



Standards and Constitutional Oversight Committee

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| Date: | Wednesday, 1 July 2015 |
| Time: | 6.00 pm |
| Venue: | Committee Room 1 - Wallasey Town Hall |

Contact Officer: Shirley Hudspeth, Committee and Civic Services Manager
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AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

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

3. **MINUTES (Pages 1 - 8)**

To confirm the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 3 March 2015 as a correct record.
4. **CONSTITUTIONAL AMENDMENTS REQUIRED UNDER THE LOCAL AUTHORITIES (STANDING ORDER) (ENGLAND) (AMENDMENT) REGULATIONS 2015 (Pages 9 - 18)**

Report of the Monitoring Officer.

5. **SUMMARY OF STANDARDS COMPLAINTS (Pages 19 - 28)**

Report of the Monitoring Officer.

6. ESTABLISHING THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP (Pages 29 - 34)

Report of the Monitoring Officer.

7. URGENT BUSINESS APPROVED BY THE CHAIR

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.**

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

1 July 2015

| | |
|-----------------------|---|
| SUBJECT: | CONSTITUTIONAL AMENDMENTS REQUIRED UNDER THE LOCAL AUTHORITIES (Standing Order) (England) (Amendment) REGULATIONS 2015 |
| WARD AFFECTED: | N/A |
| REPORT OF: | MONITORING OFFICER |
| KEY DECISION? | NO |

1. EXECUTIVE SUMMARY

- 1.1 This report provides details of changes that must be made to the Council Constitution to give effect to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI2015/881) (“the Regulations”).
- 1.2 The Regulations came into force on 11 May 2015 and requires the Council to make certain changes to its Constitution relating to disciplinary action/arrangements relating to the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- 1.3 The changes to the Constitution must be made no later the first ordinary meeting of Council after 11 May 2015 (as prescribed by the Regulations).

2.0 BACKGROUND

- 2.1 The Council is required under the Regulations to review its Constitution and give effect to the Regulations which specifically relate to changes to the procedure for disciplining and dismissing statutory officers.
- 2.2 Statutory officers for these purposes are the Head of Paid Service, the Section 151 Officer and the Monitoring Officer (“Statutory Officers”).
- 2.3 There have been for some time concerns that the Designated Independent Person process (“DIP”) (required to be followed for the Statutory Officers) is in practice complex and expensive. It was suggested that it placed Councils, as the employer, at a great disadvantage in comparison to the position of the employee, particularly given that the recommendation of the DIP must be followed.
- 2.4 In 2013, the government conducted a consultation to remove the appointment of the DIP to investigate allegations of misconduct by the Statutory Officers.
- 2.5 The consultation resulted in the Regulations being enacted which provide that the final decision to dismiss any of the Statutory Officers must now be taken by Full Council;

and before taking such a decision, the Council must invite at least two Independent Persons to be members of a Panel and take into account any recommendation of that Panel.

- 2.6 The 'Panel' is defined under the Regulations as a committee appointed by the Council for the purposes of advising the Council on the dismissal of relevant officers of the Council – namely, the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee.
- 2.7 Under the Regulations, the Council is required to include a minimum of two Independent Persons on these Committees for the purposes of dealing with disciplinary action against any of the Statutory Officers. There is no maximum number of Independent Persons that has been prescribed under the Regulations.
- 2.8 The appointment of the Independent Persons must be made at least 20 working days before the meeting of Full Council convened to consider whether or not to approve a proposal to dismiss any of the Statutory Officers.
- 2.9 For the purposes of the Regulations, the Independent Persons appointed to the Standards and Constitutional Oversight Committee (pursuant to the Localism Act 2011) shall also be the Independent Persons capable of appointment to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee.
- 2.10 To ensure there is no undue delay in appointments, procedure and practice in dealing with disciplinary matters, the Regulations do permit the use, in priority order, of other Independent Persons. The order is as follows:
 1. An Independent Person who has been appointed by the Council and who is a local government elector;
 2. Any other Independent Person who has been appointed by the Council, and
 3. Any Independent Person who has been appointed by another Council or Councils
- 2.11 The Council's current Independent Persons are
 - Brian Cummings;
 - Chris Jones; and
 - Ronald Samuel Jones.
- 2.12 Invitations to all the current Independent Persons appointed to the Standards and Constitutional Oversight Committee to be also appointed to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee for the purposes of the Regulations shall be sent providing Council's approves the proposed changes/recommendations set out in this report.
- 2.13 All three current Independent Persons are local government electors.

