19 November 2012 as a correct record.

3. MINUTES OF THE STANDARDS WORKING GROUP (Pages 9 - 12)

To receive the Minutes of the meeting of the Working Group held on 4 February 2013.

4. MEMBERS' ICT POLICY (Pages 13 - 16)

5. URGENT BUSINESS APPROVED BY THE CHAIR

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STANDARDS COMMITTEE

Monday, 19 November 2012

<u>Present:</u>		Councillor Bill Davies (Chair)
	Councillors	D Roberts J Salter L Rowlands
		C Blakeley L Fraser
<u>Deputies</u>	Councillors	S Foulkes C Meaden
<u>Independent Persons</u>	Mr	DR Burgess-Joyce
	Mr	B Cummings
	Mr	C Jones
	Professor	RS Jones
<u>Apologies</u>	Councillors	R Abbey M McLaughlin

14 INTRODUCTION

Everyone in attendance at the meeting introduced themselves for the benefit of the four Independent Persons who were attending for the first time in this capacity.

15 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

No declarations of interest were received.

16 MINUTES

RESOLVED:

That the Minutes of the meeting of the Committee held on 3 July 2012 be confirmed as a correct record.

17 INDEPENDENT PERSONS

Following a recruitment process four Independent Persons had been appointed to support the work of the Standards Committee. The role of an Independent Person was to assist the Council in promoting and maintaining high standards of conduct amongst its Elected Members. Independent Persons would be consulted on the decision to investigate complaints and before making a decision on an investigated complaint. The appointed persons may be consulted on other standards matters, including by the Member who was subject to an allegation.

The Council had agreed that fixed attendance allowance of £25 per meeting, would be payable to the Independent Persons (Minute No. 51 refers). The Council would also reimburse travel expenses.

The Committee welcomed the following four Independent Persons to their first meeting:

- Mr Brian Cummings MBE
- Mr David Robert Burgess-Joyce
- Mr Chris Jones
- Professor Ronald Samuel Jones

Members gave consideration to a proposal that one of the Independent Persons be invited to attend each meeting of the Standards Working Group. It was noted that the next meeting of the Working Group was scheduled for 4pm on Monday, 10 December 2012 in Committee Room 2 of the Town Hall, Wallasey. The Committee agreed that it wished to be as transparent as possible and that the proposal was an appropriate way forward.

RESOLVED: That

- (1) the appointments of the four Independent Persons as detailed above be noted; and**
- (2) an Independent Person, to be nominated, by the Independent Persons on a rotation basis, to attend each meeting of the Standards Working Group.**

18 EMAIL FROM MR JOHN BRACE

Members of the Committee acknowledged that they had received an email from Mr John Brace. The Acting Director of Law, HR and Asset Management agreed to speak to Mr Brace, outside of the Committee meeting, about the content of his email.

19 DISCLOSURE OF CONFIDENTIAL REPORTS UNDER THE PREVIOUS ETHICAL FRAMEWORK

Those Members who had been the subject of a complaint and/or had made a complaint against another Member, declared a non disclosable interest in the next item of business on the agenda.

At the last meeting of the Committee held on 3 July 2012 it had resolved

‘That the Head of Legal and Member Services be requested to bring a detailed report, to the next meeting of the Committee, on the confidentiality of findings on complaints made about Councillors under the old Standards Regime.’ (Minute No. 11 refers)

A report by Acting Director of Law, HR and Asset Management and Monitoring Officer provided advice in relation to whether investigation reports carried out under the ethical framework (prior to 1 July 2012) could be disclosed in the public domain given that a new ethical framework was now in place.

On 21 May 2012, the Council had approved new arrangements in relation to the promotion and maintaining of high standards of conduct by Members. (Minute No. 14 refers) The changes included:

- (a) changes to the Article 9 (Terms of Reference of the Standards Committee (and its Panels)) of the Council's Constitution;
- (b) a new Members' Code of Conduct;
- (c) a new Protocol dealing with arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct;
- (d) the new Complaint Form that is to be used in relation to complaints relating to the Members' Code of Conduct.

