



Council

Extraordinary Meeting

(Keeping Residents Informed)

Town Hall
Wallasey

7 October, 2016

Dear Councillor

You are hereby summoned to attend an extraordinary meeting of the Council to be held **upon the rising of the extraordinary meeting of the Council (Ofsted Inspection Report)** or at **5.15 pm** (whichever is the later) **on Monday, 17 October 2016** in the Council Chamber, within the Town Hall, Wallasey, to take into consideration and determine upon the following subjects : -

Contact Officer: Patrick Sebastian
Tel: 0151 691 8424
e-mail: patricksebastian@wirral.gov.uk
Website: <http://www.wirral.gov.uk>

AGENDA

1. DECLARATIONS OF INTEREST

Members of the Council are asked to consider whether they have any disclosable pecuniary interests and/or any other relevant interest, in connection with any matter to be debated or determined at this meeting and, if so, to declare it and state the nature of such interest.

2. CIVIC MAYOR'S ANNOUNCEMENTS

To receive the Civic Mayor's announcements and any apologies for absence.

3. KEEPING RESIDENTS INFORMED

A. Requisition Notice (Conservative Group) (Pages 1 – 4)

- B. Notice of Motion (Labour Group)
(Pages 5 – 6)**
- C. Notice of Motion (Conservative Group)
(Pages 7 – 8)**
- D. Notice of Motion (Liberal Democrat Group)
(Pages 9 – 10)**
- E. Business Overview and Scrutiny Meeting Call-In - Papers
(including Cabinet Report) (Pages 11 – 38)**
- F. Business Overview and Scrutiny Meeting Call-In –
Minutes (Pages 39 – 50)**

A handwritten signature in black ink, consisting of several loops and a horizontal line at the bottom.

Head of Legal and Member Services

Wirral Council
Town Hall
Brighton Street
Wallasey
Wirral CH44 8ED

0151 691 8652

By Email

23rd August 2016

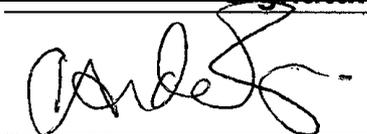
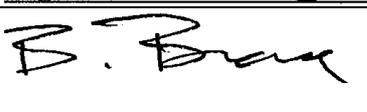
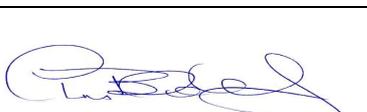
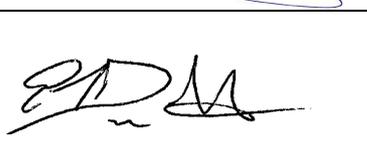
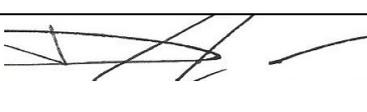
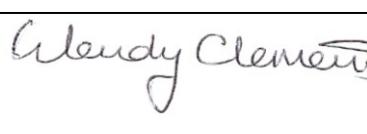
Dear Mr Mayor

REQUEST TO REQUISITION AN EXTRAORDINARY COUNCIL MEETING

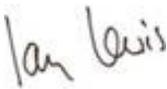
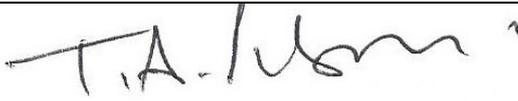
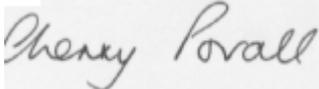
Please find below signatures from 21 Members of the Council requisitioning an extraordinary meeting of the Council to discuss the serious omission that the letter to the Leader of the Council from Marcus Jones MP, Minister for Local Government, Department for Communities and Local Government reminding the Council to abide by the Recommended Code of Practice for Local Authority Publicity was not shared with the Business Overview and Scrutiny Committee.

We are extremely concerned that this omission puts Wirral Council on a collision course with the DCLG and runs the very likely risk of significant expenditure on legal expenses and Council Officer time, hitting the pockets of hardworking Wirral Council Taxpayers.

Yours sincerely

Tom Anderson	
Bruce Berry	
Chris Blakeley	
Eddie Boulton	
David Burgess-Joyce	
Wendy Clements	

David Elderton	
Gerry Ellis	
Jeff Green	
John Hale	

Paul Hayes	
Andrew Hodson	
Kathy Hodson	
Ian Lewis	
Tracey Pilgrim	
Cherry Povall	
Lesley Rennie	

Adam Sykes	
Geoffrey Watt	
Steve Williams	

This page is intentionally left blank

EXTRAORDINARY COUNCIL MEETING – 17TH OCTOBER 2016

RESIDENTS' PUBLICATION

1. This Council recognises that regular communication is a key attribute of a successful relationship between a local authority and strong communities.
2. Council acknowledges the findings of the Residents' Survey, conducted by IPSOS/MORI in 2015, which identified that six out of ten local residents did not feel well informed about the Council and its services.
3. Council also notes that while Wirral is served by two free weekly newspapers and a dedicated Wirral edition of the leading regional newspaper, important information about the services and opportunities offered to residents by Wirral Council and other public agencies is still not reaching every resident.
4. Council notes that the distribution of free weekly newspapers is not uniform across the borough and evidence suggests poorer and more disadvantaged neighbourhoods appear to be the areas where these publications do not reach.
5. Council recognises its responsibility to ensure all of the Borough's residents and businesses are kept informed about services, job opportunities or other community announcements, especially those residents and communities who rely on Council services the most.
6. Council recognises the tremendous work performed on behalf of our residents by a wide range of organisations, working hard to make Wirral a wonderful place to live, and regrets that sometimes these endeavours and their successful impacts and outcomes are not being widely celebrated, promoted and acknowledged across the whole borough.
7. Council is proud of the contribution its residents, businesses, and private, public and voluntary sector organisations are making and wants to ensure their success, energy and commitment is better understood by residents.
8. Council supports the creation of a new monthly publication, distributed free to every home and business in the borough, supported by a new online portal for those comfortable with digital technology, focused on building greater awareness of the services the Council and its partners offer and building confidence, resilience and pride not just in some communities and neighbourhoods but across the whole of Wirral.
9. Finally, Council notes that the publication will be funded from existing budgets and will not require any additional resources.

Proposed by: Councillor Phil Davies

Seconded by: Councillor Matthew Patrick

This page is intentionally left blank

Meeting:	Extraordinary Council – Council Publication
Date:	Monday 17 th October
Proposed by:	Cllr. Jeff Green
Seconded by:	Cllr. Lesley Rennie

Council believes that it was a serious miscalculation not to share the letter that the Leader of the Council had received from Marcus Jones MP, Minister for Local Government, Department for Communities and Local Government reminding the Council to abide by the Recommended Code of Practice for Local Authority Publicity with Members of the Business Overview and Scrutiny Committee.

Council is extremely concerned that this omission further increases the likelihood that the Secretary of State will issue a notice of intention to serve a direction under Section 4a of the Local Government Act.

