



Standards and Constitutional Oversight Committee

Date:	Tuesday, 20 November 2018
Time:	6.00 p.m.
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer:	Patrick Sebastian
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AGENDA

1. APOLOGIES FOR ABSENCE
2. MEMBER DECLARATIONS OF INTEREST
3. MINUTES (Pages 1 - 14)

To approve the accuracy of the minutes of the Standards and Constitutional Oversight Committee meeting held on 12 June 2018, and the special meetings held on 29 August and 7 November 2018.
4. MEMBERSHIP OF THE STANDARDS PANEL AND STANDARDS APPEAL PANEL (Pages 15 - 18)
5. ANNUAL REPORT SUMMARY OF COMPLAINTS AGAINST MEMBERS (Pages 19 - 22)
6. WEBCASTING OUT-TURN REPORT (Pages 23 - 36)
7. STANDARDS PANEL MINUTES (Pages 37 - 46)

Minutes of the meeting of the Standards Panel held on 9 October 2018, for information.
8. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 12 June 2018

Present:

Councillor M McLaughlin (Chair)

Councillors C Blakeley
T Cox
G Ellis
P Gilchrist

C Jones
B Kenny
J McManus
C Meaden (in place of
B Mooney)

Independent Members

A Lloyd Price

J McCosh

1 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor B Mooney.

2 **MEMBER DECLARATIONS OF INTEREST**

No declarations of interest were received.

3 **MINUTES**

RESOLVED:

That the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 27 February 2018 be confirmed as a correct record.

4 **ADOPTION OF THE MODEL COUNCIL MEMBERS' PLANNING CODE**

The Deputy Monitoring Officer introduced a report of the Director: Governance and Assurance (Monitoring Officer) recommending that Council adopts the Council Members' Model Planning Code (the 'Model Code') that had been produced by Lawyers in Local Government (LLG).

The Deputy Monitoring Officer informed that the Model Code had been prepared in response to a series of successful challenges concerning local planning authorities and the Members' conduct or conflicts of interests. The Model Code replaced a number of individual and sometimes haphazard approaches that existed within individual councils at the time.

The Deputy Monitoring Officer further informed that the Model Code took into account the Nolan Principles and commentary from the Committee on

Standards in Public Life, the changes in the approach to codes of conduct and to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013. She added that the Model Code applied to Members at all times when involving themselves in the planning process i.e. Planning Committee Members and Deputies.

Members questioned the Deputy Monitoring Officer on a number of points that included the requirement for training on planning matters for Planning Committee Deputies, avoidance of accusations of pre-determination or declaring of a position when approached by constituents and the need to ensure Planning Committee Deputies were made aware of the issues.

Members were keen to ensure that the Planning Committee were fully engaged and consulted upon the Model Code to ensure their views were taken into account before the Model Code was recommended to Council.

RESOLVED:

That, subject to the views of the Planning Committee, Committee recommends to Council that the Model Council Members' Planning Code as appended to the report be adopted and included within the Council Constitution.

5 ESTABLISHING THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP 2018/19

The Deputy Monitoring Officer introduced a report of the Director: Governance and Assurance (Monitoring Officer) that sought approval for the establishment of a Constitutional Review Working Group for the municipal year 2018/19. The report also sought the Committee's view on the membership, allocation of seats on a party basis, and to confirm arrangements for deputy members.

Members discussed the frequency of meetings for the Working Group, agreeing that it shall meet as frequently as considered necessary. The consensus view was to hold daytime meetings, on a monthly basis.

The Chair informed that, in line with current practice, Independent Members also be invited to attend the Working Group meetings – one member per meeting, on a rota basis, but with no voting rights.

RESOLVED: That

- (1) A cross-party Constitutional Review Working Group for the current Municipal Year be established;**
- (2) The Constitutional Review Working Group shall comprise of the following:**

- **three Members from the Labour Group (including the Chair)**
- **two Members from the Conservative Group**
- **one Member of the Liberal Democrat Group**
- **one Independent Member (no voting rights)**

i.e. a total of six members (plus one Independent Member), all of whom must be members (or in the case of Independent Members, a co-opted member) of the Council's Standards and Constitutional Oversight Committee (or in the case of the Liberal Democrat Member this may be his/her deputy); and

- (3) The Constitutional Review Working Group shall meet as frequently as considered necessary, commencing with daytime meetings to be held on a monthly basis.**

6 REVIEW OF COUNCIL CONSTITUTION

The Deputy Monitoring Officer introduced a report of the Director: Governance and Assurance (Monitoring Officer) that presented an approach to taking forward a major review of the Council's Constitution.

The report informed that alongside the general guidance to the 2000 Act, in support of section 37 the Government had issued a Modular Constitution setting out a suggested structure for council constitutions that included statutory governance requirements and matters traditionally covered by Standing Orders, financial regulations and schemes of delegation. While suggesting a structure, guidance did recognise that local choice existed and that individual Council would find their own ways to organise how their own Council would work.

The Deputy Monitoring Officer apprised Members that an initial oversight review of the Constitution had revealed areas where the Wirral Council's Constitution varied from the Modular Constitution and where the Wirral Constitution did not include some additional documents that had come to be regarded as good practice for inclusion.

Members noted that some work to remedy the more immediate Constitutional issues had already been undertaken, with the Council at the meeting held on 5 March 2018 approving a revised form of Budget and Policy Framework Procedure Rules, and a Code of Conduct for Elected Members Dealing with Planning Matters intended for inclusion in the Constitution being presented to this meeting of the Committee and recommendation for consideration by the Planning Committee at its meeting to be held on 21 June 2018.

Members agreed that a scoping document i.e. a prioritised listing to be determined by the Constitutional Review Working Group would form the basis

of the significant review. This document should also consider a number of ad hoc issues previously raised for consideration by the Standards and Constitutional Oversight Committee.

RESOLVED: That

- (1) a significant review of the Council's Constitution be progressed;
and**
- (2) the Constitutional Review Working Group give consideration to a scoping document to consider a timetable and set priorities for the review.**

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Wednesday, 29 August 2018

Present: Councillor M McLaughlin (Chair)

Councillors B Mooney P Gilchrist
C Blakeley B Kenny
T Cox J McManus
G Ellis A Davies (In place of C Jones)

In attendance: Independent Members Prof R Jones, G Kerr and J McCosh

7 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Chris Jones. Councillor Angela Davies present as substitute.

8 MEMBER DECLARATIONS OF INTEREST

No declarations of interest were received.

9 WEBCASTING PROJECT UPDATE AND OPTIONS PAPER

The Deputy Monitoring Officer introduced a report of the Director: Governance and Assurance (Monitoring Officer) that provided the Standards and Constitutional Oversight Committee with an overview of the current status of, and progress made in respect of the Council's Webcasting Project; and feedback and comments from the Senior Leadership Team and the Members' Equipment Steering Group regarding the various options for consideration relating to the number of meetings to be webcast in the future, style of meeting minutes and staffing resource. The Deputy Monitoring Officer informed that the Committee's view was sought.

The Principal Committee Officer (designated Project Manager) informed the Committee of the reports purpose, namely:

- to provide an update on the project status;
- to provide feedback to the Standards and Constitutional Oversight Committee on the views of the Members' Equipment Steering Group (MESG) and Strategic Leadership Team (SLT); and

- to gather consensus on the options relating to number of meetings to be webcast, style of minutes and staffing of meetings.

Members were further informed that the results of the consultations would be fed back to the Director: Governance and Assurance and Monitoring Officer to aid departmental planning and restructuring.