The new ethical framework came into force on 1 July 2012.

The Acting Director reported that in considering whether investigation reports prepared in relation to complaints made under the previous ethical framework could and/or should be disclosed, consideration needed to be given to the following:

- (a) Under the previous ethical framework (established under Local Government Act 2000 and the Standards Committee (England) Regulations 2008 (as amended)), where an investigation had been undertaken, the investigation report, its findings and conclusion remained confidential unless disclosed in accordance with the above mentioned Regulations.
- (b) The Guidance issued by Standards for England advised that investigation reports be marked 'confidential' and that all interviewees should maintain confidentiality. The member(s) subject to a complaint were required to comply with paragraph 4(a) of the then Code of Conduct regarding the disclosure of information that they receive in confidence (i.e. in relation to an investigation).
- (c) Under Paragraph 7C of Schedule 12A Local Government Act 1972 (as amended), the deliberations of the Standards Committee in reaching any finding on a matter relating to the conduct of an elected/co-opted/advisory member could be exempt from disclosure providing the Committee considered the public interest in not disclosing the exempt information outweighs the public interest in disclosing the information.
- (d) Under paragraph 17 The Standards Committee (England) Regulations 2008, where the Monitoring Officer's investigation made a finding of 'no case to answer', which was subsequently accepted by the Standards Consideration Panel, the Monitoring Officer was obliged to publish a notice in a local newspaper unless the subject member requested that no such notice be published. This was an important issue as there had been a number of matters where a finding of 'no case to answer' had been accepted by the Consideration Panel

however the subject member(s) had decided not to have the notice published in a local newspaper.

To disclose the investigation report would disregard the legal right exercised by certain Members not to have the finding of 'no case to answer' published/put into the public domain.

The 2008 Regulations specifically made provision for a subject member to be publically exonerated through the publication of the notice where a finding of 'no case to answer' has been reached.

- (e) With the passage of time, the need to maintain confidentiality diminished. However, there remained a number of serving Members and a strong argument still existed for confidentiality of investigation reports.
- (f) Moreover, there was a high risk that any disclosure of investigation reports would (at this time and in the short/medium term) give rise to a number of potentially unintended consequences. For example:
 - i. lead to 'unofficial' investigation(s) being conducted by unregulated and unmanaged/able persons– 'double jeopardy';
 - ii. attract unnecessary and unwanted media attention in relation to historic matters that have been concluded;
 - iii. undermine the certainty of closure of a complaint;
 - iv. lead to further expenditure of resources in dealing with issues and matters that would inevitably arise despite the matter having been subjected to an independent investigation;
 - v. discourage legitimate complaints being raised;
 - vi. lead to complainants receiving unwanted attention;
 - vii risks undermining the changes in culture and behaviour the Council was seeking to embed.

The Acting Director informed that the Committee must consider what public benefit would be achieved by the disclosure. The parties involved in a complaint would have all received the investigation report. The Council had a duty under the Localism Act 2011 to promote high standards of conduct. The Committee should consider whether disclosure of previous investigation reports was consistent with that duty.

The Acting Director, therefore, advised the Committee to consider all the above issues and implications, including the legal framework and potential implications/impact of disclosing investigation reports in making its decision.

Significant discussion ensued and the Acting Director informed that the detail of complaints against Members could only be published if the complainant(s), other parties named in the complaint and the Member(s) concerned gave their permission. Consent must be sought as s63 still applied.

The Committee accepted that the detail of Standards complaints submitted under the previous regime should not be put into the public domain.

However, the Committee requested that the publication of the findings of investigations into Standards complaints against Members under the new regime, subject to certain safeguards be given serious consideration. If there was agreement to this proposal the name(s) of the complainant(s) should also be published.

The Committee was aware that under the new regime the Monitoring Officer would carry out a preliminary assessment and filter out frivolous and trivial complaints and those that were vexatious at the outset. Therefore, if there was agreed only those complaints that warranted investigation would end up in the public domain.