- 2.14 Unless two or all of the current Independent Persons confirm they do not wish to be considered for the appointment (under the Regulations), the Council will not seek to make any more Independent Person appointments under the Regulations using the above mentioned priority order at this time.
- 2.15 It is therefore proposed that (subject to paragraph 2.12 and 2.14 above) all current (and any future) Independent Person appointments made under section 28(7) Localism Act 2011, be appointed to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee for the purposes of the Regulations.
- 2.16 However to ensure legal and procedural efficacy, authority is sought from Council for an appropriate Chief Officer of the Council to invite another relevant Independent Person(s) (in priority order) for the purposes of the Regulations should the number of Independent Persons appointed fall below the minimum of two as prescribed by the Regulations. It is proposed that the Chairperson of the Employment and Appointments Committee, in consultation with the spokesperson of the other political groups, have delegated power to formally appoint and co-opt such Independent Person(s) to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee. All such appointments shall be reported to the next Ordinary meeting of Council after the appointment is made.
- 2.17 Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee pursuant to the Regulations must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that their normal role with respect to standards and the Member Code of Conduct matters. Currently, the Council pays each Independent Person an allowance of £25 for each meeting of the Standards and Constitutional Oversight Committee attended, together with travel expenses only incurred in undertaking their role. It is proposed that this be extended to their role on the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee.
- 2.18 The Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee remain committees of the Council and therefore the proportionality rules still apply. Any recommendations arising from these Committees considerations would include the views of the Independent Persons.
- 2.19 At the relevant meeting of Full Council, it would need to show before it took the decision to dismiss any of the Statutory Officers that it had taken into account of:
- Any advice, views or recommendations of the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee (as applicable);
 - The conclusions of any investigation into the proposed dismissal; and
 - Any representations from the relevant Statutory Officer.

2.20 The proposed changes required to the Constitution are set out at Appendix 1 to this report.

3.0 RELEVANT RISKS

3.1 The Council has a legal obligation to comply with the Regulations. Failure to comply would render any disciplinary decision/action considering/proposing the dismissal of any of the Statutory Officers challengeable.

4.0 OTHER OPTIONS CONSIDERED

4.1 No other options were considered. The changes proposed give effect to the Regulations.

5.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

5.1 There are no implications for Voluntary, Community and Faith groups arising from this report.

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

6.1 The Regulations supersede and change the terms and conditions of the Statutory Officers in that it removes their previous entitlement to have disciplinary matters relating to dismissal addressed under the DIP process.

6.2 The Head of Human Resources and Occupational Development will formally advise the Statutory Officers of the changes once the changes are approved.