The Principal Committee Officer provided a summary of Member project timeline from inception, through Capital Budget approval at Cabinet in February 2017, and subsequently at Council in March 2017. He added that a number of project variations had taken place during the tender process including, but not exclusively additional upgrades/replacement of defunct equipment i.e. the Wallasey Town Hall Council Chamber microphones and audio visual equipment in the Committee Rooms. Members were apprised that a Project Board had been established in October 2017, drawing together officers from ICT, Finance, Communications and Committee Services to oversee the project's implementation. In December 2017, further additional consultation on the project was undertaken with the SLT and the contract awarded, on schedule, in January 2018. Members noted that as a result of some challenges that had arisen during installation phase a number of benefits had arisen (upgraded equipment) and that even so, the first and subsequent webcasts had taken place as scheduled. Development of the system continued and a new electronic voting system had now been installed in the Wallasey Council Chamber and Members were invited to have sight of the display screen options and provide further feedback.

The Standards and Constitutional Oversight Committee were then informed of individual MESG member's comments on the Options proposals which had reached a reasoned consensus in favour of broadcasting as many meetings as practicable (to fully utilise the system based on the project expense, and to find out how good it can be), adding that reducing meetings in the future would be a more practical alternative than settling for 'second best' from the start.

In terms of 'Minute Style' the MESG member views were unanimous in supporting retention of the current house style, providing an easily checked permanent record of meetings. With regard to staffing, views were expressed that Option B (single clerk/web operator) would place too many demands on an individual officer.

The Principal Committee Officer concluded his verbal update informing that the Chief Executive was supportive of a proposal to webcast the majority of the Council's meetings held in public – a summary listing of which was circulated to the Standards and Constitutional Oversight Committee Members. The Chief Executive expressed no view on the options regarding minutes and staffing, content that the Director: Governance and Assurance would decide on these operational matters.

The Standards and Constitutional Oversight Committee then debated the Options Paper.

A Member expressed concerns over the cost of the entire project, and questioned its purpose particularly when taking into account the viewing figures as appended to the report, likening the project to that of the Wirral View newsletter. Another Member expressed a similar view, questioning the financial implications of staffing resources, and proposed a fully automated version of meeting recording using fixed cameras.

A Member countered that the system did allow for automated tracking, but felt that the openness and transparency of the meetings was important. In terms of viewing figures he felt that, after a quiet start, people would get into this new method of viewing meetings. He noted also that recent planning meetings had generated higher viewing figures i.e. issues of interest would guarantee better statistics.

A Member commented that since this was the very early days of webcasting Wirral's meetings, more data was required alongside some more promotion of the service. Another Member expressed support of Option A on all aspects of the report and webcasting of meetings in general, citing the televised reporting of parliament – adding 'try taking that away'.

The debate concluded with a general consensus that people were taking more interest in local politics, and should the Council decide to stop webcasting there could be a counter-challenge that it was 'hiding things'.

The Chair summarised the discussion stating that it was early days in respect of the webcasting of meetings, viewing figures were too low, but so were turnouts at elections, but the Council should continue to promote the project.

In terms of the Options contained within the report the Chair felt that a consensus had been reached and that Option A's be supported and the consultation views be fed back to the Director: Governance and Assurance.

Committee supported continued usage of the Webcasting, with a further review of viewing statistics at the end of the Municipal Year, and an update report from the Director: Governance and Assurance in terms of implementation of the Options proposals to be received at its November meeting.

10 APPOINTMENT OF PANELS

A report by the Director: Governance and Assurance and Monitoring Officer proposed that the Committee establish the Standards Panel and Standards Appeal Panel in accordance with the paragraph 9.5 of Article 9 of the

Council's Constitution and the Protocol for Dealing with Complaints against Members.

Appended to the report were the following appendices:

- Article 9 of the Council's Constitution;
- Members' Code of Conduct;
- Protocol for Dealing with Complaints against Members; and
- Procedure for dealing with matters before the Standards Panel and Standards Appeal Panel.

Resolved - That

- (1) a Standards Panel be formally established pursuant to paragraph 9.5 of Article 9 of the Council's Constitution;**
- (2) Membership of the Standards Panel comprise:**

Councillors M McLaughlin (Lab), C Blakeley (Con), P Gilchrist (Lib Dem) and Independent Member Prof RS Jones; and

Membership of the Standards Appeal Panel comprise:

Councillors B Kenny (Lab), T Cox (Con), D Mitchell (Lib Dem);
- (3) where a representative Member, confirmed under recommendation (2) above, is unavailable to attend a proposed meeting of the Standards Panel or Standards Appeal Panel but that meeting can be attended by all other persons required, then the relevant political group through their Group Leader/Deputy Group Leader or Party Spokesperson shall promptly confirm another representative member who is able to attend that meeting;**
- (4) the procedure for dealing with a matter before either the Standards Panel or Standards Appeal Panel set out at Appendix 4 to the report be agreed; and**
- (5) Members of the Standards Panel be consulted on provisional Panel meeting dates, subsequent to the closure of this meeting of the Standards and Constitutional Oversight Committee.**

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Wednesday, 7 November 2018

<u>Present:</u>	Councillor	B Mooney (in the Chair)	
	Councillors	C Blakeley T Cox G Ellis P Gilchrist	C Jones B Kenny J McManus A Davies
	Independent Persons	Prof RS Jones Mr G Kerr	

11 MEMBER DECLARATIONS OF INTEREST

No declarations of interest were received.

12 ARRANGEMENTS FOR DEALING WITH COMPLAINTS AGAINST MEMBERS

A report by the Director: Governance and Assurance informed that a Special meeting of the Committee had been called by some of its Members in order to discuss the Council's failure to follow the Code of Conduct Protocol which detailed arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct. This had resulted in unacceptable delays to the standards process.

In 2014 the Council had adopted a Members' Code of Conduct and a process for dealing with complaints made under that code following the changes to the ethical standards regime introduced by the Localism Act 2011. Since 2014 there had been experience of dealing with complaints which had highlighted areas for improvement and clarification in the arrangements for dealing with complaints against Members. In particular, issues had been raised in relation to the timeliness with which complaints had been dealt with under the current Protocol. The Director's report sought authority to adopt a revised procedure for investigating and making decisions in relation to allegations made under the Members' Code of Conduct.

Councillor Chris Blakeley reported that the meeting had been requisitioned because Members believed that the current Protocol was not adhered to by officers. The meeting had been called to consider this Protocol which was appended to the Director's report as Appendix A and not those of North

Lincolnshire and Manchester City Councils that had been appended to the report as Appendix B and C.

Councillor Bernie Mooney informed that as Members were not happy with the Council's own Protocol it was appropriate for the Committee to also consider those of other councils that were considered to be best practice.

The Director: Governance and Assurance reported that over the last six years Council officers had failed to comply with the Protocol 90% of the time. He informed that he would deal with this and put it right. The Director, in doing this, would have regard to the current Protocol, identify why it was not doing its job and suggest improvements. Members would be involved in this process.

Councillor Phil Gilchrist informed that he had not seen an analysis of the delays in administering complaints against Members along with the reasons for them. He knew that the reasons may include difficulties in collecting evidence, getting people to give evidence etc. He would like to have seen a list of particular cases along with the reasoning for not progressing them within the timescales laid down.

Councillor Chris Blakeley provided details of numerous complaints known to him where the timescales within the Protocol had not been adhered to and raised concerns about the effect delays had on subject Members. He made reference to the following paragraph contained within the North Lincolnshire Council's Protocol:

'The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it. A full copy of your complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member complained of inviting their written comments within 10 working days. Thereafter, arrangements will be made for your complaint to be assessed as soon as practicable in accordance with the procedures detailed in paragraph 4.'