RESOLVED:

That the Standards Working Group be requested to give consideration to whether to publicise the findings of investigations into Standards complaints against Members under the new regime, subject to certain safeguards being put in place at its next meeting on 10 December 2012.

20 **REPORT OF THE MEMBER EQUIPMENT STEERING GROUP**

Further to Minute No. 13 of the last meeting of the Committee, held on 3 July 2013, when Members' ICT Policy (Use of Council Facilities) had been under consideration, the Head of Information Technology Services was in attendance at the meeting at the request of the Committee to report orally on the work of the Member Equipment Steering Group (MESG).

The Head of Information Technology Services reported that the MESG consisted of both Members and Officers whose remit was to identify the most appropriate ICT equipment to fulfil the Elected Members' function. Members' current ICT equipment was four years old and in need of replacement as the contract expired in March 2013.

The Head of Information Technology Services also informed that the MESG's work currently included looking at ways to:

- procure a Councillors' Case Management System that would be able to produce corporate management information for Members on their enquiries/complaints when dealing with matters in their constituencies;
- reduce the Council's paper usage (KLOE 6 objective);
- install wifi in Wallasey Town Hall soon so that Members were able to work electronically; and
- record committee meetings.

Officers had carried out a Members' Equipment Survey to try to identify the equipment that best meet their needs. Various electronic devices had been demonstrated to Members and a pilot exercise was currently underway where some Members and Officers were trialling ipads and slate type technology. This trial would end in January 2013. The outcomes would then be analysed and equipment selected that Members had indicated met their needs best.

The Head of Information Technology Services was aware that Members were keen to use personal equipment and informed that they must abide by the Government's Code of Connection so finding a way for this solution to work would provide Officers with a challenge.

The Head of Information Technology Services informed that the Cabinet had approved the installation of wifi in Wallasey Town Hall and the business case to illustrate where savings would be made was in the process of being prepared for the Executive Team's consideration.

The Acting Director of Law, HR and Asset Management reported that alongside Streetscene enquiries it was proposed to develop an overall Members' complaints/enquiries system within the Council's CRM system. This would log, monitor and track Members' complaints/enquiries and store all of that information in a central point with a unique complaint/enquiry reference number. This would allow Members and Officers to access the CRM system and Members could do this via the Members' Home Page. Members would be able to lodge requests completing an electronic complaint/enquiry form which would then be entered into the system and either be directed to Streetscene or another Department. There would also be an up to date directory of key Officer contacts available to assist Members.

It was noted that there were other case management systems on the market but the Council's own CRM System was able to deliver what Members required and that the System would be configured in a different way to the Streetscene System which was not without problems.

The Head of Information Technology Services reported that there were two approaches to recording Committee meetings etc:

- **Webcasting** which had been trialled in the past for the Planning Committee and not been entirely successful. Webcasting was streamed and hosted externally from the Council. Since the trial some years ago, advances had been made and the process was much more automated than it had been previously. It would be able to integrate with the system already installed in Committee Room 1. Prices were between £13,500 and £16,000 per annum.
- **Voice Record Committee Meetings** and the way this could be done varied. MP3 files were produced and it could be published via the Council's website. Prices also varied e.g. £1000 to £2,500 to establish it and £1000 per annum maintenance costs thereafter.

The Head of Information Technology Services informed that the MESH would like to give priority to procuring appropriate new replacement ICT equipment for Members.

Following his oral report the Head of Information Technology Services answered Members' questions on a number of issues raised which included:

- security concerns;
- would the new equipment be wifi enabled for Members' own homes?
- costs of the new ICT equipment;
- best practice adopted by other Councils;

- a Merseyside solution;
- Merseytravel's Case Management System (Good Cloud);
- Use of personal equipment e.g. Blackberries, the separate infrastructure required and associated costs;
- arrangements for Members with sight issues; and
- an ICT offer to help Officers become more productive and agile.

The Head of Information Technology Services informed the Committee that the MESH would aim to provide a report on its proposals for procuring appropriate new replacement ICT equipment for Members, for consideration at a Cabinet meeting in February 2013.