7.0 LEGAL IMPLICATIONS

7.1 The legal implications are set out within this report.

8.0 EQUALITIES IMPLICATIONS

8.1 There are no specific discrimination issues arising from this report.

9.0 CARBON REDUCTION IMPLICATIONS

9.1 There are no carbon reduction implications in this report.

10.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

10.1 There are no planning and community safety implications in this report.

11.0 RECOMMENDATIONS

11.1 That the Committee recommends to Council:

- a) That the proposed changes to the Council's Constitution be approved.
- b) That the Monitoring Officer be authorised to invite the Council's current Independent Persons appointed under section 28(7) Localism Act 2011 to be considered for appointment to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee where matters relating to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer are to be considered.
- c) Upon any of the said Independent Persons referred to in b) above confirming in writing to the Monitoring Officer their willingness to be considered for appointment to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee pursuant to The Local Authority (Standing Order) (England) (Amendment) Regulations 2015, their appointment shall be deemed to take effect.
- d) Where the number of Independent Persons appointed to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee under the Regulations falls below two and undue delay and/or a significant adverse impact is likely to arise in relation to the matter relating to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer:
 - i. a relevant Chief Officer of the Council shall be authorised to invite (in priority order) up to two Independent Person(s) as defined by The Local Authority (Standing Order) (England) (Amendment) Regulations 2015 to be considered for appointment to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee; and
 - ii. the Chairperson of the Employment and Appointment Committee, in consultation with the relevant spokespersons of the other political groups, shall have delegated power to appoint and co-opt the Independent Person(s) duly invited under d)(i) above to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee so as to give effect to The Local Authority (Standing Order) England) (Amendment) Regulations 2015.
- e) That the Head of Human Resources and Occupational Development shall have delegated power to make such changes considered necessary, in consultation with the Chairperson of the Employment and Appointments Committee, to any employment/disciplinary policies, arrangements and practices so as to give effect to The Local Authority (Standing Order) (England) (Amendment) Regulations 2015.

12.0 REASON FOR RECOMMENDATION

12.1 The recommendations are considered necessary to give effect to the Regulations.

REPORT AUTHOR: **Surjit Tour**
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and Monitoring Officer
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APPENDICES

Appendix 1 – Proposed changes to the Constitution – The Local Authority (Standing Order)(England)(Amendment) Regulations 2015

REFERENCE MATERIAL

The Local Authority (Standing Order)(England)(Amendment) Regulations 2015

Explanatory Note to the said Regulations

**Proposed Changes to the Constitution:
The Local Authority (Standing Order)(England)(Amendment) Regulations 2015**

| Section | Committee | Current Position | Proposed Changes |
|---|--|--|---|
| <p>Table 2</p> <p>RESPONSIBILITY FOR COUNCIL FUNCTIONS</p> <p>Page 56 of the Constitution</p> | <p>Employment & Appointments Committee</p> | <p>Membership: 8 Members of the Authority</p> <p>Functions:</p> <p style="padding-left: 40px;">Appointment of Chief Officers and Deputies.</p> <p style="padding-left: 40px;">To act as the Appeals Body in respect of misconduct of chief officers.</p> <p style="padding-left: 40px;">Functions relating to Pensions as an Employer.</p> | <p>Membership - Include:</p> <p>Where the matter to be considered relates to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer, the Employment and Appointments Committee membership shall include a minimum of two Independent Persons on the Committee as determined and defined by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881) or as may be amended from time to time.</p> <p>Functions – Include:</p> <p>To provide advice, views or recommendations to Full Council on a matter proposing the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer Committee in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015</p> |

| | | | |
|--|---|--|--|
| | | | (SI 2015/881) or as may be amended from time to time. |
| | <p>Chief Officers Employment Disciplinary Sub-Committee</p> | <p>Functions:</p> <p>To receive reports from a designated independent person investigating allegations of misconduct against the Head of Paid Service, the Monitoring Officer or Chief Finance Officer To investigate and take disciplinary action in respect of allegations of misconduct against Chief Officers.</p> | <p>Membership - Include:</p> <p>The Membership of the Chief Officers Employment Disciplinary Sub-Committee shall be determined by the Employment and Appointments Committee.</p> <p>Where the matter to be considered relates to the possible dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer, the Chief Officers Employment Disciplinary Committee membership shall include a minimum of two Independent Persons as determined and defined by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881) or as may be amended from time to time.</p> <p>Functions – Include:</p> <p>To provide advice, views or recommendations to Full Council on a matter proposing the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer Committee in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015</p> |