Councillor Chris Blakeley informed that this could be adopted and instead of using the words, as soon as practicable, a timescale, with steps built in, could be included.

Councillor Angela Davies was of the view that there should be a tracker on each complaint about a Member so progress could be monitored along with the reasons for any delays. She asked if the Monitoring Officer had a list of ongoing complaints.

It was reported that all complaints against Members were now stored within an electronic management system. All complaints, with the exception of one received this week, had been dealt with. There had been 58 complaints

against Members received since 2012 and the majority of them had been dealt with by local resolution.

Councillor Angela Davies considered that a system that was monitored was required for complaints against Members and any delays/exceptions should be drawn to the attention of the Chair of the Committee.

Councillor Tony Cox referred to the 90% failure rate which was embarrassing for the Council and asked what improvement plans were being put in place to increase the rate of compliance. He hoped that the complaints against staff were administered within the appropriate timescales and that there were not the delays there were with those against Members. Councillor Cox asked if the hold ups were due to vexatious claims or the level of complexity of the complaints.

The Director reported that the majority of the delays were the result of the huge number of responsibilities that the Council's Monitoring Officer had which meant that he had to constantly assess his work and re-assign his priorities. Complaints against Members were not always his top priority because of the extreme importance of other matters which often required his immediate attention. The Director informed that to ensure complaints against Members received a high priority and to alleviate delays he had taken the following three actions: He had

- drawn up a clear procedure flow chart;
- ensured that complaints were now put into a case management system; and
- delegated the work concerned to officers less likely to be moved onto other tasks. A dedicated officer team had been established to deal with the work generated by the complaints.

The Director informed that if the Committee considered that an Assessment Panel should be introduced into the complaints process he would be happy to include some consultation within the Protocol e.g. something along the lines of 'if the investigation takes longer than three months an Independent Person and/or the Committee will be asked whether additional time should be allocated to determining the complaint in the light of the circumstances associated with it or should the process be wound up regardless.'

Councillor Chris Blakeley proposed that rather than adopting another Council's Protocol, the Council's own Protocol should be reviewed and revised and an Assessment Panel should be built into what would become a new bespoke Protocol.

Councillor Bernie Mooney considered that the Council's Protocol was weak in places and proposed that officers should work on it and look at ways to strengthen it by introducing an Assessment Panel so Members could obtain an oversight into what was happening in respect of the complaints against

Members that had been received. The Protocol should include a caveat that if interviewees did not turn up as arranged the Investigation would proceed in their absence. The revised Protocol should be presented for consideration and adoption by the Committee early in the New Year, with a further review of it taking place after it has been in operation for twelve months.

The Director reported that there had not been enough time to draft a new Protocol before this meeting was due to take place. Therefore, he had included the two Protocols from North Lincolnshire and Manchester City Councils because they were better than the one the Council used. He informed that some councils no longer included the right of appeal in its complaints process probably because the sanctions that could be taken against Members were limited and they could no longer be suspended. However, some Members were of the view that natural justice meant that there should continue to be a right of appeal outlined within the Protocol.

Councillor Chris Blakeley considered that the timescales set out within the Council's Protocol should be reduced so that they were more reasonable and avoided unnecessary delays and a right of appeal should be included. He felt that the aim should be that complaints against Members should be dealt with within a six month period. Any complaints involving complex issues should be considered by the Assessment Panel who could extend the time period if it considered it necessary in the circumstances of the case.

Councillor Brian Kenny suggested that complaints against Members should 'normally' be dealt with within six months. Councillor Tony Cox informed that a six month cut off period made perfect sense and would avoid the possibility of someone being re-elected to the Council when they may not be considered fit to hold public office.

Councillor Phil Gilchrist wanted to ensure that the Standards Panel received input from one of the Independent Persons and considered that an informal pre-hearing could be included within the bespoke Protocol.

The Director enquired whether the Committee wanted its Working Group to have an input into the new bespoke Protocol it wanted to commission. Councillor Bernie Mooney informed that this would not be necessary as Members were in agreement that officers would work with the Protocol the Council already had, tweak it as it was considered appropriate and set out within it the parameters that were required. The Committee would consider the revised Protocol at a meeting after Christmas, decide whether to include an appeal process therein and, subject to any amendments, adopt it as its new bespoke Protocol. After it had been in operation for 12 months, Members agreed that it would be the subject of a review.

Professor RS Jones informed the Committee that he did not see much wrong with the Council's current Protocol. He considered that the problems identified were down to human failings.

RESOLVED: That

- (1) the Committee is delighted that there is now a dedicated officer team in place to deal with complaints against Members;**
- (2) officers be requested to draw up a new bespoke Protocol which details arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct, by reviewing and revising its current one and taking account of the views expressed and proposals and suggestions put forward by Members at this meeting; and**
- (3) a Special meeting of the Committee be convened in January 2019 to consider and adopt the new bespoke Protocol.**

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

20 November 2018

SUBJECT:	Membership of the Standards Panel and Standards Appeal Panel
REPORT OF:	Director: Assurance and Governance and Monitoring Officer

REPORT SUMMARY

At the meeting on 29 August 2018 the Committee established the Standards Panel and Standards Appeal Panel (each consisting of 3 Members - one from each of the main political groups) in accordance with paragraph 9.5 of Article 9 of the Council's Constitution and the Protocol for Dealing with Complaints against Members for the current municipal year and nominations for Panel members were made by each of the political groups.

The purpose of this report is to request the Committee to invite each political group through their Group Leader/Deputy Group Leader or Party Spokesperson to review and to confirm the names of the Members who shall be their representative members on the Standards Panel and Standards Appeal Panel, following the resignation of the Member of the Standards Panel from the Labour Group to become an Independent Member.

RECOMMENDATION/S: That

- (1) each political group through their Group Leader/Deputy Group Leader or Party Spokesperson be requested to confirm the names of the Members who shall be their representative members on the Standards Panel and Standards Appeal Panel to the Director – Governance and Assurance and Monitoring Officer;
- (2) where a representative Member, proposed/confirmed under paragraph (1) above, is unavailable to attend a proposed meeting of the Standards Panel or Standards Appeal Panel but that meeting can be attended by all other persons required, then the relevant political group through their Group Leader/Deputy Group Leader or Party Spokesperson shall promptly confirm another representative member who is able to attend that meeting;

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The establishing of the Standards Panel and Standards Appeal Panel is required under the Council's Constitution and the Protocol for Dealing with Complaints against Members.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 No other options were considered.

3.0 BACKGROUND AND KEY ISSUES

- 3.1 The role and purpose of the Standards Panel and Standards Appeal Panel are set out in Article 9 of the Constitution – which is set out at Appendix 1.
- 3.3 While no Standards Panel or Standards Appeal Panel is required at this time, it may be required during the Municipal Year and therefore it is considered appropriate to ensure that membership of the Panels is established now.
- 3.4 The Members' Code of Conduct and Protocol for Dealing with Complaints against Members are set out at Appendix 2 and 3 respectively for reference.
- 3.5 The Committee has already agreed at the meeting on 29 August 2018 the proposed procedure for dealing with matters before the Standards Panel and Standards Appeal Panel set out at Appendix 4.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are none arising directly from this report.

5.0 LEGAL IMPLICATIONS

- 5.1 The Council has a duty to promote high standards of conduct by members and put in place appropriate arrangement to deal with complaints against members.
- 5.2 Under Section 27 of the Localism Act 2011, the Council "must promote and maintain high standards conduct by Member and Co-opted Members of the authority".
- 5.3 In discharging the duty the Council must (under Section 27 of the Localism Act 2011) adopt a code dealing with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity.
- 5.4 The Council must (under Section 28 of the Act) also have in place arrangements under which allegations can be investigated; and decisions on allegations can be made.