Council understands that the Publicity Code is designed to help maintain a healthy, vibrant, free press as an important tool in providing information for the public to hold their local authority to account. Council newspapers, issued frequently and designed to resemble a local newspaper can mislead members of the public reading them that they are local newspapers covering council events and give communities a biased view of the activities of the council.

Council therefore urges the Leader of the Council and his Cabinet to abandon this expensive exercise in spin and control before anymore hardworking Council Taxpayers money or officer time is expended on this vanity project.



This page is intentionally left blank

LIBERAL DEMOCRAT GROUP - NOTICE OF MOTION

<i>for Council on</i>	17 October 2016
<i>submitted on</i>	30 September 2016
<i>to:</i> <i>copied to:</i>	Surjit Tour Andrew Mossop
<i>Proposed by:</i>	CLlr Phil Gilchrist
<i>Seconded by:</i>	CLlr Dave Mitchell

MAKING INFORMATION PUBLIC

Council notes that

- a) Cabinet considered the report 'Keeping Residents Informed' at its meeting on 27 June 2016 (Minute 20 refers) – "Officers be authorised to take all necessary steps, including requisite procurement exercises, in order to progress the proposal for a monthly publication as outlined in the report with a view to delivering the first edition in late autumn 2016";
- b) the matter was considered further at the Call In on 27 July 2016 when the terms of the Call in were dismissed.

Council believes that

- i) the public interest is best served by the disclosure, in full, of the legal advice obtained from Counsel;
- ii) it is in the interest of all Members to see the advice in full regardless of any enquiries made by and exchange of information with the DCLG;
- iii) it should not be necessary for any Member to have to resort to the use of the Freedom of Information Act in pursuit of their diligent and proper duties;
- iv) correspondence to and from the DCLG on this matter should be circulated to all Members of the Council.

Council, therefore, calls for the issue and publication of the full Counsel's opinion in the interests of openness and transparency.

<i>Proposer:</i>	CLlr Phil Gilchrist 		<i>Seconder:</i>	CLlr Dave Mitchell 
------------------	--	--	------------------	--

This page is intentionally left blank



Business Overview and Scrutiny Committee – Special Meeting – Call-in

Date:	Wednesday, 27 July 2016
Time:	4.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer: Andrew Mossop
Tel: 0151 691 8501
e-mail: andrewmossop@wirral.gov.uk
Website: www.wirral.gov.uk

AGENDA

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

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.

Members are reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they are subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

3. **CALL-IN OF CABINET MINUTE 20 - KEEPING RESIDENTS INFORMED (Pages 1 - 26)**

Attached to the agenda are:

- Call-in procedure (**page 1**)
- Call-in form (**pages 3 – 5**)
- Cabinet Report of 27 June, 2016 (**pages 7 – 24**)
- Cabinet minute 20 (**pages 25 – 26**)

4. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)

5. EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

RECOMMENDED:

That in accordance with section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part 1 of Schedule 12A (as amended) to that Act. The public interest test has been applied and favours exclusion.

6. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)

CALL IN PROCEDURE

Chair's opening remarks (5 minutes)

The Chair will open the special Committee meeting convened to consider the Call-In and set out the procedure as follows:

Explanation of the call in by the lead signatory (5 minutes)

The Chair will invite the lead signatory to set out the reasons for the Call-In. Members of the Committee will be invited to ask the lead signatory questions.

Overview and explanation of the decision taken by the relevant Cabinet Member (5 minutes)

The Chair will invite the Cabinet Member to explain the reasons for the decision. Members of the Committee will be invited to ask the Cabinet Member questions.

Evidence from call in witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement (not to exceed 5 minutes) if they wish, prior to questions from Members of the Committee. (Running order of witnesses – List of witnesses to be confirmed)

Evidence from decision-taker's witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement if they wish (not to exceed 5 minutes), prior to questions from Members of the Committee. (Running order of witnesses – List of witnesses to be confirmed)

Summary of the lead signatory (5 minutes)

The Chair will invite the lead signatory to summarise the key points of evidence given in support of their case.

Summary of the decision-taker (5 minutes)

The Chair will invite the decision-taker to summarise the key points of evidence given in support of the initial decision.

Committee Debate

The Chair will invite comments, observations and discussion from members of the Committee.

Committee Decision

The Committee having considered the evidence and debate may:-

- Refer the decision back to the Cabinet Member setting out in writing the nature of its concerns.
- Refer the matter to the Council. Such a referral should only be made where the Overview and Scrutiny believes that the decision is outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures set out in those rules must be followed prior to any such referral.
- Uphold the decision - If the Overview and Scrutiny Committee agrees with the initial decision the relevant Senior Officer may implement it without delay.

This page is intentionally left blank

Metropolitan Borough of Wirral

CALL-IN

Decision of Cabinet to be called in:

Date of meeting	Monday 27 th June 2016
Minute number	Cabinet Minute 20
Subject	Keeping Residents Informed

Reason(s) for call-in:

To date the Secretary of State has issued Directions under section 4A of the Local Government Act 1986 to 11 Councils relating to council publications. All 11 Directions have included references to the contravention of frequency of publication specifically: "where local authorities do commission or publish newsletters, newsheets of similar communications, they should not issue them more than quarterly."

The Royal Borough of Greenwich has spent £48,000 in legal fees defending its publication 'Greenwich Times' which the Department of Communities and Local Government (DCLG) argued contravened the Recommended Code of Practice for Local Authority Publicity. The Greenwich Times was published for the last time by Greenwich Council on 28th June 2016 following an agreement with the DCLG to abide by the Code of Practice for Local Authority Publicity. We believe it is a costly miscalculation for the Labour Cabinet to believe it is somehow above Government guidance.

Within the Cabinet report and at the subsequent Cabinet meeting there was absolutely no consideration given to the variety of successful community publications that operate across Wirral. We believe this shows a complete disregard for the years of hard work that a great number of community activists have given to Wirral and jeopardises the invaluable goodwill that the Council relies upon to deliver its significant community engagement agenda.

We believe this is not the time for novices to the newspaper industry to be launching a new print title. Wirral has two established, free, independent newspaper titles the Wirral News - circulation 28,095 copies and Wirral Globe total circulation 97,368 copies (71% of households). The Labour Administration cannot control what these papers print and we are concerned that this may be the driving force behind the creation of this Town Hall Pravda.

The Government has shown it is committed to ensuring that the independent free press does not face unfair competition from municipal publications. We believe Cabinet's disregard for Recommended Code of Practice for Local Authority Publicity is tantamount to Labour playing fast and loose with Council Taxpayers money.

Called in by:

Councillors:

Jeff Green	
Ian Lewis	
Tom Anderson	
Bruce Berry	
Chris Blakeley	
Eddie Boulton	
David Burgess-Joyce	
Wendy Clements	
David Elderton	
Gerry Ellis	
John Hale	
Paul Hayes	
Andrew Hodson	
Kathy Hodson	

Tracey Pilgrim		
Cherry Povall		
Lesley Rennie		
Les Rowlands		
Adam Sykes		
Geoffrey Watt		
Steve Williams		

This page is intentionally left blank



**COUNCILLOR MATTHEW
PATRICK**

CABINET
Monday, 27 June 2016

KEEPING RESIDENTS INFORMED

Councillor Matthew Patrick, Cabinet Member - Community Engagement and Communications, said:

“Wirral Council has a duty to keep its residents well informed about the community and the services available to them. At a time of such change in the public sector as a whole, this duty has never been more important.