RESOLVED:

That the oral report presented by the Head of Information Technology Services on the current work of the MESH be received.

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STANDARDS WORKING GROUP

Monday, 4 February 2013

Councillors	C Blakeley WJ Davies T Harney	D Roberts L Rowlands P Williams
Independent Person	Mr D Burgess- Joyce	

1 ELECTION OF CHAIR

RESOLVED:

That Councillor WJ Davies be elected Chair of the Working Group for the rest of the Municipal Year.

2 MEMBERS' ICT POLICY

Members of the Standards Committee had previously raised concerns over the Code of Practice for Members on the Use of Council IT Facilities and specific issues around Council email addresses. Consequently, it had been agreed that the Working Group would look at this in detail and propose amendments.

RECOMMENDED: That

- (1) **the Use of Council IT Facilities Code of Practice should include the requirement under the Data Protection Act 1998 for all Councillors to be registered as data controllers as they process personal data;**
- (2) **the Acting Director of Law, HR and Asset Management to establish how the Council's systems monitor and manage personal/sensitive data and provide Members with a briefing note and appropriate training, to include best practice and case studies;**
- (3) **the following paragraphs of the Use of Council IT Facilities Code of Practice be amended to take account of Members' comments and observations as follows:**

- Para 5. Family members can provide assistance to Members so long as the Member remains in overall control of the PC;**
- Para 10. Officers be requested to revisit this paragraph and update it as necessary;**
- Hotmail requires the use of java script and the Acting Director agreed to pick this up with the Senior IT Officer;**
- Para 13. A policy is needed (based on reality) on what Members should and should not print;**
- Para 14. Further guidance is required, a shared understanding on what Members can and can not do;**
- Para 16. Further guidance is required;**
- Para 17. “four working hours” be replaced with as soon as possible;**
- Para 18. e. the word “receipt” be removed and g. to be combined to clarify the situation;**
- Para 20. delete c.
Add to the end of d. if the Council finds that a criminal act has been committed.**

3 DISCLOSING INVESTIGATION REPORTS UNDER THE NEW STANDARDS REGIME

The Working Group considered Minute No. 19 on Disclosing Investigation Reports under the New Standards Regime which had been referred to it by the Standards Committee at its meeting on 19 November 2012.

Members were asked to consider whether a complainant’s name should be placed in the public domain at the offset, when a complaint was made that warranted investigation and that complainants should not be allowed to remain anonymous irrespective of the outcome.

It was noted that the introduction of the New Standards Regime from 1 July 2012 had seen a significant reduction in the number of complaints being received against Members and the filtering process undertaken by the Acting Director of Law, HR and Asset Management had ensured that only legitimate and valid complaints were investigated. The current arrangements did not have the same restrictions upon them as those of the previous regime.

However, a protocol was in place and confidentiality was introduced through it. Following an investigation a complainants name was not kept confidential and was a matter of public record.

4 **REVIEW OF THE NEW STANDARDS REGIME**

The Working Group reviewed the New Standards Regime having regard to Wirral Council's Members' Code of Conduct including Schedule 1, the Seven Principles of Public Life. It also had regard to the Members' Code of Conduct – Protocol which set out arrangements for Investigating and Making Decisions in relation to allegations made under the Members' Code of Conduct.

The Acting Director of Law, HR and Asset Management reported that, in the light of the discussion during the previous item of business, he would amend the documentation provided and bring it back to the next meeting of the Working Group for further consideration.

The Working Group questioned the need for a Standards Committee meeting five times a year or whether it should meet ad hoc as and when necessary. It was noted that the Merseyside Fire and Rescue Authority had abolished its Standards Committee. It asked what other Councils were doing on Merseyside and suggested that a visit be arranged so that the Working Group could see a Standards Regime working elsewhere.

The Acting Director of Law, HR and Asset Management informed that under the Localism Act 2011 it was no longer a statutory requirement for the Council to have a Standards Committee. He proposed to consider whether the work of the Standards Committee could be combined with that of another Committee or Group.