6.0 RESOURCE IMPLICATIONS: ICT; STAFFING AND ASSETS

6.1 There are none arising directly from this report.

7.0 RELEVANT RISKS

7.1 There are no identified risks arising directly from this report.

8.0 ENGAGEMENT / CONSULTATION

8.1 The Members' Code of Conduct and Protocol for Dealing with Complaints against Members was developed, prepared and approved by members and Council.

9.0 EQUALITIES IMPLICATIONS

9.1 There are none arising directly from this report.

REPORT AUTHOR: Vicki Shaw
Deputy Monitoring Officer
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BACKGROUND PAPERS

1. Article 9 of the Constitution;
2. Members' Code of Conduct;
3. Protocol for Dealing with Complaints against Members; and
4. Procedure for dealing with matters before the Standards Panel and Standards Appeal Panel.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards and Constitutional Oversight Committee	30 August 2018

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

20 November 2018

SUBJECT:	SUMMARY OF STANDARDS COMPLAINTS
REPORT OF:	MONITORING OFFICER

REPORT SUMMARY

This report provides a summary of standards complaints received under the Members' Code of Conduct and Protocol for dealing with complaints against Members between 1 June 2017 and 31 October 2018.

RECOMMENDATION

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

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION

- 1.1 To provide the Committee with an opportunity to consider the handling and progress of standards complaints.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The process for the administration of standards complaints is undertaken in accordance with the Protocol for dealing with complaints against Members which was approved by the Committee in 2014.

3.0 BACKGROUND

- 3.1 The Council is required to deal with complaints made against Members under its approved Ethical Framework.
- 3.2 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.
- 3.3 Appendix 1 sets out a summary of the complaints received and their status.
- 3.4 The Ethical Framework requires complaints to be dealt with confidentiality and therefore it is not possible to provide extensive details in respect of each complaint.
- 3.5 Between 1 June 2017 and 31 October 2018 a total of 19 complaints in respect of the conduct of 13 Members have been received. The complaints were received from 15 complainants but 2 complainants complained about 3 members in the one complaint in relation to the same issue.

Period	Complainant		Ongoing	Referred for Investigation	Outcome		
	Member	Public			Upheld	Partially Upheld/ other outcome	Not Upheld
01/06/2017 to 31/10/2018	3	16	0	1	2	3	14

4.0 FINANCIAL IMPLICATIONS

- 4.1 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.

5.0 LEGAL IMPLICATIONS

- 5.1 Under the Localism Act 2011 the Council is required to have a Code of Conduct relating to the conduct of Members and arrangements in place to deal with any complaints received in respect of Members conduct.
- 5.2 This report provides an opportunity for the Committee to monitor the progress of complaints.

6.0 RESOURCE IMPLICATIONS

- 6.1 There are no such issues arising from this report.

7.0 RELEVANT RISKS

- 7.1 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.

8.0 ENAGEMENT/CONSULTATION

- 8.1 There are no such issues arising.

9.0 EQUALITIES IMPLICATIONS

- 9.1 There are no specific discrimination issues arising from this report.

REPORT AUTHOR: **Philip McCourt**
Director of Governance and Assurance
and Monitoring Officer
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APPENDICES

Appendix 1 – Summary of Standards Complaints

BACKGROUND PAPERS

None

APPENDIX 1

SUMMARY OF STANDARDS COMPLAINTS 1 JUNE 2017 – 31 OCTOBER 2018

	Date received	Nature of complaint	Date concluded
1	5 June 2017	Conduct inconsistent with the duty to promote and maintain high standards	24 July 2017 – Not upheld
2	8 July 2017	Failed to treat others with respect. Conduct inconsistent with the duty to promote and maintain high standards	31 October 2017 - upheld
3	14 July 2017	Failed to treat others with respect. Conduct inconsistent with the duty to promote and maintain high standards	28 July 2017 – Local resolution
4	25 September 2017	Failure to declare interest. Conduct inconsistent with the duty to promote and maintain high standards	23 November – Not upheld
5	28 September 2017	Failed to treat others with respect. Conduct inconsistent with the duty to promote and maintain high standards	7 December 2017 – Not upheld
6	29 September 2017	Failed to treat others with respect. Conduct inconsistent with the duty to promote and maintain high standards	7 December 2017 – Not upheld
7	3 October 2017	Failed to treat others with respect. Conduct inconsistent with the duty to promote and maintain high standards	7 December 2017 – Local resolution
8	20 October 2017	Conduct inconsistent with the duty to promote and maintain high standards	22 November 2017 – Not upheld
9	23 October 2017	Conduct inconsistent with the duty to promote and maintain high standards	20 November 2017 – Local resolution
10	29 November 2017	Failed to treat others with respect. Conduct inconsistent with the duty to promote and maintain high standards	18 January 2018 – Not upheld



STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE 20 NOVEMBER 2018

REPORT TITLE:	Future Meeting Provision and Webcasting Outturn
REPORT OF:	Director: Governance and Assurance (Monitoring Officer)

REPORT SUMMARY

As part of continued work on the Council's Webcasting Project, this report sets out a number of options for the management of future 'high public interest' meetings of Cabinet and Council. The report also contains a draft information note to Officers and Members regarding webcasting protocol and conduct of meetings (appendix 1) and updated statistics regarding Council and Committee meetings webcast 14 May to 1 October 2018.

In addition the report provides an update on the project, and a short summary of the feedback received from Members of the Standards and Constitutional Oversight Committee and Members' Equipment Steering Group regarding recent consultation concerning the webcasting of meetings, style of minutes and officer support at meetings.

RECOMMENDATION

The Standards and Constitutional Oversight Committee is requested to:

- (1) note the options proposals and progress in respect of Wirral Council's Webcasting Project; and**
- (2) endorse the draft protocol and guidance attached at report Appendix 1**
- (3) recommend to Council to amend standing order 18 of the Council Procedure Rules as set out at Appendix 3**

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To ensure Members of the Standards and Constitutional Oversight Committee have the opportunity to scrutinise and monitor the performance of the Council in relation to delivery of the Wirral Webcasting Project.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 This report provides an update on progress of the Wirral Webcasting Project. Options are included in the body of the report at paragraph 3.2.

3.0 BACKGROUND INFORMATION

Proposals for future meetings with high public turnout

- 3.1 In anticipation of high public turnout to key meetings of the Council, Cabinet and possibly Health Scrutiny a number of options have been considered by committee services. Following the installation of upgraded sound and projection equipment in the Wallasey Town Hall (WTH) Committee Rooms and webcasting of meetings via the internet, the Council has greater flexibility to handle large numbers of the public attending Council / Committee meetings at short notice. This does not mean forward planning, on site IT support and associated security can be ignored, and the Committee's views are sought on the options available.

3.2 Meetings of Council

Suggested Options:

- a) Use of the **Wallasey Town Hall (WTH) Chamber and public gallery**, with overflow arrangements in the WTH Civic Hall (and/or Birkenhead Town Hall).
- b) Use of the **WTH Chamber and public gallery**, with overflow arrangements in the WTH Committee Room 1 (and/or Birkenhead Town Hall).

Alternative Arrangements:

- c) **Options as above but excluding access to the WTH public gallery** discounted - avoids public 'heckling' and interruption, but not considered to be lawful by virtue of direct exclusion of members of the public from a public meeting.
- d) Use of **WTH Civic Hall** for Council meeting, with public in attendance in the Hall and Balcony – note: limited to 40 microphones.
- e) Use of **Birkenhead Town Hall (BTH)** for the Council Meeting – note: little or no benefit re public access, limited to 40 microphones, layout and restricted camera options for webcasting (this does not apply to committee meetings held in BTH).