“Our Residents’ Survey last year told us very clearly that people in Wirral did not feel well informed: which made it clear to us that we needed to prioritise improving communication with residents.

“This report allows us to communicate more effectively with every resident in Wirral and, importantly, helps us to do it while achieving financial savings – improving our communication, getting important information to more people, while reducing what we currently spend.”

REPORT SUMMARY

This report proposes that Wirral Council launches a monthly publication, containing community and public service information, which will be distributed to every household and every business within the borough.

This proposal is a direct response to the findings of the Wirral Residents' Survey in 2015; one of the key findings of which was that Wirral residents did not feel well informed about services and information in their area.

The publication would be funded through consolidating a proportion of the Council's current advertising spend and accepting advertising which, combined, allow the Council to significantly improve its ability to communicate with all residents while making cumulative savings on existing advertising costs.

Therefore, no 'new' expenditure would be incurred through the development of this community newsletter: it would be funded entirely through consolidating and making better use of existing, required spend.

This report affects all wards in the borough and is not a key decision.

RECOMMENDATION/S

Cabinet is requested to:

- 1) Agree the approach for developing a monthly publication, distributed to every household and business in the borough set out in the report.
- 2) Note the projected financial savings associated with this project, outlined for Cabinet in section four of this report.
- 3) Authorise officers to take all necessary steps including requisite procurement exercises in order to progress the proposal for a monthly publication as outlined in the report with a view to delivering the first edition in late autumn 2016.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Through the Wirral Residents' Survey 2015 the Council is aware that residents do not feel well informed about services and developments within the borough. The Survey indicated that in this area Wirral performed significantly worse than other comparable authorities and highlighted "keeping residents informed" as an area which should be prioritised.
- 1.2 This proposal is a direct response to this recommendation and the survey findings. The Council is in a position where it is able to reinvest a proportion of current advertising costs into the development of a printed publication, containing public service information and community news, which would be delivered to every resident and business in the borough. Keeping residents better informed while at the same time achieving financial savings for the authority.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Council has identified "keeping residents informed" as a major priority for the coming year, made even more important by the changing nature of public services and the potential for further change in the coming years due to ongoing financial challenges.
- 2.2 It is not appropriate for the Council to respond to this need through investing additional resources into communications activity, particularly in a time of ongoing austerity policies from Central Government. Instead, we must make better use of the resources currently invested in communicating with residents. Redirecting a proportion of those funds into the creation of a printed publication can achieve this.

3.0 BACKGROUND INFORMATION

- 3.1 This project will see the Council develop and launch a publication, designed to improve how informed residents are about community information, public services and developments. The publication will be delivered to all 147,000 Wirral households, all 7,500 Wirral businesses and see an additional 15,000 copies distributed to high-footfall locations such as supermarkets, hospitals and train/bus stations. We will additionally develop a new website to carry similar information as well as make better use of social media and other digital channels.
- 3.2 The project is designed to achieve an improvement in how well informed Wirral residents feel about services and community information, helping to connect our communities. It will also allow the Council to both decrease and make better use of funding which is currently used to communicate with residents through advertising for various services and requirements.

Keeping Residents Informed

- 3.3 The Council commissioned a robust and comprehensive programme of market research in late 2015, in order to more fully understand what is most important to

residents, and what they feel about the borough, the Council and public services in general. This research delivered some hugely valuable insight into what residents want and need from their public services, and has also provided some powerful findings with profound communications implications.

3.4 The Wirral Resident Survey findings are available on the Council website at www.wirral.gov.uk/wirralplan. Some key findings relevant to this proposal include:

- The majority of residents (58%) do not feel that the council keeps them well informed about the services it provides. This is significantly greater than any of the other comparator authorities, where the average is 43%. The Ipsos Mori findings were clear that communicating with residents is an area which should be prioritised in the future.
- Residents living in Wirral West are significantly more likely to state that they feel well informed (51%) about council services and the benefits it provides, although a similar proportion (49%) does not feel well informed. Those who are more likely to say they are not informed are female (62%), young people (18 to 34 – 71%) and private housing tenants (71%).
- Residents living in Birkenhead and Wallasey were most likely to state they did not feel informed (Birkenhead – 64%, Wallasey – 60%) about council services and the benefits they provide.

(Source: Ipsos Mori Wirral Residents' Survey 2015. Available at www.wirral.gov.uk/wirralplan)

3.5 We are aware existing publications do not reach all Wirral residents through their distribution; with information available suggesting around 1 in 3 Wirral households do not receive a local newspaper or similar publication. We are also aware that while internet usage is growing, not all residents are able or inclined to visit websites to find out about local information relating to public services, events and activities.

3.6 It is due to these reasons the Council believes a new publication which will be available to every Wirral resident, as well as increased and improved digital communications across a redeveloped website and social media platforms, is appropriate and reasonable in order to meet our primary objective of keeping all Wirral residents well informed.

3.7 The Council has held discussions and met with a range of other authorities in order to gather best practice on keeping residents better informed and has come to the conclusion that a new publication, combined with a redeveloped approach to online communications (through a new website and approach to social media), and a new programme of engagement and outreach will be the most effective approach to ensure residents are well informed

3.8 Making sure residents are well informed about services and community information is paramount, especially at a time of such fast-paced change to how services are provided. Delivering a major, sustained improvement in how well informed residents are is the primary driver behind the proposal to develop the publication.

- 3.9 It is important to the Council and the public and voluntary sectors in general that all residents have easy access to important information about the services available to them, particularly those residents in areas of increased economic deprivation.

Publication Content

- 3.10 The publication will not compete with the existing local media publications in Wirral. The publication is designed to operate within a different space to existing media publications in the borough, in that it will publish on a monthly (rather than weekly) basis and will operate with an overwhelming focus on community and public service information, and with a different approach to content and design. The new publication will not carry 'news' in the traditional sense, but it will instead carry relevant, positive and useful information relating to public services, and community events and activities.
- 3.11 The content within the publication will conform entirely to the standards laid out in the Recommended Code of Practice for Local Authority Publicity ("the Code") set out at Appendix 1 in that it will be even handed, non-political, and appropriate, have regard to equality and diversity and be issued with care during periods of heightened sensitivity. The financial projections provided in section 4 of this report also demonstrate the Council achieving best value. The Council acknowledges this publication will involve a departure from the Code in regards to frequency. In the Council's view this is appropriate and reasonable considering the issues we are looking to address. Moreover given the content of the publication will consist of public service information, events and activities, it would not be possible to keep it sufficiently informative based on a quarterly publication.
- 3.12 The publication will be clearly identified as being produced by the Council and will not present itself as an independent media source; it will focus on community and public service information which residents will find useful and relevant to their lives.
- 3.13 The publication will include an events listing for community events and activities, and community organisations, charities and residents groups will be actively encouraged to share their news, activities and information with the Council for inclusion within the publication.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The Council spends in the region of £500,000 per year on various forms of advertising and promotion: primarily promoting services and events, recruiting staff and the placement of statutory notices. It is proposed that all of this spend is reviewed, with a proportion of the funding being redirected into supporting the delivery of the new publication, allowing the Council to continue the advertising it needs to publish, while ensuring a greater emphasis is placed on securing good value for money. This would result in the Council ceasing some advertising with external organisations.

