

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 3 March 2015

Present: Councillor WJ Davies (Chair)

Councillors G Ellis M McLaughlin
L Fraser D Roberts
P Gilchrist J Salter

In attendance: B Cummings Independent Person
Mr C Jones Independent Person
Prof RS Jones Independent Person

7 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Hale, L Rowlands and P Williams.

8 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

No declarations of interest were received.

9 MINUTES

RESOLVED:

That the accuracy of the Minutes of the meeting of the Committee held on 3 July 2014 be approved.

10 SUMMARY OF THE WORK AND PROPOSALS OF THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP

A report by the Head of Legal and Member Services and Monitoring Officer set out the detail of the work carried out by the Standards and Constitutional Oversight Working Group during the 2014/15 Municipal Year.

The Committee noted that the Working Group had considered the following matters and/or had made recommendations for it to consider:

- Development of Member Values and Behaviours;
- Review of the Council's Constitution;
- Policy on Reporting on Council Meetings; and
- Review of the Protocol on Member/Officer Relations

Attached to the report were:

- A draft Policy on the Reporting of Council Meetings;
- The revised Protocol on Member/Officer Relations; and
- The Department for Communities and Local Government's Open and Accountable Local Government – August 2014.

Mr J Brace, a member of the public had emailed Members of the Committee on 1 March 2015 to make written representations in respect of this item of business and had requested that he be allowed to speak at the meeting regarding reporting/filming at Council and Committee meetings.

Committee gave consideration to Mr Brace's request and were in agreement that he be allowed to address the Committee and allocated him five minutes in which to do so.

Mr Brace informed the Committee that he had read the report and had provided them with quotes from Regulations and Guidance issued by the Department for Communities and Local Government (DCLG) in advance of the meeting. He sought clarification on a number of points that he made in respect of the Policy on the Reporting of Council Meetings which was appended to the report to which the Head of Legal and Member Services and Monitoring Officer responded as appropriate. Consequently, the Committee noted that:

- The term 'Council meetings' used in the report meant all Council and Committee meetings held that were open to the press and public.
- The Regulations and the Policy was completely compliant with the Human Rights Act provisions.
- The Regulations and the DCLG's Guide sought to balance and ensure that members of the public who do not want to be filmed at meetings can object. The Regulations set out a "black and white" position without any exceptions whilst the DCLG Guide went further by setting out a greater degree discretion .
- The DCLG Guide specifically states that public bodies should consider adopting a policy on the filming of members of the public, and ensure that children, the vulnerable and other members of the public who actively object to being filmed are protected, without undermining the broader transparency of the meeting. The rights of those who wish to film need to be weighed against those who do not. This was subject to a judgement call that would be considered alongside Schedule 12A to the Local Government Act 1972 and the importance of the Council being able to maintain confidentiality and confidence.
- The Policy and Guidance were consistent with what was intended when the Regulations were drawn up and approved. The Policy ensured that consent would be sought and individuals were aware that this would be done.

- Reasonable facilities must be available to those wishing to film Council meetings and the Council needed to determine what it considered was reasonable, having regard to the design limitations of Wallasey Town Hall, where the majority of these meetings were held. Common sense would have to be applied.

A Member, having had regard to Mr Brace's representations on the report and its appendices made the following observations:

- The phrase "Council meetings" was acceptable as it did cover all meetings open to the press and the public.
- Councillors were not allowed to tweet at meetings, was it fair that they were treated differently from the public? This issue needed to be highlighted.
- The Policy meant that Councillors would be filmed and they could not object to it but members of the public could object.
- There would be difficulties (and safety issues to be considered) in accommodating a number of members of the public who may want to film and record Council meetings due to the space available and the disturbance element of them moving around the room.
- Proper permission must be obtained before children under 18 years of age could be filmed at meetings.

Another Member reported that the Standards and Constitutional Oversight Working Group had given consideration to the points the Member had just raised and had developed this Policy on the Reporting of Council Meetings balancing the rights of those who wanted to film Council meetings and those people being filmed. The general assumption was that Councillors would agree to be filmed. The Working Group had wanted to give reasonable assistance to those wanting to film and had balanced that against meeting procedures etc. The resulting document promoted good practice. The Chair would state at the beginning of a meeting that filming would be taking place and if members of the public did not want to be filmed they would be able to opt out.

A Member asked the Head of Legal and Member Services and Monitoring Officer to clarify the definition of a vulnerable person. He responded informing that it would be difficult for this purpose to capture such a definition within the Policy and including a definition had been deliberately omitted. However, if someone at a meeting considered that they were vulnerable they could explain why they were of that view and make their case by justifying why they should not be filmed.

A member proposed that where it was agreed that a meeting would not be filmed the decision should be entered into a register for that purpose so that full records were kept and could be referred to at a later date if it was deemed

necessary. The reason why it had been decided not to film the meeting would also be recorded in the Minutes of that meeting.