3.3 **Meetings of Cabinet and/or Health Scrutiny**

- a) Use of **Committee Room 1** as at present, with extended seating into Committee Room 2 for attending public.
- b) **As above** but utilising Committee Room 3 or WTH Civic Hall for public overflow.
- c) Use of **WTH Civic Hall** for Cabinet / Committee meeting, with public in attendance in the Hall and Balcony.

Member Consultation Feedback Summary – Options Paper (Meetings, Minutes and Staffing)

3.4 Further to consideration of the Options Paper by the Standards and Constitutional Oversight Committee (Minute 9, 29 August, 2018 refers) and Members' Equipment Steering Group - regarding the number of meetings to be webcast, future, style of meeting minutes and staffing resource - Members views were referred to the Director: Governance and Assurance. Namely:

3.5 **Meetings to be webcasting** include:

- Council, Cabinet, and Joint Strategic Commissioning Board (a Committee of the Cabinet);
- Audit and Risk Management, Standards and Constitutional Oversight Committee, Planning Committee;
- All Overview and Scrutiny Committee and Call-In meetings; and
- Pensions Committee

(estimated total of 85 meetings per year)

3.6 **Meeting Minutes** – that the current minute style to be retained.

3.7 **Staffing of Webcast Meetings** - that the webcasting and clerking functions at Council Committee meetings be independent of each other.

3.8 A review of the budgetary impact of the proposed staffing arrangements within the service area will also be undertaken, and reported back as part of the annual budget process. Initial outcomes confirm that the need for an additional member of staff to oversee and operate the webcasting equipment, cameras and ensure consistent good quality web feed and video quality has had an impact on working arrangements within the busy Committee Services Section. To minimise this, cascade training has taken place and all Committee Services staff are now capable of operating the webcasting systems, avoiding the workload falling to just one or two members of the team.

3.9 Member feedback further requested that viewing statistics be reviewed at the end of the current Municipal Year to allow the system to bed in, and to provide a more comprehensive set of data than currently available at this early stage in the live project. A statistical summary of viewing figures as at 5 November, 2018 is attached at **Appendix 2** to this report.

Additional information

- 3.10 **Webcasting of Meetings – Notices and Guidance** Since the introduction of webcasting of meetings and the endorsement of a webcasting protocol (Standards and Constitutional Oversight Committee Minute 33, 27 February, 2018 refers), Council and Committee meeting agendas are now clearly marked to inform if a meeting is scheduled for webcasting. The webpage address for live and archived videos is embedded on the agenda front page, and a statement regarding the discretion of the Chair to halt or defer filming if the business being conducted be subject to exemption under section 100 (A) (4) of the Local Government Act 1972, or if committee business is impeded, for example by reason of interruptions or a disturbance. The notices referred to above, and a general statement of introduction, are attached at **Appendix 1** to this report for information.
- 3.11 **Viewing Statistics.** To further assist, additional information and guidance has been produced, aimed at helping Elected Members and Officers, to assist in contributing to the effectiveness of webcast meetings, and is also attached at **Appendix 1**.
- 3.12 Viewing statistics e.g. most recent meeting of the Council on 15 October 2018 viewing figures (as at midday 5 November) are:
- 111 'live' views during the meeting
 - 318 access views to the archive

Since introducing the webcasting of meetings the total figures for all meetings (as at midday 5 November) are as follows:

- 494 'live' views during all meetings
- 2358 access views to the archive
- 2852 Total

A breakdown of the above figures is attached at **Appendix 2**.

- 3.13 **Electronic Voting and improvements to the Council Chamber.** The Council Chamber Electronic Voting System was activated mid-August and ready for use. Demonstrations of the electronic voting system and screen display views for Elected Members took place on 26 September and on 3, 8 and 10 October 2018. The first Council meeting utilising the new electronic voting system took place on 15 October 2018.
- 3.14 Following the installation of the new electronic voting system in the Council Chamber, and consultation with Members on its usage, it was identified that the Council's Constitution would require revision of Standing Order 18(1) 'normal method of voting' should the default be altered to electronic voting as opposed to a 'show of hands'. This alteration would negate the need to suspend standing orders at the beginning of every Council meeting, to enable use of the electronic voting system at future meetings. Member's views are sought.
- 3.15 **Additional Monitor.** Further to Members' request, an additional Council Chamber (55" screen) Monitor was installed in the Council Chamber on 18 September 2018. Work has also been undertaken to explore the technical issues

associated with provision of real time display of voting results for the Mayor, Party Whips and Committee Officers. Initial testing of a dedicated WiFi connection for the Mayor was successfully undertaken at the Council meeting on 15 October 2018 and work is continuing in respect of linking more 'tablet' connections for future meetings.

- 3.16 **Public Microphone.** Investigations continue regarding the best alternative for an additional microphone (for public speakers) a purchase order has been raised as part of the procurement process, and funding for this additional equipment will be met from the existing resources. Following conversations with the system provider, it is likely that a wired microphone would provide the most robust and easily integrated option.
- 3.17 **Enquiries from Other Local Authorities.** In recent weeks, Wirral Committee Services have been approached by Lancashire County Council and Sefton MBC making general enquiries about the system, installation, and usage. One site visit to Wallasey Town Hall has already taken place (IT and Facilities Officers), with a further two visits expected (involving democratic services officers) who are keen to view the webcasting, microphone and electronic voting capabilities now in place at Wallasey Town Hall.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are none arising directly from this report.

5.0 LEGAL IMPLICATIONS

- 5.1 Following competitive tender process, on 8 January 2018 a contract was awarded to contractor Public-i, the leading supplier of technology and the market leader in provision of webcasting services to local councils in England and Wales.
- 5.2 The current contract is in place for a period of 3 years, there are no legal implications arising from the content of this report.
- 5.3 The method of voting is set out in the Council Procedure Rules, set out as Part 4(1) of the Constitution. These standing orders are based on the local government model standing orders for meetings. A proposed amendment to accompany the new electronic voting system is set out as **Appendix 3**, which the Committee is requested to consider.

6.0 RESOURCE IMPLICATIONS: ICT; STAFFING AND ASSETS

- 6.1 General guidance on the resource implications arising from each of the above to aid Members in their consideration of the above options, and budget costings were provided to the Standards and Constitutional Oversight Committee at its meeting held on 28 August 2018. The Director: Governance and Assurance will update the Committee as to the management of staffing resources arising from the Webcasting Project.

7.0 RELEVANT RISKS

- 7.1 There are no identified risks arising directly from this report.

8.0 ENGAGEMENT / CONSULTATION

- 8.1 Since its initial inception, the Webcasting Project has been the subject of a range of consultative meetings culminating in budgetary approval via Cabinet and Council in early 2017 - most recently SLT the Elected Member Steering Group and Political Leadership have been consulted on the future options for Webcasting delivery.

9.0 EQUALITIES IMPLICATIONS

- 9.1 There are none arising directly from this report.

REPORT AUTHOR: Patrick Sebastian
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APPENDICES

Appendix 1 - Draft Member guidance, draft protocol for webcast meetings / conduct at meetings.

Appendix 2 - Webcast and archived video viewing figures 14 May 2018 to 5 Nov 2018.

Appendix 3 - Council Procedure Rules, standing order 18, current and proposed.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet - Budget	20 February 2017
Council - Budget	6 March 2017
Standards and Constitutional Oversight Committee	28 August 2018

Draft Protocol for Webcast Meetings

Agendas and Signage

Included in each Agenda and on signs to be displayed inside and outside the meeting room, there will be the following notice:-

WEBCASTING NOTICE

Please note:

This meeting may be filmed for live or subsequent broadcast via the internet.