- 4.2 This would ensure the publication is delivered at no extra cost to the tax payer. The publication would be funded, entirely, from redirecting existing spend into a new publication which is designed to allow the Council to achieve its primary objective for this project – keeping Wirral residents better informed. The Council would also accept advertising within this publication, to allow for the costs to be reduced on an ongoing basis. Advertising accepted within the publication will conform to legal, ethical and public health related principles.
- 4.3 The publication requires no new investment. The indicative costs of the publication are provided below. It is important to note that the ‘Full Cost’ provided is cost which the Council already incurs and will be redirected into the publication, allowing the Council to seek and achieve better value for money.
- 4.4 The income stated is in the form of advertising income targets which the Council will work to achieve. There is a high degree of confidence these income targets will be achieved, based on the success of outdoor advertising developed by the Council and based on conversations with other authorities about similar publications. Non-delivery of these advertising targets would result in potential overspends in the communications and marketing budget.

Year	Full Cost Re-directed current advertising spend.	Income	Net Cost
2016-17*	£118,980	£39,000	£79,980
2017-18	£237,960	£85,800	£152,160
2018-19	£237,960	£94,380	£143,580
2019-20	£237,960	£103,818	£134,142

* 6 editions are planned and budgeted for in 2016-17.

5.0 LEGAL

- 5.1 Under s 4 of the Local Government Act 1986 (“the 1986 Act”) the Secretary of State is empowered to issue codes of recommended practice as regards local authority publicity, and local authorities must “have regard” to the provisions of such a code in coming to any decision on publicity.
- 5.2 The Code at paragraph 28 in effect imposes three prohibitions:
- (i) First, the Council cannot publish anything that seeks to emulate commercial newspapers in style or content;
 - (ii) Secondly, the Council cannot publish a “newsletter, newsheet or similar communication” more frequently than quarterly;
 - (iii) Thirdly, if the Council does publish a (quarterly) newsletter, newsheet or similar communication, it must not “include material other than information for the public about the business, services and amenities of the council or other local service providers”.

- 5.3 In relation to the first and third points, the Council is clear that the proposed monthly publication would not seek to present itself as an independent newspaper or media source. The publication would seek to promote public services, provide relevant and useful information to residents about public services, and enable community organisations and group to highlight their work in supporting their communities.
- 5.4 With reference to the second point, there is no relevant legal authority (i.e. caselaw) found on the meaning of “newsletter” or “newssheet”. However, those words are essentially used in the Code, alongside the reference to “other similar communications”, to indicate that the format of the publication is not critical. What is key is whether it has a news content. There is nothing in English authority that is sufficiently relevant in defining a “newspaper”, however there are some Australian cases that offer useful guidance, namely *John Fairfax & Sons Ltd v Deputy Commissioner of Taxation* (1988) 15 NSWLR 620 and *Downland Publications Ltd v Deputy Commissioner of Taxation* (1982) 64 FLR 216 and the cases cited in those judgments. They treat it as a question of fact and degree, but say that a newspaper is a publication containing a narrative of recent events and occurrences (i.e. news). News in that sense need not be all that it contains, nor even necessarily the greatest part by column inches (one could have a newspaper most of whose pages were occupied by advertising), but it should be the dominant or principal purpose or characteristic of the publication. So it has been held, for example, that daily form guides for racing are not newspapers.
- 5.5 The requirement for news content is the essential feature of a newsletter or a newssheet, and is needed for something to be a “similar communication” as well. That interpretation is also supported by the purpose (of protecting newspapers from unfair competition) that was the stated rationale for the introduction of paragraph 28 of the Code in its present form.
- 5.6 However, there are some reasons to think that in this particular context a fairly broad approach has to be taken both to what is news, and to what is sufficient news content. That is because “similar communication” obviously is a broadening phrase, and also because the last sentence of para 28 indicates that it is possible to be a newsletter, newssheet or similar communication, and yet contain only information about the business, services and amenities of the council or other local service providers. Again, the first sentence of para 28 indicates that the publication is possible to be a newsletter (etc) without being like a commercial newspaper.
- 5.7 In broad terms, the publication will be caught as a newsletter (etc) if it has a substantial amount of content that is topical because it informs readers about, or discusses, recent or current events. By contrast, a publication that is purely or overwhelmingly dedicated to providing information about matters which have no

real topicality about them should not be caught. This is a matter of fact and degree – it is not possible to draw a sharp dividing line.

- 5.8 The proposal is to ensure that the publication adheres to the Code in relation to its content and style, and would also adhere to the Code in relation to including material only for the purpose of providing information to the public about the business, services and amenities of the council or other local service providers.
- 5.9 There is a statutory requirement to “have regard” to the Code. The Code here does have parliamentary approval under the 1986 Act, and to publish a newsheet monthly rather than quarterly is quite a significant departure, albeit only from one point in the Code. As against that, the subject-matter of the Code is not comparable with guidance concerning (for example) the detention of patients under the mental health legislation. Further, the 1986 Act does contain mechanisms (in ss 4A and 4B) for the Secretary of State to make compliance with aspects of the Code mandatory if he considers it necessary to do so, which suggests that the “have regard” obligation should not be too stringently interpreted when those mechanisms have not been employed.
- 5.10 The caselaw about what to “have regard” to the Code means has recently been reviewed in *R (Governing Body of London Oratory School) v Schools Adjudicator* [2015] EWHC 1012 (Admin). What that review indicates is that having regard to a code or guidance does not mean that it has to be followed, but if an authority is to depart from it, then it needs to recognise that that is what it is doing, and to have formulated reasons for doing so. The extent to which those reasons need merely be ones that are *Wednesbury* reasonable on the one hand, or must attain a certain standard of cogency or convincingness on the other, depends in part upon how fundamental is the departure from the guidance, and in part upon the statutory context (e.g. whether the subject-matter of the guidance deals with fundamental matters such as personal liberty, and whether its content has the approval of Parliament).
- 5.11 The reasoning behind the proposal for a monthly publication, and therefore the departure from the Code, can be summarised as follows:
- (i) There is strong evidence to suggest that local residents do not currently feel well informed about local services, at a time when the need for significant savings means that the Council regards keeping residents informed as being particularly important;
 - (ii) Although there are two free local commercial newspapers that are currently distributed within the borough, the one with the larger circulation still does not reach around one-third of households.