RECOMMENDED: That

- (1) the three Political Group Leaders be asked for their comments on whether the Council should continue to have a Standards Committee;**
- (2) the Acting Director of Law, HR and Asset Management be requested to ascertain whether the other Merseyside Councils still have a Standards Committee and if not what arrangements have been put in place instead; and**
- (3) the New Standards Regime be further considered at the next meeting of the Working Group when the information requested will be provided.**

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USE OF COUNCIL ICT FACILITIES

CODE OF PRACTICE - MEMBERS

1. In order to assist Members carry out and discharge their role effectively, the Council provides personal computers with necessary software, peripheral hardware, telecommunications services and consumables ("ICT Facilities") to all Members. When using the IT Facilities provided, Members are required to adhere to this policy.
2. This policy outlines the manner in which ICT Facilities, should be used by Council Members and should be considered in conjunction with any guidance issued in relation to the use of ICT Facilities, in particular in relation to email and internet use.
3. In the course of their duties Councillors may store and process personal data on the computer equipment supplied by the Council. They will therefore be registered with the Information Commissioner's Office as data controllers as required by the Data Protection Act 1998.
4. This policy must be signed by all newly elected and re-elected Members.
5. All ICT Facilities provided by the Council shall remain the property of the Council and must be surrendered to the Council in the event that a Member ceases to be a Wirral Councillor. In this event access to Council electronic systems will be suspended and terminated within ten working days.
6. ICT Facilities are provided for the sole use and benefit of Council Members and must be used primarily for Council business. Use by family / friends and the like is not permitted however family members can provide assistance to Members in the use of the system as long as the Member remains in overall control of the PC and does not divulge their user name or password.
7. Members are expected to demonstrate a responsible approach to the use of the ICT Facilities provided and are expected to behave in a legal, moral and ethical fashion that is consistent with Council policies and standards.
8. All access to the Internet using computer systems (including portable computers) provided by the Council should be via the Council's network and established filtering system. This means that inappropriate sites will be blocked and a log of visited sites will be kept. These logs will be routinely monitored and will be used to assist in the investigation of inappropriate use.
9. It must be recognised that any view communicated over the Internet will be deemed to be the view of the Council, and will in most cases be treated as equivalent to correspondence sent by traditional formal routes. Any personal view expressed via a Council e-mail address should be endorsed "The contents of this e-mail are the personal view of the author and should in no way be considered the official view of Wirral Metropolitan Borough Council".
10. Members must use a password to log on to the computer provided as part of the ICT Facilities. Members must not disclose their password to another person. In the event that the password becomes known by anyone (or a Member suspects it has become known) then the password must be changed immediately.

11. Members ICT Facilities are configured to comply with the Council's ICT Security Policy and to meet the requirements of the Governments Code of Connection to the Public Services Network. Any unauthorised changes may contravene these policies therefore configurations must not be changed and Members must not attempt to add additional hardware, load software or connect personal devices to the equipment provided. Members will be able to connect approved personal devices to Council applications using the infrastructure installed for that purpose. Use of a personal e-mail account is permitted and will be configured on request by the Council's corporate ICT section.
12. All software provided by the Council with the computer, or subsequently, remains the property of the Council, or the licensing organisation as appropriate, and may not be shared or copied to another computer/device without written authorisation from the Head of Legal Services.
13. The security of any personal data held on a Council provided computer is the responsibility of the Member and recovery of such data cannot be guaranteed should the computer need repair. Members are responsible for the backing up of data held on the computer in accordance with any guidelines issued.
14. Members should print only essential material, and should check the length of a document before printing. For example Members should give consideration to only printing salient pages for reference purposes; and consider accessing material electronically that is available through Modern.gov e.g. Members Library. Consumables, e.g. printing ink and paper provided by the Council should only be used for Council business.
15. Members in using their ICT facilities must have regard to the Local Authority Code of Practice on Publicity and any guidance issued by the Council concerning the use of ICT facilities.
16. Members may use their Council provided ICT facilities for official business activities and those related to other public bodies or organisations on which they are the Council's representative or nominee, e.g. Fire Authority.
17. Members should not use their ICT facilities improperly for political purposes such as the promotion of a political party, a candidate or group of candidates in an election or in connection with a party political campaign. Receiving email on a separate private email account from a Member's Group or Party would not be regarded as improper.
18. In the interest of national security, Members using Government Connect Secure Extranet (GCSx) or Government Secure Intranet (GSI) e-mail addresses may have their communications monitored by Government agencies. The contents of a Members e-mail folders may be accessed by officers of the Council, or Police Officers, as part of any investigation into inappropriate use of e-mail, or complaint against the conduct of a Member.
19. Members must not automatically or manually forward electronic mail from a Wirral Council email account to a web mail account hosted on the Internet by a third party, for example Google, Yahoo, Hotmail etc. This is because they are lower classification domains and not considered secure by Government security advisors.
20. The Information Commissioner has the power to fine public sector organisations up to £500,000 in the event that unencrypted personal or sensitive data is lost or stolen. Members should therefore avoid downloading or storing such data on their computer's internal disk. Council provided computers will be encrypted but in the event that any equipment is lost or stolen then this must be reported to the Council's corporate ICT unit as soon as possible following discovery of the loss or theft.