At the start of the meeting the Chair will confirm if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy, available on the Council's website www.wirral.gov.uk

Public seating areas will not be filmed by the Council.

Contact Officer:

Shirley Hudspeth, Civic and Committee Services Manager - 0151 691 8559

Conduct of Meetings

At the start of each meeting to be filmed, an announcement will be made to the effect that the meeting is being webcast, and that the Committee Chair may also terminate or suspend the webcasting of the meeting, in accordance with this protocol. This will be confirmed by the Committee Chair making the following statement:-

"I would like to remind everyone present that this meeting will be broadcast live to the internet and will be capable of repeated viewing. I have discretion to terminate or suspend filming if, in my opinion, allowing filming to continue would prejudice the proceedings of the meeting.

Members are reminded that the cameras are activated by the sound system and that they must switch on microphones when speaking and off again when finished speaking."

Draft Guidance for Elected Members and Officers

Information aimed at assisting Elected Members and Officers in contributing the effectiveness of webcast meetings, is set out as follows:

Seating Plan

Where possible please sit in the seat that has been designated to you. This is because the cameras are pre-set so that, when activated by a microphone, the relevant Member or Officer's profile is shown on the viewing screen. If you plan to sit in a different seat, please let Committee Services know as soon as possible in advance of the meeting date. Similarly, if there is a change in terms of which Officer will be attending to speak to a report, it is important that this information is provided to Committee Services as soon as possible. It would be helpful if changes were avoided on the date of the meeting itself.

Speaking at Meetings

There are certain skills and behaviours that are helpful to be aware of when you are appearing in a webcast. You might find the following useful:

1. Firstly and most importantly, turn your microphone on each time you speak. (Ideally, also allow a second or two for the cameras to track to your position).
2. Make sure that you are in range of the microphone and keep your head turned towards it.
3. Look up whilst you are speaking, this will help the microphone and camera pick up your contribution in good quality.
4. Do not cover the microphone with your papers when standing and talking in the webcast, as this can affect the sound quality and the audience may not hear what you are saying.
5. Do not move too much, this can reduce the picture quality and may make it necessary for tracking adjustments to be made during your speech.
6. When you have finished speaking, turn off your microphone. A live microphone may pick up conversation not intended for broadcast.

At all times, treat every microphone as if it were live.

Microphone Noise

As with radio, TV and video conferencing, there is a risk of microphones picking up extra noises that reduce sound quality and affect a person's ability to hear what is being said. Microphones can be very sensitive and, although you and others in the room may not be aware of any interference, please avoid the following:

- Tapping pencils or rings against the microphone, water glass or desk
- Putting your IT equipment, papers or other items directly in front of the microphone
- Rustling or shuffling papers in front of the microphone

- Tapping or bumping the table
- Leaving your mobile 'phone on the table, even if set to silent (as the vibrations will be picked up)

Clothing

When considering what to wear, bear in mind all the possible camera angles and watch out for clothing or jewellery which might rub against the microphone and hinder what you are saying being heard.

Very bright colour and strong patterns can be distracting and may affect the picture quality for viewers, so are best avoided if possible.

Dry throat

Have a glass of water to hand.

Issues to Consider

Even when there is no audience in the room, members of the public may be watching the meeting via the Council's website.

When entering any password into your Surface Pro, please be discreet.

Members of the public may not be familiar with the Declarations of Interest process so, each time you make a declaration, switch on your microphone and clearly indicate the item to which your declaration refers.

Avoid acronyms and, if possible, provide a context to the debate, as members of the public watching the webcast may not be as familiar with the subject as you are.

When other people near you are speaking, please bear in mind that you be still be on camera.

Appendix 2 – Viewing Statistics

Webcast title	Live date	All views	Live views	Archive views	Total length of viewing	Average Viewing Time	Interactions	Times shared
Wirral Mayor Making Annual Council Part 1	14/05/18 18:45	139	15	124	20:03:51	00:08:40	0	1
Annual Full Council Part 2	15/05/18 17:45	142	10	132	14:07:56	00:05:58	2	0
Planning Committee	21/06/18 17:55	76	11	65	20:52:34	00:16:29	0	1
Council	09/07/18 17:55	100	17	83	31:19:22	00:18:48	0	0
Cabinet	16/07/18 09:50	46	5	41	04:40:49	00:06:06	0	0
Planning Committee	19/07/18 18:00	137	19	118	38:43:15	00:16:57	4	0
Cabinet	23/07/18 10:00	224	24	200	49:57:32	00:13:23	15	1
Audit and Risk Management Committee	23/07/18 18:00	57	5	52	16:02:27	00:16:53	1	0
Planning Committee	16/08/18 18:00	78	15	63	12:08:10	00:09:20	0	2
Joint Strategic Commissioning Board	21/08/18 14:00	76	3	73	11:55:45	00:09:25	0	0
Standards and Constitutional Oversight Committee	29/08/18 17:00	20	1	19	02:37:35	00:07:53	0	0
Council	10/09/18 18:00	497	132	365	242:06:47	00:29:14	0	8
Adult Care and Health Overview and Scrutiny Commi	12/09/18 18:00	114	12	102	34:08:07	00:17:58	0	0
Planning Committee	13/09/18 18:00	150	32	118	56:35:44	00:22:38	0	0
Business Overview and Scrutiny Committee	18/09/18 18:00	50	8	42	17:16:34	00:20:44	0	0
Environment Overview and Scrutiny Committee	20/09/18 18:00	165	6	159	36:06:32	00:13:08	0	1
Children and Families Overview and Scrutiny Commi	25/09/18 18:00	64	16	48	18:32:21	00:17:23	0	4
Cabinet	01/10/18 10:00	75	11	64	08:54:34	00:07:08	0	0
Wirral Traded Services B2B	10/10/18 13:30	14	0	14	02:34:43	00:11:03	0	0
Council	15/10/18 18:00	429	111	318	148:50:22	00:20:49	0	7
Joint Strategic Commissioning Board	16/10/18 14:00	68	19	49	13:39:12	00:12:03	0	1
Planning Committee	18/10/18 18:00	103	18	85	28:42:05	00:16:43	0	5
Pensions Committee	29/10/18 18:00	28	4	24	04:01:28	00:08:37	0	0
		2852	494	2358				

Current Standing Order

18. Voting

- (1) The normal method of voting at meetings of the Council shall be by show of hands unless the Council determines otherwise.
- (2) The Mayor may decide at any time to discontinue use of the electronic voting system if satisfied that it is not working correctly.
- (3) When the electronic voting system is being used, the Mayor may require or allow the vote to be retaken either electronically or by show of hands if he/she considers that there has been any malfunction of the equipment or any incorrect use of it.
- (4) No individual votes will be recorded in the minutes of Council unless either a "card vote" is requested pursuant to paragraph (5) hereof or a "recorded vote" is requested pursuant to paragraph (6).
- (5) If a member of the Council makes a request before a vote is taken for a "card vote" and is supported by five other members rising in their places, voting shall be by that method so as to show how all members present and voting gave their votes provided that when the electronic voting system is to be used a "card vote" shall mean only the electronic recording of such votes.
- (6) Where immediately after a vote is taken at a meeting of the Council, any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the motion/amendment, or against the motion/amendment (a dissent) or whether he/she abstained from voting.
- (7) When the electronic voting system is not being used, a card vote may still be requested during the procedure referred to in Standing Order 9(1).
- (8) In taking a vote upon any question, only those members of the Council who are present in the Council Chamber and seated in their places when the question is put from the Chair shall be entitled to vote.