There is evidence that about one-third of households do not currently receive any local newspaper, and there is believed to be a correlation between non-receipt and social deprivation (common sense suggests that distribution of free newspapers is indeed likely to be concentrated, for advertising reasons, on households in areas where disposable income is likely to be higher);

- (iii) The Council believes that to make the intended content of Wirral Life as useful as it should be (i.e. sufficiently topical), monthly publication is required;
- (iv) The Council believes that net financial savings can be achieved by publishing monthly, at a cost partly offset by commercial advertising, and reducing expenditure on other forms of advertising of services and statutory notices.

5.12 The Council has received advice from counsel on this matter.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 The publication will be delivered through existing resources within the Council's communications and marketing division, and through a process of centralising costs associated with communications, advertising and promotion.

6.2 Subject to Cabinet approval the Council will seek to secure contracts with external agencies to deliver print, production and distribution to support delivery of the publication for a period of not less than 36 months.

7.0 RELEVANT RISKS

7.1 A project management group has been established which will guide the Council's work towards delivering this project. An initial risk assessment has been developed and will be further built upon subject to Cabinet giving approval to move the project onto the next stage of its development.

8.0 ENGAGEMENT / CONSULTATION

8.1 The publication will enable the Council to engage more effectively with community organisations, residents and partners; supporting people and communities to be better informed and connect with each other.

9.0 EQUALITY IMPLICATIONS

9.1 There are many positive equality implications emerging from the publication. Every resident, regardless of demographic or geographic factors, will now be able to receive current, up to date and useful information on public services and activities within their community.

9.2 It is also clear from the research conducted last year that residents living in more economically deprived areas of the borough are more likely to say they are not well informed.

REPORT AUTHOR: Kevin MacCallum

Senior Manager: Communications & Marketing
telephone: (0151) 691 8388
email: kevinmaccallum@wirral.gov.uk

APPENDICES

Appendix 1 - Recommended Code of Practice for Local Authority Publicity

REFERENCE MATERIAL

Ipsos Mori Residents' Survey (www.wirral.gov.uk/wirralplan)

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	N-A

31 March 2011

CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

1. I am directed by the Secretary of State for Communities and Local Government to draw the attention of your authority to the annexed code of recommended practice on local authority publicity, which has been issued under section 4 of the Local Government Act 1986. It comes into force on 31 March 2011. On the same date the codes of practice issued on 15 August 1988 (Department of the Environment circular 20/88) and 2 April 2001 (Department of the Environment, Transport and the Regions circular 06/2001) are withdrawn in relation to local authorities in England.
2. The code has been prepared following consultation with such associations of local authorities as appeared to the Secretary of State to be concerned and such local authorities with whom consultation appeared to the Secretary of State to be desirable. A draft of the code has been laid before, and approved by a resolution of, each House of Parliament.

Signed

Paul Rowsell

A senior civil servant in the Department for Communities and Local Government

The Chief Executive –
County Councils in England
District Councils in England
London Borough Councils
The Council of the Isles of Scilly
Parish Clerks of Parish Councils in
England
The Town Clerk, City of London

The Chief Officer of the –
Metropolitan Police Authority
Police authorities established under section 3 of the
Police Act 1996
The London Fire and Emergency Planning
Authority
The Broads Authority
National Parks Authorities
Joint authorities under Pt 4 of the Local
Government Act 1985
The Manchester Combined Authority

THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

Principles

4. Publicity by local authorities should:-
 - be lawful
 - be cost effective
 - be objective
 - be even-handed
 - be appropriate
 - have regard to equality and diversity
 - be issued with care during periods of heightened sensitivity

Lawfulness

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.

6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

Cost effectiveness

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

Objectivity

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

Even-handedness

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.

22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

Appropriate use of publicity

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newsheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newsheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newsheets or similar publications published by the local authority, should do this on the front page of the publication.

Equality and diversity etc

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

Care during periods of heightened sensitivity

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.
35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone 0870 240 3701

TSO@Blackwell and other Accredited Agents

Customers can also order publications from:

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

Tel: 028 9023 8451

Fax: 028 9023 5401

© Crown copyright 2011

Copyright in the typographical arrangements rests with the Crown.

Published for the Department for Communities and Local Government, under licence from the Controller of Her Majesty's Stationery Office.

Extracts of up to 10 per cent of this publication may be photocopied for non-commercial in-house use, subject to the source being acknowledged.

Application for reproduction should be made in writing to Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU.

Printed by The Stationery Office Ltd under the authority and superintendence of the Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 978 0 11 7541061

£6

**TSO**
information & publishing solutions

www.tso.co.uk

Page 36

ISBN 978-0-11-754106-1



9 780117 541061 >

CABINET

27 JUNE 2016

20 KEEPING RESIDENTS INFORMED

Councillor Matthew Patrick introduced a report by the Senior Manager: Communications and Marketing, which proposed that the Council launch a publication, containing community and public service information, which would be distributed to every household and every business within the Borough on a monthly basis. The Cabinet considered the report and the obligations arising under the Recommended Code of practice for Local Authority Publicity appended to the report at Appendix 1. The report recognised that the frequency of the publication was not in accordance with the Code but the publication would be compliant in all other respects. The report set out the rationale and reasons for why departure from the Code in respect of frequency of publication was considered reasonable and justified.

The Cabinet was informed this proposal was a direct response to the findings of the Wirral Residents' Survey in 2015 (included in Reference Material of the Report); one of the key findings of which was that Wirral residents did not feel well informed about services and information in their area. Councillor Patrick informed that six out of ten people had reported that they were not well informed about what the Council was doing and what it provided.

The publication would be funded through consolidating a proportion of the Council's current advertising spend and accepting advertising which, combined, would allow the Council to significantly improve its ability to communicate with all residents whilst making cumulative savings on existing advertising costs. Councillor Patrick informed that his initiative meant the Council would be spending in a more intelligent way.

Therefore, the Cabinet noted that no 'new' expenditure would be incurred through the development of this community newsletter: it would be funded entirely through consolidating and making better use of existing, required spend.

Councillor Phil Davies informed that the aim of the initiative was to provide relevant information on the Council's Services and on community events and activities which would significantly help residents feel more informed about services and information in their area. An additional opportunity also arose for additional income to be generated.

RESOLVED: That

- (1) the approach for developing a monthly publication, distributed to every household and business in the borough as set out in the report be approved;**
- (2) the projected financial savings associated with this project, outlined for the Cabinet in section four of the report be noted; and**

- (3) Officers be authorised to take all necessary steps, including requisite procurement exercises, in order to progress the proposal for a monthly publication as outlined in the report with a view to delivering the first edition in late autumn 2016.**

BUSINESS OVERVIEW AND SCRUTINY COMMITTEE

Wednesday, 27 July 2016

<u>Present:</u>	Councillor	M Sullivan (Chair)	
	Councillors	RL Abbey	W Ward
		D Realey	C Blakeley
		J Stapleton	G Ellis
		KJ Williams	D Mitchell
		S Williams	
<u>Deputies:</u>	Councillors	P Brightmore (In place of J McManus)	
		L Rennie (In place of T Pilgrim)	
		P Stuart (In place of C Spriggs)	
		T Anderson (In place of J Hale)	

15 **APOLOGIES FOR ABSENCE**

The Chair welcomed everybody to the meeting and noted that apologies had been received from Councillors John Hale, Anita Leech, Julie McManus, Tracey Pilgrim and Chris Spriggs.