| | | | |
|--|---|--|--|
| | | | (SI 2015/881) or as may be amended from time to time. |
| <p>PART 3 –</p> <p>SCHEDULE 2</p> <p>SCHEME OF DELEGATION OF (NON-EXECUTIVE) FUNCTIONS TO COMMITTEES</p> <p>Page 90 of the Constitution</p> | <p>8. Employment & Appointments Committee</p> | <p>(1) The appointment of Chief Officers and Deputies in accordance with the Employment Procedure Rules.</p> <p>(2) To recommend to Council on the designation of the Monitoring Officer and the Chief Finance Officer.</p> <p>(3) To act as the Committee which makes recommendations to Council on the appointment of the Head of Paid Service (Chief Executive).</p> <p>(4) To hear and determine appeals in connection with disciplinary action or dismissal of Chief and Deputy Chief Officers.</p> <p>(5) To exercise any of the Council’s functions as an Employer under the Local Government Pension Scheme.</p> | <p>Include:</p> <p>(6) To provide advice, views or recommendations to Full Council on a matter proposing the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer Committee in accordance with the Local Authorities (Standing Orders)(England) (Amendment) Regulations 2015 (SI 2015/881) or as may be amended from time to time.</p> |
| | <p>9. Chief Officers Employment</p> | <p>The Council delegates to and confers upon the Sub-Committee the following duties,</p> | <p>Amend:</p> <p>(1) To receive and consider reports</p> |

| | | | |
|--|-----------------------------------|--|--|
| | <p>Disciplinary Sub-Committee</p> | <p>powers and authorities:-</p> <p>(1) To receive and consider reports from an independent person designated to investigate allegations of misconduct against the Council's Head of Paid Service, the Monitoring Officer or Chief Finance Officer and act as the dismissing committee.</p> <p>(2) To investigate and take disciplinary action in respect of the misconduct of Chief Officers and Deputies, (subject to their right of appeal to the Employment and Appointments Committee)</p> | <p>from an independent person designated to investigate allegations of misconduct against the Council's Head of Paid Service, the Monitoring Officer or Chief Finance Officer and act as the dismissing committee.</p> <p>Include:</p> <p>(3) To provide advice, views or recommendations to Full Council on a matter proposing the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer Committee in accordance with the Local Authorities (Standing Orders)(England) (Amendment) Regulations 2015 (SI 2015/881) or as may be amended from time to time.</p> |
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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

1 July 2015

| | |
|-----------------------|--|
| SUBJECT: | SUMMARY OF STANDARDS COMPLAINTS |
| WARD AFFECTED: | ALL |
| REPORT OF: | MONITORING OFFICER |
| KEY DECISION? | NO |

1. EXECUTIVE SUMMARY

1.1 This report provides a summary of standards complaints made under the Members' Code of Conduct between 1 April 2014 and 1 July 2015.

2.0 BACKGROUND

2.1 The Council is required to deal with complaints made against Members under its approved Ethical Framework.

2.2 In order to assist with the effective administration of standards complaints, the Committee, as part of its monitoring role, is invited to consider the nature and handling of complaints received pursuant to the Members' Code of Conduct.

2.3 Appendix 1 sets out a summary of the complaints received and their status.

2.4 The Ethical Framework requires complaints to be dealt with confidentiality (unless permitted by the Protocol) and therefore it is not possible to provide extensive details in respect of each complaint.

2.5 Between 1 April 2014 and 1 July 2015 a total of 11 complaints have been made.

| Period | Complainant | | Ongoing | Referred for Investigation | Outcome | | |
|-------------------------|-------------|--------|---------|-----------------------------|---------|------------------------------------|------------|
| | Member | Public | | | Upheld | Partially Upheld/ other outcome | Not Upheld |
| 01/04/2014 to 1/07/2015 | 3 | 8 | 2 | 2 (one of which is live) | 0 | 3 | 6 |

3.0 RELEVANT RISKS

3.1 The administration of standards complaints should be dealt with as efficiently as possible to ensure matters are concluded quickly and closure of issues secured for both complaint and the subject member(s) involved.

4.0 OTHER OPTIONS CONSIDERED

4.1 The process for the administration of standards complaints is undertaken in accordance with the Protocol for Dealing with Member Complaints which was approved by the Committee and Council.

5.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

5.1 There are no implications for Voluntary, Community and Faith groups arising from this report.

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

6.1 There are no financial implications arising from this report save that where an external investigator is appointed, additional costs will be incurred. Such costs will vary depending upon the nature of the complaint and the time taken to undertake and complete the investigation.