Proposed Standing Order

18. Voting

Show of Hands / Voting Equipment

- (1) Voting at Council meetings shall be as directed by the Mayor, either by a show of hands or by use of the electronic voting equipment.
- (2) The Mayor may, when the electronic voting system is being used, decide at any time to:

- (a) discontinue use of the electronic voting system if satisfied that it is not working correctly; or
- (b) require or allow the vote to be retaken either electronically or by show of hands if he/she considers that there has been any malfunction of the equipment or any incorrect use of it.

Casting Vote

- (3) The Mayor, or in his/her absence the Deputy Mayor or the Chair at the time the vote is taken shall have a second or casting vote.

Recorded Vote

- (4) Any Member of the Council can ask for a recorded vote. A request for a recorded vote will only be acceptable if it is supported by at least five other Members and is made before the Mayor has announced the result of the vote. On the proper officer proceeding to call each Member by name, the Member shall cast their vote orally, or confirm their vote orally where this takes place electronically (and in any discrepancy the oral confirmation shall be taken over votes cast electronically), and the proper officer will record by name who voted for, who voted against and who abstained.

Right to require individual votes to be recorded

- (5) At any meeting of the Council a Member may require that his or her decision in voting for or against or abstaining on an item on the Agenda be recorded in the Minutes of the meeting. This will be effective only if it is proposed by the Member before the Mayor has announced the result of the vote.

Presence when voting

- (6) In taking a vote upon any question, only those members of the Council who are present in the Council Chamber and seated in their places when the question is put from the Chair shall be entitled to vote.

STANDARDS PANEL

Tuesday, 9 October 2018

Present: Councillor P Gilchrist (Chairman)

Councillors C Blakeley
M McLaughlin

Independent
Person: Professor
RS Jones

Observer - Mr G Kerr (Independent
Person)

6 ELECTION OF CHAIR

RESOLVED:

That Councillor Phil Gilchrist be elected Chair for this meeting of the Panel.

7 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Councillor Moira McLaughlin informed that she was in attendance at the Children and Families Overview and Scrutiny Committee meeting on 14 November 2017 which was the meeting where it was alleged that the subject Member, Councillor Paul Hayes had failed to comply with the Members' Code of Conduct.

Councillor Phil Gilchrist informed that he had been present at a 'Task Force Working Party' convened on the matter but he had no recollection of its proceedings.

8 ARTICLE 9 OF THE COUNCIL'S CONSTITUTION, THE MEMBERS' CODE OF CONDUCT AND PROTOCOL

The Panel considered a copy of Article 9 of the Council's Constitution along with copies of The Members' Code of Conduct and the Protocol which detailed the arrangements for Investigating and Making Decisions in relation to allegations made under The Members' Code of Conduct.

Reference was made to Paragraph 10.1 of the Protocol that set out the arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct and it was noted that the

Investigator should make arrangements to hold interviews with relevant persons within ten working days of being appointed. Councillor Chris Blakeley asked when the Investigator had been appointed and if he had met the timescales detailed above. The Investigator informed that he had been appointed on 9 January 2018, had made some appointments by 17 January 2018 but had not been able to meet the timescale in respect of all the interviewees because one had not been available. He confirmed that he had made contact very quickly with the individuals concerned but not all had been able to meet him within the timescale.

Reference was made to Paragraph 16.1 of the Protocol that stated that where a Standards Complaint has been referred for investigation and a finding of a breach had been found by the Investigator, the Standards Panel should be convened within 20 working days of the Monitoring Officer receiving the Investigator's final report. Councillor Chris Blakeley made the point that the Monitoring Officer had received the report on 19 June 2018 and 20 working days from that date was 16 July 2018. Therefore, this timescale had not been adhered to.

Also, Councillor Chris Blakeley informed that Paragraph 8.5 of the Protocol stated that the investigation would be carried out having regard to any guidance provided by the Standards Committee and/or Monitoring Officer; and should normally be completed (i.e. a final report produced) within twelve weeks from the date the decision was made that the Standards Complaint should be investigated. However, the Investigator informed the Panel that some investigations could be concluded quickly but sometimes this was not the case. He drew attention to the word 'normally' and emphasised that this did not mean every time. The Investigator confirmed that Investigations should be concluded as quickly as possible and stated that he was able to provide the reasons for not meeting the timescales but would only do so in the absence of the press and public.

Councillor Moira McLaughlin reported that she had met with officers, in the summer, to try to identify a date for the Standards Panel Hearing. A date had initially been identified but unfortunately had proved to be unsuitable later on due to unforeseen circumstances.

It was also noted that the subject Member's name had been included, in error, as an attendee on the Council's website and by a process of elimination he had been identified as such by a member of the public. Councillor Chris Blakeley considered that publicly naming the Member had tainted and damaged the process for dealing with complaints against Members and had prejudiced the subject Member's chance of a fair hearing.

Councillor Chris Blakeley raised concerns over the breaches of the Protocol, on this occasion, and the failure to meet the timescales laid down on previous occasions as well and he considered that a special meeting of the Standards

and Constitutional Oversight Committee may be requested shortly by Members to discuss the Council's failure to follow the Code of Conduct Protocol which had resulted in unacceptable delays to the Standards process.

RESOLVED: That

- (1) the contents of the documents provided be noted;**
- (2) the Panel will be guided by the documents provided during the course of its decision making in respect of the complaint to be considered; and**
- (3) under section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the next item of business only, on the grounds that it involves the likely disclosure of exempt information as defined by paragraphs 1 and 5 of Part I of Schedule 12A (as amended) to that Act in that it contains information relating to an individual and of which a claim to legal professional privilege could be maintained in legal proceedings. The Public Interest test has been applied and favours exclusion.**

9 CONSIDERATION GIVEN TO THE BREACH OF THE MEMBERS' CODE OF CONDUCT PROTOCOL

The Panel considered whether the subject Member would be able to have a fair hearing in view of the fact that the Protocol had been breached. It noted that it was the Independent Person's view that the breaches had been unfortunate but that this would not prejudice the Panel's decision.

The Deputy Monitoring Officer gave legal advice to the Panel.

RESOLVED: (2:1 with Councillor Chris Blakeley voting against)

- (1) the Panel considers that whilst the procedure has been breached by the subject Member being named, the disclosure would not have a material impact on the fairness of the procedure and the Panel will continue to hear the complaint and make a determination on it having heard the explanations offered; and**
- (2) the Investigator, press and public be invited back into the meeting.**

10 **CONSIDERATION OF WHETHER TO HOLD THE HEARING IN EXEMPT SESSION**

The Investigator, the press and the public returned to the meeting and were joined by the subject Member, Councillor Paul Hayes.

Councillor Phil Gilchrist informed that the following proposal had been moved, seconded and agreed:

‘That the Panel considers that whilst the procedure has been breached by the subject Member being named, the disclosure would not have a material impact on the fairness of the procedure and the Panel will continue to hear the complaint and make a determination on it having heard the explanations offered.’

Councillor Chris Blakeley informed that the Council had not followed its own Protocol. The subject Member should have been afforded some protection but had in fact been named. Consequently, he was of the view that this case should now be dismissed. However, this motion had not been seconded. Councillor Moira McLaughlin informed that she believed that the subject Member would still be able to have a fair hearing.

The Panel then gave consideration to whether its proceedings should be held in the presence or in the absence of the press and public. The Deputy Monitoring Officer advised that the report contained information about other individuals that had not been redacted. She had spoken to the individuals named and none of them had any objections to the report being made public.

Councillor Paul Hayes confirmed that he had indicated that he did not object to the hearing being held in public.

Members were unanimous in their view that the hearing should be held in the presence of the press and public.