21. Unacceptable Deliberate Use

The following activities, whilst not an exhaustive list, are considered unacceptable:

- a. The access to or creation, transmission or publication of any illegal or indecent images, sounds, data or other material.
 - b. The access to or creation, transmission or publication of any data capable of being displayed or converted to such illegal or indecent sounds, data or other material
 - c. The creation, transmission or publication of any material which is designed or likely to cause offence, inconvenience, discrimination or needless anxiety, or which may intimidate or create an atmosphere of harassment.
 - d. The creation, transmission or publication of defamatory material.
 - e. The storing or transmission of material that infringes the copyright of another person.
 - f. The creation, transmission or publication of any material in violation of Data Protection legislation or of any UK or International laws or regulations. Such activity may constitute a criminal offence.
 - g. The transmission of unsolicited commercial or advertising material to other users of the Council's network or users of the Internet.
 - h. The deliberate unauthorised access to facilities, services, data or resources within the Council or any other network or service accessible via the Internet, or attempts to gain such access.
 - i. Unauthorised access to the electronic mail of another individual.
 - j. Deliberate activities with any of the following characteristics or that by their nature could result in:
 - i. wasting staff or other users' efforts or network resources;
 - ii. corrupting or destroying other users' data;
 - iii. violating the privacy of other users;
 - iv. disrupting the work of other users;
 - v. using the Internet in a way that denies service to other users (for example by overloading the connection to the network by unnecessarily, excessively and thoughtlessly downloading large files);
 - vi. continuing to use any item of software or to access any material after being requested to cease its use because of disruption caused to the functioning of the Council's network or the Internet (for example utilities designed to broadcast network-wide messages); and/or
 - vii. the introduction or propagation of viruses.
 - k. Where the Internet is being used to access another network, any abuse of the acceptable use policy of that network.
 - l. Any use of the Internet or other facilities that could damage the reputation of the Council.
22. Any breach of this policy could result in the withdrawal of ICT Facilities from the relevant Member or in some cases result in further action being taken. (See below).
23. Any alleged breach of this policy will be subject to an investigation by the Council's Monitoring Officer in consultation with the Council's Internal Audit Section. Upon

conclusion of any investigation undertaken where in the opinion of the Monitoring Officer a breach(es) has been found, the Monitoring Officer may take one or more of the following actions,:

- a. Notify the Member's Party Group Leader of the breach;
- b. By complaint refer the breach(es) to the Council's Standards Committee Initial Assessment Panel;
- c. Notify the breach(es) to the Police if the Council suspects a criminal act has been committed.

Issued to: Councillor Date

I agree to abide by terms defined above

Signed _____ Date

A signed copy of this document should be returned to the Monitoring Officer with a copy held by the individual Member.

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