16 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST / PARTY WHIP**

Members were asked to consider whether they had 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.

Members were reminded that they should also declare whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

No such declarations were made.

17 **CALL-IN OF CABINET MINUTE 20 - KEEPING RESIDENTS INFORMED**

In accordance with the procedure agreed by Council on 27 June, 2016, the Chair referred to the decision of Cabinet (minute 20 (27 June, 2016) refers) relating to a proposed monthly Council publication containing community and public service information.

The decision had been called in by Councillors Jeff Green, Ian Lewis, Tom Anderson, Bruce Berry, Chris Blakeley, Eddie Boulton, David Burgess-Joyce,

Wendy Clements, David Elderton, Gerry Ellis, John Hale, Paul Hayes, Andrew Hodson, Kathy Hodson, Tracey Pilgrim, Cherry Povall, Lesley Rennie, Les Rowlands, Adam Sykes, Geoffrey Watt and Steve Williams, on the following grounds –

‘To date the Secretary of State has issued Directions under section 4A of the Local Government Act 1986 to 11 Councils relating to Council publications. All 11 Directions have included references to the contravention of frequency of publication specifically: “where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more than quarterly.”

The Royal Borough of Greenwich has spent £48,000 in legal fees defending its publication ‘Greenwich Times’ which the Department of Communities and Local Government (DCLG) argued contravened the Recommended Code of Practice for Local Authority Publicity. The Greenwich Times was published for the last time by Greenwich Council on 28th June 2016 following an agreement with the DCLG to abide by the Code of Practice for Local Authority Publicity. We believe it is a costly miscalculation for the Labour Cabinet to believe it is somehow above Government guidance.

Within the Cabinet report and at the subsequent Cabinet meeting there was absolutely no consideration given to the variety of successful community publications that operate across Wirral. We believe this shows a complete disregard for the years of hard work that a great number of community activists have given to Wirral and jeopardises the invaluable goodwill that the Council relies upon to deliver its significant community engagement agenda.

We believe this is not the time for novices to the newspaper industry to be launching a new print title. Wirral has two established, free, independent newspaper titles the Wirral News - circulation 28,095 copies and Wirral Globe total circulation 97,368 copies (71% of households). The Labour Administration cannot control what these papers print and we are concerned that this may be the driving force behind the creation of this Town Hall Pravda.

The Government has shown it is committed to ensuring that the independent free press does not face unfair competition from municipal publications. We believe Cabinet’s disregard for the Recommended Code of Practice for Local Authority Publicity is tantamount to Labour playing fast and loose with Council Taxpayers money.’

The Chair then invited the lead signatory to address the Committee for up to five minutes

Explanation of Call-in by the Lead Signatory – Councillor Jeff Green

Councillor Green acknowledged that the Council should indeed be keeping residents informed and was delighted with the efforts made to do this through its website and social media. He expressed surprise that the local Messenger publications had only been consulted after Cabinet had made its decision. Ignoring specific guidance in the Government's Code of Practice on publicity would put the Council on the radar of the Department for Communities and Local Government. Democratic principles were at stake. The proposal would divert revenue away from independent local newspapers and a healthy free press was important to hold local authorities to account. The Council would ignore the Government guidance at its peril. It should not issue a news publication more than quarterly. Local journalists were needed more than ever now to hold local government to account. The proposal would cost £237,000 plus extra on potential legal fees. Quoting Albert Camus, Councillor Green said, 'A free press can be good or bad but most certainly without freedom, the press will never be anything but bad'. If politicians wanted good news they should make it not write it.

The Chair invited questions for the lead signatory to the call-in from the Committee but the Committee had no questions.

The Chair then invited the Cabinet Member to explain the Cabinet's decision for up to five minutes.

Explanation of the decision taken by the Cabinet – Councillor Matthew Patrick (Cabinet Member for Community Engagement and Communications)

Councillor Patrick stated that the country was now into its sixth year of national austerity policies with the Government systematically dismantling local government. The scale and pace of change in the public sector and Wirral was unprecedented and the Council now had less money than ever to provide services at a time when more people than ever needed the Council's support. There was a need to deliver the best possible value for all. £500,000 was currently being spent on getting information to residents. Many services needed to be promoted so they were sustainable and information provided on job vacancies, and on public and statutory notices. Six out of ten residents said they were not well informed about the services the Council provided. Members were asked to consider how they would react in their businesses and working lives if they found out a majority of their customers did not know what their companies provided. The Council had identified a need and had found an innovative, cost effective way of meeting it.

The Chair invited questions to the Cabinet Member from the Committee and his responses included the following:

- Legal guidance had been sought from a QC which had been reviewed by the Head of Legal and Member Services.

- He was well aware of the local Messenger publications, the Wirral West Constituency Committee having supported some of them. He said that they were doing a wonderful job and he would not want to put them out of business.
- The Senior Manager, Communications and Marketing, had met with people producing the Messenger to ensure they were fully included in the ongoing development of the publication.
- This proposal was an opportunity to spend less money on communications and marketing and reach more people.
- It was important to realise that the Council could advertise in every publication on Wirral and still not reach every household and those in the most deprived areas were the least likely to receive any publication.
- The QC's advice was subject to professional legal privilege as it contained commercially sensitive advice and so it was unable to be shared with the Committee.
- There would be a tendering process for the print and distribution of the proposed publication and it would be kept under review as to whether or not it was published during purdah.
- Just over 1,000 people had taken part in the MORI survey, which MORI had assured the Council, was a statistically significant number.
- All Members would know of residents who said they didn't know what was going on in the Council.
- Apart from in paragraph 3.4 of the report, no other constituencies were mentioned and those that were mentioned were to highlight the fact of areas with the highest deprivation.
- He did not have a figure for the percentage of monies spent on statutory notices.
- With the Conservative Government taking tens of millions of pounds from Wirral residents this was not an option he would have brought forward if it was going to cost more money.
- Bids would be requested for the proposed publication; his personal preference was to use environmentally friendly paper.
- With regard to advertising job vacancies, there was a need to obtain value for money but some vacancies would require advertising nationally.
- He did not believe the 66 advocates for the Council could reach all the people of Wirral.
- It was important to find a solution to reach those people in the most deprived areas.
- The proposal would not cost any more money, it had the potential to create savings.
- He did not see any duplication with what the Constituency Committees were doing.
- He was heartened by the positive feedback from residents on the Council's email database.

- The proposed publication would not be politically biased and would be reviewed by the Head of Legal and Member Services to ensure its impartiality.
- He was aware of the lack of distribution of some of the free newspapers within some wards, and this was the driving motive behind pursuing this initiative.
- The MORI survey's findings had been an eye opener and it was important to address residents' needs.
- He had confidence in the projected income figures detailed in the Cabinet report.
- He would be very keen to see local jobs being created and this would be down to the results of the tendering process.
- Services were provided across Wirral and people were trying to engage with residents but the poorest residents were not being kept informed.
- Producing the publication monthly would enable the positive community work being carried out across the borough being communicated effectively.
- This proposal had been adopted by Councils elsewhere, including Hackney and Lambeth Borough Councils and there were lessons to be learnt from other areas which were doing this.