7.0 LEGAL IMPLICATIONS

7.1 The legal implications are set out within this report.

8.0 EQUALITIES IMPLICATIONS

8.1 There are no specific discrimination issues arising from this report.

9.0 CARBON REDUCTION IMPLICATIONS

9.1 There are no carbon reduction implications in this report.

10.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

10.1 There are no planning and community safety implications in this report.

11.0 RECOMMENDATION

11.1 That the Committee notes the summary of standards complaints set out at Appendix 1 to this report.

12.0 REASON FOR RECOMMENDATION

12.1 The Standards Committee requested that an updated summary of standards complaints be provided periodically.

REPORT AUTHOR: Surjit Tour
Head of Legal & Member Services
and Monitoring Officer
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APPENDICES

Appendix 1 – Summary of Standards Complaints

REFERENCE MATERIAL

None

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UMMARY OF STANDARDS COMPLAINTS – 1 April 2014 to 1 July 2015

1 April 2014 - onwards

| Case Ref | Nature of Complaint | Current Status | Next Stage | Anticipated Date for Conclusion |
|---|--|------------------------------------|--|--|
| <p align="center">1</p> <p>Standards 2014/01 (Received 15 April 2014)</p> | <p>Failed to treat others with respect</p> <p>Conduct inconsistent with the duty to promote and maintain high standards</p> | <p>Concluded - 6 August 2014</p> | <p>Initial assessment and evaluation of complaint completed.</p> <p>No breach of the Code.</p> <p>Alternative resolution appropriate - refresher training on the Code recommended to Subject Member who has undertaken it.</p> | <p>n/a</p> |
| <p align="center">2</p> <p>Standards 2014/02 (Received 14 May 2014)</p> | <p>Failed to treat others with respect</p> <p>Bringing the Council in disrepute</p> <p>Conduct inconsistent with the duty to promote and maintain high standards</p> | <p>Concluded – 10 October 2014</p> | <p>Investigation undertaken by external investigator.</p> <p>No breach of the Code.</p> | <p>n/a</p> |

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|--|---|-------------------------------------|---|------------|
| <p>3 Standards 2014/03 (Received 14 May 2014)</p> | <p>Failed to declare a discloseable pecuniary interest or other interest Conduct inconsistent with the duty to promote and maintain high standards</p> | <p>Concluded – 15 December 2014</p> | <p>Initial assessment and evaluation of complaint undertaken. No further action required.</p> | <p>n/a</p> |
| <p>4 Standards 2014/04 (Received 29 May 2014)</p> | <p>Failed to treat others with respect</p> | <p>Concluded</p> | <p>Matter not considered appropriate to be considered under the Members Code of Conduct - Initial assessment and evaluation of complaint undertaken. No further action required.</p> | <p>n/a</p> |
| <p>5 Standards 2014/05 (Received 3 June 2014)</p> | <p>Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards</p> | <p>Concluded – 9 July 2014</p> | <p>Initial assessment and evaluation of complaint completed. No further action required.</p> | <p>n/a</p> |
| <p>6 Standards 2014/6</p> | <p>Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high</p> | <p>Concluded – 10 October 2014</p> | <p>Initial assessment and evaluation of complaint completed.</p> | <p>n/a</p> |

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|---|--|--|---|-----|
| (Received 18 June 2014) | standards | | Local Resolution achieved satisfactory outcome. Apology given. | |
| 7 Standards 2014/7 (Received 24 March 2014) | File reference error. Matter relates to case ref: Standards <u>2013/07</u> | Concluded – 9 June 2014 Complainant failed to co-operate and provide details to progress case | No further action taken. | n/a |
| 8 Standards 2014/8 (Received 16 September 2014) | Failed to declare a discloseable pecuniary interest or other interest Conduct inconsistent with the duty to promote and maintain high standards | Concluded – 12 December 2014 | Initial assessment and evaluation of complaint completed. No breach of the Code. Alternative resolution appropriate - refresher training on the Code recommended to Subject Member who has undertaken it. | n/a |
| 9 | Failed to declare a relevant interest. | Concluded - 12 March 2015 | Initial assessment and evaluation of | n/a |