The Head of Legal and Member Services and Monitoring Officer informed that the Standards and Constitutional Working Group had had in depth discussions around the Council's Procedural Rules during the current Municipal Year and this had taken up a considerable amount of time. There was more work to be done but there was no set timetable for this as such. There was nothing to prevent the Working Group from continuing to meet and from carrying work over into the next Municipal Year.

RESOLVED: That

- (1) the work of the Standards and Constitutional Working Group be noted and it be agreed that it will continue to meet to progress its current work;**
- (2) the fourth bullet point of paragraph 4.1 of the Policy on Reporting on Council Meetings set out in Appendix 1 to this report be revised as follows:**
 - not film, photograph or otherwise capture the image, body or face of a minor (who shall for the purposes of this Policy be defined as anyone under the age of 18 years) unless express permission has been obtained from the parent(s), guardian(s), carer(s) or person(s) with legal responsibility for that child(ren);**

and be recommended to the Council for approval;
- (3) subject to (2) above the Committee recommends the Council to give it delegated authority to revise, amend and/or change the Policy on Reporting on Council Meetings;**
- (4) the revised Protocol on Member/Officer Relations set out in Appendix 2 to the report be agreed and recommended to the Council for approval; and**
- (5) subject to (4) above, the Committee recommends to the Council that its Constitution be updated with the Protocol on Member/Officer Relations set out at Appendix 2 to the report.**

11 NOTICE OF MOTION - CONSULTATION THAT COUNTS

The Committee was informed that the Civic Mayor had referred the following Notice of Motion to it for consideration at the meeting of the Council held on 15 December 2014:

'NOTICE OF MOTION - CONSULTATION THAT COUNTS

Proposed by Councillor Phil Gilchrist
Seconded by Councillor Dave Mitchell

Council recognises that the recent consultation about the options for the future of the Lyndale School led to issues being raised about the nature and practice of 'consultation'.

During this process, there was a distinction drawn between the notes taken at meetings and 'high level' notes. Whilst the inclusion of these points was contained in the subsequent reports, there is a pressing need to capture the full import and quality of points raised by the public during consultations.

Council also understands that the nature of and status of 'pre-consultation' was also questioned at a recent meeting of the Policy and Performance Co-ordinating Committee.

Council believes that, in the interests of good governance, there is a need for clarity to ensure that full records of consultations are effectively kept.

Council considers that guidance needs to be developed on the proper capture and reporting of points raised during consultations. The issue of the chairing of such consultations also needs to be considered.

Council requests that the Standards and Constitutional Oversight Committee examine the practices with a view to establishing procedures which Wirral's citizens and Councillors can be fully conversant with and have confidence in.'

Councillor P Gilchrist, was in attendance at the meeting and introduced his Motion. He made reference to the recent consultation exercise the Council had carried out on the proposal to close the Lyndale School and detailed the procedures that had been adopted. In particular, he informed that the relevant Cabinet Member had not wanted to Chair the consultation meetings, as had been the practice during other consultations the Council had carried out, as he just wanted to listen to what was being said. Consequently, Councillor Gilchrist informed that he was of the view that the quality of the recorded proceedings may not have been of a good enough standard as they had been recorded in "a bland manner". He also made reference to the consultations on Children's Centres that had only just commenced.

Councillor Gilchrist's concern was that there did not appear to be any protocols or guidance on how notes of the Council's consultation meetings should be formatted and recorded so that the salient points were not lost.

Councillor M McLaughlin moved the following Motion which was seconded by Councillor D Roberts:

'That this Committee requests that a preliminary report be presented to it setting out whether the Council has a protocol in place to capture information coming forward from consultation meetings.'

The Head of Legal and Member Services and Monitoring Officer informed that he was not aware of any protocols to capture information provided at consultation meetings but there may be issues around the accuracy of the Minutes taken at such meetings. He considered that there may be resource issues and that defining 'rules' may end up being counter-productive as consultations need to be informative and comprehensive.

The Head of Legal and Member Services and Monitoring Officer also informed that there was no requirement for the Cabinet Member to Chair consultation meetings.

Councillor Gilchrist proposed the following Amendment which was seconded by Councillor M McLaughlin:

'That each of the three Strategic Director be invited to provide commentary on their practices and arrangements for recording views expressed during consultations.'

The Committee noted that some consultations had to be extensive and this depended on the subject of the consultation and exactly what the duties were that the Council had to discharge, so there most probably was not a set procedure adopted in respect of them all.

Members agreed that if they considered that the Strategic Directors' position statements were not adequate the Committee, via its Working Group, would embark on a piece of work. They understood the difficulties of asking the Strategic Directors to produce a common approach.

The Head of Legal and Member Services and Monitoring Officer referred to the need to produce equality impact assessments, along with Committee reports and informed that he would ask the Strategic Directors to provide a range of consultation examples.

The Amendment was put to the vote and carried unanimously. It then became the substantive Motion.

RESOLVED (unanimously): That

- (1) each of the three Strategic Directors be invited to provide commentary on their practices and procedures for recording views expressed during consultations; and**
- (2) if any clarification is required in respect of (1) above, the Head of Legal and Member Services be authorised to obtain it following consultation with the Chair and Group Spokespersons.**