The Chair then thanked Councillor Patrick for his time in answering questions from the Committee.

The Chair then invited the witnesses to the call-in to address the Committee for up to five minutes.

Evidence from Call-in witnesses – Simon Westrop and Hayley Smith

Simon Westrop, Head of Legal at Newsquest

Mr Westrop stated that the Council proposal would divert public monies to finance it. Local authorities needed to be held to account by a healthy free press and local newspapers were doing this. Councils should be publishing information where a gap had been identified and Council newsletters should not look like newspapers and should be published no more than quarterly. The Council would be acting in defiance of the Recommended Code of Practice and this was not the actions of a responsible authority. The impact on local newspapers would be real and damaging with the local market already saturated, there could be a £90,000 loss in revenue which would lead to a cut in jobs. He suggested that a better approach would be for the Council to work with local businesses to plug any gaps in provision.

The Chair then invited questions from the Committee and Mr Westrop's responses included the following:

- There was a lot of local media in Wirral with the Wirral Globe being just about the biggest free local newspaper in the whole of the country.
- The publicity code tried to strike a balance where a gap was identified and the need to preserve a healthy free press.
- Each free newspaper would have its own tight margins and this proposal would be unfair competition if it took advertisers away and failed to comply with the Government's guidance and be a quarterly publication.
- If the proposal went ahead the threat would be very serious and Newsquest would have to consider all options available.
- Greenwich Council had defended its position then withdrawn its proposal and he understood that Tower Hamlets Council had ceased its publication.
- The Secretary of State could apply for an injunction on the grounds that Councils had to have regard to the Code and the Council could then be enjoined from publishing and have to pay the Government's legal costs.
- He could not comment on the Council's legal advice but it was his view that the Council must comply with the Code and publish its proposed publication quarterly.

The Chair thanked Mr Westrop for attending the meeting and answering the questions.

Hayley Smith, Group Editor at Newsquest

Ms Smith stated that the Wirral Globe was a free weekly newspaper which could be delivered to to 95,000 households, more than any other free newspaper in the country, and relied on its position in the market to generate advertising income. The proposed monthly newsletter would challenge the Globe's position reducing advertising revenue with an impact on employees. She accepted that the Globe was not delivered to every household but more people year on year were accessing the website daily. A much more efficient solution would be to work together with the Council and she would relish the opportunity to discuss this with the Council.

The Chair then invited questions from the Committee and Ms Smith's responses included the following:

- There would still be a requirement for the Council to place public notices in the press at a cost of approximately £70,000 per annum.
- She outlined a situation in another area where Newsquest published a newspaper and that they had recently gone into partnership with the NHS where its newsletter was to be inserted into the one Newsquest produced and this approach could be adopted by the Council.
- The Managing Director of Newsquest had met with the Council to discuss the proposal and had expressed his concerns about its proposal. Newsquest was open to more discussions.
- The Globe had a good online presence and there were now so many ways to engage with people.

- There would be an effect on the Globe's distribution if the proposal was implemented as it was a commercial business.
- She could not say exactly how areas were picked for distribution but in some areas there was no distribution because of health and safety concerns; she would be able to provide a list of areas where the Globe was distributed as she didn't take the decision as to where it was distributed but it was the Distribution Manager.
- She could not tell how many job losses there might be as she could not quantify the impact on the reduction in advertising in the Wirral Globe if the proposal was implemented.

The Chair commented that the Council's proposal was to deliver its publication to all 147,000 Wirral households. Currently there were no deliveries of the Wirral Globe to Pensby Library despite repeated requests to have copies delivered. He suggested that the Globe was doing a disservice to its advertisers by not delivering to all households.

The Chair thanked Ms Smith for attending the meeting and answering questions.

The Chair then invited the witnesses for the Cabinet Member to address the Committee for up to five minutes.

Evidence from Cabinet Member's witnesses – Surjit Tour and Kevin MacCallum

Surjit Tour, Head of Legal and Member Services, Wirral Council

Mr Tour stated that the legal position was as set out in the Cabinet report and he was happy to answer questions from the Committee. His responses to questions included the following:

- The dispute at Greenwich Council had been a long standing one but there were a number of differences as the Greenwich publication had a weekly distribution. A directive had been issued by the Secretary of State which had been challenged by Greenwich Council by way of a judicial review. It appeared Greenwich Council agreed to stop the publication. However, Greenwich Council's Cabinet had subsequently made a decision to publish a fortnightly publication which was currently subject to call-in, there seemed to be some confusion over what was agreed in the Consent Order in the Judicial Review and Cabinet's current decision / position.
- There was a legal duty on the Council to have due regard to the Recommended Code of Practice for Local Authority Publicity, and as such any departure from it had to be justified as it should not be departed from lightly.
- The rationale and grounds for departing from the Code were articulated in the report.

- The position with regards Cabinet's decision was that it was legal, rational and met the 'Wednesbury reasonableness' test.
- It was acknowledged that there were differing opinions on the need for the publication and whether departure from the Code was justified. However, the legal judgment was that the decision was not perverse or without merit.
- The proposal would comply with the Code in every other respect, the sole departure being that it would be published monthly and the Secretary of State could test the rationale for this.
- He was not aware of direct discussion with the Department for Communities and Local Government but a communication had been received from the Secretary of State seeking clarity on the Council's decision to proceed with a monthly publication which would be responded to.
- It was a matter which divided opinion and the Secretary of State could come to a different view to the legal advice the Council had received or he could be content with the Council's rationale for going ahead with its proposal.
- If the Secretary of State was not supportive of the Council's approach and decision, then any direction issued together with reasons would need to be carefully considered and a determination made as to how the Council would respond.
- With regards to the contents of the publication, he would not have final sign off of the proposed publication, though he would ensure the content complied with the Code and during the purdah period he would ensure that the publication did not contain information which would breach the Code. The Senior Leadership Team (SLT) would also be involved in signing the publication off.
- The external legal advice received had cost £1,300 plus VAT.
- He explained his advice in respect of a previous proposal to produce a newsletter by the Birkenhead Constituency Committee and that these two proposals involved fundamentally different circumstances as this latest proposal was for a borough wide publication. His view was that each case had to be considered on its own merits.
- The Counsel's legal advice could not be disclosed in full though this was not unusual for such legal advice to be protected by legal professional privilege and it was not appropriate to share the detail publicly.
- The Leader of the Council's Policy adviser did not attend SLT meetings.
- The legal advice had been shared with the Leader of the Council, the Senior Manager, Communications and Marketing and the Cabinet Member for Community Engagement and Communications.
- There had been various approaches to the Wirral Globe to address the circulation gap over the years.
- He would argue that the Council had reached a lawful decision and there were rational and justifiable reasons for doing so. The Council had had due regard to the Code and had identified a reasonable rationale and reasonable grounds to warrant departure from the Code. The rationale and grounds were 'Wednesbury' reasonable. The fact that others had a

differing view on the justification for the publication did not mean the Council's decision was unlawful or without merit.