| | | | | |
|---|--|---|---|--|
| Standards 2014/9 (Received 24 October 2014) | Conduct inconsistent with the duty to promote and maintain high standards | | complaint completed. No further action. | |
| 10 Standards 2014/10 (Received October 2014) | Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards | Concluded – save for remedial action to be undertaken by Subject Councillor by 14 July 2015. | Initial assessment and evaluation of complaint completed. No breach of the Code. Alternative resolution appropriate – mediation undertaken. Matters addressed by both parties and Subject Member has agreed to provide an apology. | n/a |
| 11 Standards 2014/11 (Received 13 November 2014) | Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards | Initial assessment and evaluation of complaint ongoing. | Initial assessment and evaluation of complaint to be completed. | End of July 2015 (may change if investigation required) |

1 April 2015 - onwards

| | | | | |
|--|--|---|---|--|
| 1 Standards 2015/01 (Received 10 June 2015) | Failed to treat others with respect Conduct inconsistent with the duty to promote and maintain high standards | Initial assessment and evaluation of complaint being undertaken. | Initial assessment and evaluation of complaint being undertaken. | End of July 2015 (may change if investigation required) |
|--|--|---|---|--|

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

1 JULY 2015

| | |
|-----------------------|---|
| SUBJECT: | <i>ESTABLISHING THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP</i> |
| WARDS AFFECTED | <i>ALL</i> |
| REPORT OF: | <i>MONITORING OFFICER</i> |

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides details of the proposed work programme for the Standards and Constitutional Oversight Working Group for the 2015/16 Municipal Year.
- 1.2 The Working Group during the last Municipal Year considered the following matters and/or made recommendations for consideration by the Committee:
- Development of Member Values and Behaviours (initial discussion only);
 - Review of the Council's Constitution – Council Procedure Rules (ongoing);
 - Policy on Reporting on Council Meetings (filming of committees); and
 - Review of the Protocol on Member/Officer Relations.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Committee has for the last few years established a Working Group to assist it in its work.
- 2.2 The work of the Working Group for each Municipal year is set by the Committee.
- 2.3 The Working Group has completed a number of work streams. However further work is still required in relation to the review of the Council's Constitution and the Development of Member Values and Behaviours.
- 2.4 Accordingly, the following specific work streams for the Working Group are proposed for consideration and approval by the Committee.

(A) Review of the Council's Constitution

- 2.5 The Working Group during the last Municipal Year commenced discussion on reviewing the Council Procedure Rules.

- 2.6 The Working Group decided that it was not necessary to undertake a further Member Survey in relation to the Council's Constitution last year.
- 2.7 The Working Group instead focused its attention specifically on the Council's Procedure Rules contained within the Constitution. A benchmarking exercise has been undertaken which enabled the Working Group to consider the Procedure Rules and Council Agendas of a number (16) of Councils. This helped the Working Group appraise the Council's current arrangements in greater detail and facilitate debate and discussion about how the Council's democratic and decision-making arrangements could be improved.
- 2.8 Given the nature and extent of the review being undertaken, the Working Group has not been able to complete its review of the Council's Constitution. It is therefore proposed that the Working Group completes its review of the Council's Procedure Rules; and that it reports its progress/recommendations to the Committee in due course.

(B) Review of the Members Code of Conduct and Protocol

- 2.9 The Working Group has annually reviewed the Members Code of Conduct and Protocol, for Dealing with Complaints.
- 2.10 It is good practice for members to keep the Code and the protocol under review to ensure that it remains fit for purpose and assists the Council maintain high standards of conduct as required under the Localism Act 2011.
- 2.11 Accordingly, it is proposed that the work programme of the Working Group includes the review of the Code and Protocol.

(C) Member's ICT Policy

- 2.12 With the new ICT equipment being rolled out to members it is considered an opportune time for members to consider the Members ICT Policy to ensure that it too is fit for purpose and sets out clearly all the obligations and duties members are required to follow, as well what is permitted.
- 2.13 Such a review has not been undertaken in the recent past and it is important that the policy captures all relevant issues and matters including duties arising under Data Protection legislation.
- 2.14 The Terms of Reference for the Working Group are set out at Appendix 1 and the Committee is requested to consider and approve the same having also regard to the suggested work streams mentioned above.

3.0 RELEVANT RISKS

- 3.1 The Council must ensure that the Constitution and other working arrangements/practices are effective and compliant with relevant legislation.
- 3.2 By undertaking a regular review of the Constitution and other key aspects of the Council's practices, the risks to the Council are mitigated.

4.0 OTHER OPTIONS CONSIDERED

4.1 The Committee is invited to include/change the proposed work programme of the Working Group. The streams identified are considered relevant and timely.

5.0 CONSULTATION

5.1 The Standards Working Group has a consultative role by virtue of its cross-party membership. No formal consultation is necessary in respect of the matter falling within this report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no such implications arising.

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

7.1 There are no such implications arising.

8.0 LEGAL IMPLICATIONS

8.1 The legal implications have been set out in this report.

9.0 EQUALITIES IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) No EIA is required.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no such implications arising.

12.0 RECOMMENDATION/S

12.1 That the Committee:

- (a) Agrees to establish a cross party Standards and Constitutional Oversight Working Group for the current Municipal Year;
- (b) Agrees the Terms of the Standards and Constitutional Oversight Working Group as set out at Appendix 1;
- (c) Appoints members to the Working Group or agrees that nominations be confirmed to the Monitoring Officer by all the party spokespersons.
- (d) Agrees to the work programme of the Working Group for the 2015/16 Municipal Year.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 The recommendations are necessary to ensure compliance with legal obligations and improve governance arrangements.

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and Monitoring Officer
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APPENDICES

Appendix 1 - Terms of Reference for the Working Group

Terms of Reference for the Working Group

**Standards and Constitutional Oversight Committee
Working Group**

Terms of Reference

Scope and Remit

To review, examine and explore the ethical framework, including such options, procedures, arrangements considered necessary to enable the Council discharge its duties and obligations arising under the Localism Act 2011 in relation to promoting and maintaining high standards of Member conduct.

To review and proposed amendments to the Council's Constitution.

In particular, to:

1. Review the Council's existing ethical framework relating to Members' conduct;
2. Evaluate and examine the terms of reference of the Council's Standards Committee and its Panels;
3. Review and revise the Members' Code of Conduct (as appropriate);
5. Review the current Register of Interests to consider its effectiveness;
6. Review the arrangements and procedures set out in the Protocol for dealing with complaints;
7. Consider and review arrangements for dispensations;
8. Consider Member/Co-opted Member training needs;
10. Consider and undertake any other actions, steps or measures considered necessary/important to assist the Council promote and maintain high standards of conduct by Members.
11. Review all or some of the constituent articles, parts, procedures and rules of the Councils Constitution.
12. Consider and review relevant policies and procedures affecting the conduct of members (as appropriate) including any behavioural improvement programme.

The Working Group shall make recommendations to the Council's Standards and Constitution Oversight Committee in relation to the matters and issues mentioned above.

Membership

The Working Group shall consist of:

- The Chairperson of the Standards and Constitutional Oversight Committee;
- Three Members from the Labour Group;
- Two Members from the Conservative Group;
- One Member from the Liberal Democrat Group; and
- At least one of the Independent Persons (non- voting).

Any Member of the Working Group is entitled to nominate a deputy to attend meetings of the Working Group on his/her behalf providing the nominee is a deputy of the Council's Standards and Constitution Oversight Committee. However, the Liberal Democrat Group Committee member shall be entitled to nominate any member of their Group.

Meetings

The Working Group shall meet as frequently as considered necessary.

The meeting shall be chaired by the Standards and Constitution Oversight Committee chairperson.

Meetings shall be quorate providing the Chair (or his/her deputy) and at least one eligible Member from at least two of the political parties are in attendance.

Meetings of the Working Group shall be held in private and the provisions relating to Access to Information shall not apply.

Decision Making

The Working Group shall only be permitted to make recommendations to the Council's Standards and Constitution Oversight Committee in relation to matters falling within its scope and remit.

Administration

The Working Group shall be administered and supported by the Monitoring Officer and Committee Services.