- The Secretary of State could have made compliance with the Code mandatory but he had chosen not to do so – the obligation was to have 'due regard' to it which the Council contends it had.
- The current arrangements relating to the Council's approach to purdah would be satisfactory for this publication's purposes.
- It would be incorrect not to highlight the litigation risks associated with the proposal as the Secretary of State could decide to take no further action or he could challenge the Council on the decision it had made.

The Chair then thanked Mr Tour and adjourned the meeting for 10 minutes at 6.20pm

The meeting resumed at 6.30pm.

Kevin MacCallum, Senior Manager, Communications and Marketing, Wirral Council

Mr MacCallum stated that he had held conversations with colleagues at Newsquest and also with other media colleagues and that he was keen to continue those publications, on the basis that a non-negotiable element was that every single household had to receive the proposed Council publication. There would be a tendering process for both printing and distribution which the free papers would be able to take part in. He referred to other Council's publications, including the Greenwich Times, over which there had been long protracted negotiations with the Department for Communities and Local Government,. The Greenwich Times publication was a weekly newspaper, which the Council had ceased publication of, and was now moving to producing a fortnightly residents publication. . Tower Hamlets Council published East End Life and Hackney Council published Hackney Today, both of which are Newspapers published on a weekly or fortnightly basis and therefore different to the Council's proposal.. The Council's proposed publication would not be a newspaper as it would contain information about public services and not news.

The Chair then invited questions from the Committee and Mr MacCallum's responses included the following:

- No final name had been decided on yet for the proposed publication.
- Advertising would generate some revenue but that would be a by-product of the publication and not the reason for it.
- The pricing structure for advertising had not yet been finalised but the Council would not be competing directly with other organisations as the publication would be aiming at a different space in the market.

- The proposed publication would provide information on services and activities available for Wirral residents including those from partner organisations such as health, fire and police.
- He would act as the editor deciding on content with collective responsibility of the SLT for the sign off of the proposed publication.
- Statutory and public notices would continue to be placed in local newspapers as that was a requirement and non-statutory advertising such as for Leisure Centres could appear in the proposed publication.
- He was entirely confident of reaching the income figures projected in the Cabinet report although income was not the priority or objective of the proposed publication.
- Extensive market research would be undertaken on the proposed publication after 6, 12 and 24 months.
- MORI, a professional market research company had provided the Council with feedback on the level of engagement and the Council was 20% below average in respect of keeping people informed.
- Approximately 50,000 people were on the Council's email database.
- The proposed publication would be printed on heavier stock paper 50 – 100g on a size bigger than A4 but smaller than A5.
- He was aware of the Council's previous publication, 'Wirral Now' and did not know if this new one would be better but he would make sure that it was of the highest quality and he would measure the impact.
- There would be a minimum of 28 to a maximum of 36 pages with 20% maximum amount of advertising.
- The proposed publication was not anybody's specific idea and was a decision taken by Cabinet.
- Evidence from an LGA survey had found that where Councils kept their residents well informed those residents were more likely to be satisfied with their Council and feel that it offered value for money.
- He had looked at about 50 different Councils and different partner organisations and all had the same problem of struggling to get information to the most deprived areas.
- He confirmed that he had seen the legal advice from Counsel and that it was to remain confidential.

The Chair then thanked Mr MacCallum for his attendance and for answering questions.

The Chair then invited the lead signatory to the call-in to summarise his key points.

Summary of the Lead Signatory – Councillor Jeff Green

Councillor Jeff Green commented that the Council had no expertise to run a newspaper and it was extraordinary that, at a time of austerity, the Council was choosing to spend £237,000 plus legal costs on this particular escapade. This would be a Council newspaper and would be seen as such. This showed

a lack of imagination, there was a significant gap with the most disadvantaged people in the Borough not receiving information, surely the Council should be thinking about achieving the outcome of reaching these people and the 50,000 who could not access the internet. The legal officer for the Council had talked about the risks of challenge from the Department of Communities and Local Government. The public would be rightly angry that advice had been given that there were risks involved and the Council was prepared to play fast and loose with Council Tax payer's money. It was a risk that the Committee would be making a decision without seeing the legal advice. He expressed concern at what this would do to the local media in holding the Council to account. The Secretary of State's decision in respect of Greenwich Council was that it should not commission or publish more than four times a year and it had accepted this decision.

The Chair then invited the Cabinet Member to summarise his key points.

Summary of the Cabinet Member – Councillor Matthew Patrick

Councillor Matthew Patrick commented that the core purpose of the proposed publication was to keep residents well informed of the services available to them, how to access them and where to access them. This was non-negotiable and was vital in meeting the Council's twenty pledges set out in the Wirral Plan. Numerous Councils had faced similar challenges, this decision was appropriate and lawful. The Council was not setting itself up as a media provider nor getting into the business of newspaper provider. Its first responsibility was to the residents of Wirral and this proposal stacked up as doing better for less through radical and innovative thinking.

Committee Debate

The Chair then opened the matter for general debate by the Committee.

A Member commented that the Committee had not had all the information it should have received because some of it had been restricted. The legal witnesses had stated that it was a risk and a departure from the Code. The Council would be challenged if it went ahead with its publication and would incur tremendous costs.

Another Member commented that the publication would go straight to people's bins and the money would be better spent on outreach work.

Other Members suggested that doing nothing about the issue was not an option as the Council would be ignoring the majority of its residents according to the MORI survey. The proposal was about trying to reach everybody and giving everyone the opportunity to receive information. If a business had received information that it was not engaging with its customers then it would do something to address the situation.

It was then moved by Councillor Blakeley and seconded by Councillor Rennie, that –

“1. This Committee asks Cabinet to write to the Department for Communities and Local Government seeking its view on the proposals for 'Keeping Residents Informed' as per the Cabinet report presented on the 27th June, 2016.

2. This Committee notes and welcomes the offer by Newsquest to work with the Council to fill the perceived gap in provision, and asks that this takes place with it, and other local Newspaper providers with immediate effect.

3. This Committee is concerned that should the Town Hall publication go ahead, the Government is likely to serve an injunction on Wirral Council, and the Committee is keen to avoid any unnecessary, protracted and expensive legal costs on the Council Taxpayers of Wirral, and also wishes to safeguard the Borough's independent and vibrant local free press.”

The motion was put and lost (6:7).

It was then moved by Councillor Brightmore, seconded by Councillor Jerry Williams, and –

Resolved (7:6) –

That in order to ensure that this Council uses its resources in the best possible way to keep all residents informed, improving communication, getting important information to more people while reducing what it currently spends, this Committee upholds the Cabinet's decision of 27 June that the best use of a proportion of the advertising budget should be used to facilitate a monthly publication containing community and public service information. This publication will be delivered to every household and business within the Borough on a monthly basis.