RESOLVED:

That the press and public be not excluded from the meeting during the consideration of the following item of business and copies of the Investigator’s report be made available at the meeting and put into the public domain as soon as possible after the meeting.

11 **CONSIDERATION OF A STANDARDS COMPLAINT**

The Panel had regard to the findings that were set out by the Investigator and to the representations made by the subject Member. Members asked a number of questions of both parties which were answered accordingly.

12 **EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED:

That under section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the next item of business only, on the grounds that it involves the likely disclosure of exempt information as defined by paragraphs 1 and 5 of Part I of Schedule 12A (as amended) to that Act in that it contains information relating to an individual and of which a claim to legal professional privilege could be maintained in legal proceedings. The Public Interest test has been applied and favours exclusion.

13 **PANEL DELIBERATIONS**

The Panel deliberated in private before informing of its decision in the presence of both the Investigator and the subject Member and the press and public. The details are contained in the attached Decision Notice.

Decision Notice

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STANDARDS PANEL

9 October 2018

Complaint against Councillor Paul Hayes

Standards Complaint Ref 2017/28

DECISION NOTICE

Panel Membership: Councillors C Blakeley, P Gilchrist (Chair) and M McLaughlin

Independent Person: Prof R Jones (Mr G Kerr also in attendance as an observer)

Deputy Monitoring Officer: Miss V Shaw

Subject Member: Councillor P Hayes

Complainant: Dr M Atkinson

Independent Investigator: Mr S Goacher

Background

On 7 December 2017 the Complainant submitted a complaint to the Council's Monitoring Officer concerning the conduct of Cllr Paul Hayes. The Deputy Monitoring Officer undertook an initial assessment of the complaint in accordance with the Council's Arrangements for dealing with Complaints that Council Members have failed to comply with the Code of Conduct for Members. She concluded (having consulted with one of the Council's Independent Persons) that the complaint should be investigated.

An Independent Investigator was appointed by the Deputy Monitoring Officer to conduct the investigation. Following his investigation, the Investigator issued a report, dated 19 July 2018, in which he concluded that there had been a breach of the Code by Cllr Hayes.

Having considered the Investigators report the Deputy Monitoring Officer referred the matter for hearing by the Standards Panel in accordance with the Council's Arrangements for dealing with Complaints that Council Members have failed to comply with the Code of Conduct for Members

The initial complaint which was made also related to the conduct of two other elected members who were found, following investigation, not to have breached the Code of Conduct for Members. Those two members who were found not to be in breach were content for their details not to be redacted from the report of the Independent Investigator and for their names to be disclosed.

Summary of the Complaint

1. A complaint was made by Dr Maggie Atkinson, the Chair of the Wirral Safeguarding Children Board ("WSCB"). The complaint was in relation to alleged conduct of Cllrs Tom Anderson, Paul Hayes and Ian Lewis.
2. The complaint alleges that Cllrs Anderson and Hayes failed to comply with the Members code of conduct in the way in which they behaved at a meeting of the Children and Families Overview and Scrutiny Committee ("OSC") of the Council on 14 November 2017. The actions of the councillors which gave rise to the complaint relate to a decision by WSCB not to publish a Serious

Case Review ("SCR") which related to a case involving child sexual abuse. The complainant alleged that;

- i. Cllrs Anderson and Hayes were disingenuous in that they asked questions at the OSC meeting on 14 November 2017 to which they already knew the answers;
- ii. That Cllr Lewis by default failed to comply with Code as group leader as a result of the actions of Cllrs Anderson and Hayes;
- iii. Cllrs Anderson and Hayes "hijacked" the OSC meeting and attacked Dr Atkinson in a belligerent, heated and aggressive fashion;
- iv. Cllrs Anderson, Hayes and Lewis approaches to the media about the SCR amounted to a failure to comply with the Code; and
- v. That Cllr Lewis publicly stated that Dr Atkinson had made a complaint about him at a meeting of the Health and Wellbeing Board on 14 March 2018 (this was raised some time after the original complaint was made but the Council's Monitoring Officer agreed that this should be added to my investigation).

Relevant Legislation and provisions of the Code of Conduct

Under the Localism Act 2011 the Council:

- a. is under a duty to promote and maintain high standards of conduct;
- b. must adopt a Code of Conduct which is consistent with the statutory principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;

The Council adopted a new Code of Conduct ("the Code") with effect from 1 August 2014. The Council also adopted arrangements for dealing with allegations that a member had failed to comply with the Code.

So far as material, the Code provides as follows:

... General Obligations

1. When acting in your role as a member of the Council

1.1 DO treat others with respect.

1.2 DO NOT conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of members.

1.3 DO NOT disclose information given to you in confidence by anyone, or information acquired by you, or ought reasonably to be aware is confidential in nature, except where-

- (i) You have the consent of the person authorised to give it;
 - (ii) You are required by law to do so;
 - (iii) The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person;
 - (iv) The disclosure is:
 - a. Reasonable and in the public interest;
 - b. Made in good faith and in compliance with the reasonable requirements of the authority;
- and

- c. Agreed with the Monitoring Officer prior to its release.

Consideration of issue of data breach

The Panel considered as a preliminary issue whether or not the hearing should continue in light of the fact there had been a disclosure prior to the hearing of Cllr Hayes name on the Council's website in the list of members attending the Panel meeting in contravention of Wirral Borough Council practices in Standards matters.

Decision

In deciding whether or not to proceed, the Standards Panel considered whether or not Cllr Hayes could still receive a fair hearing and the Panel concluded that, although Cllr Hayes had a legitimate expectation of privacy, the disclosure would not have a material impact on the fairness of the procedure and the Standards Panel should continue to hear the complaint against Cllr Hayes.

Consideration of issue of the Complainants non-attendance at the hearing

The Deputy Monitoring Officer explained that the Complainant Dr Atkinson had been informed of the date of the Panel and invited to attend but had advised that she considered it was now an internal matter for the Council and she would not be attending the panel.

Decision

The Panel considered adjourning the meeting in order that Dr Atkinson could be asked to attend to answer the questions that the Panel wished to put to her. However, after hearing representations from Cllr Hayes that he would prefer there not to be an adjournment the panel decided to proceed with hearing the matter but requested that a letter be sent to the Complainant placing on record the Panel's considerable regret that she had chosen not to attend the meeting and afford the Panel the opportunity to ask her questions.

Consideration as to whether the Code of Conduct had been breached

The Panel gave careful consideration to the Independent Investigator's Report and the submissions and representations made by Cllr Hayes.

The Panel was satisfied that a satisfactory investigation and report had been undertaken and produced in relation to the complaint.

The Panel examined in detail all matters and issues arising from the complaint during the hearing and was satisfied that all parties had been afforded a fair opportunity to clarify any specific points and ensure the Panel understood their respective positions and responses

The Panel considered the views and representations of the Independent Person. The Independent Person was satisfied that a thorough investigation was undertaken and agreed with the findings and conclusions reached as detailed within the Independent Investigator's report.

Findings of fact

1. The Standards Panel found that it is not disputed that at the OSC meeting there was an exchange between Cllrs Anderson and Hayes and Dr Atkinson.
2. There is no evidence that Cllr Anderson was aware of the responses which Dr Atkinson had already provided to Cllr Hayes regarding the SCR.
3. There is no evidence that Cllrs Anderson or Lewis were aware of the media release made by Cllr Hayes prior to it being issued.
4. There is no evidence that Cllr Lewis was aware of the actions which Cllrs Anderson and Hayes proposed to take at the OSC.

5. Cllrs Anderson and Hayes were not belligerent. Their comments did not amount to an attack and they did not hijack the meeting.
6. The Standards Panel found that Cllr Hayes did issue a press release which stated, "The decision to keep this report under lock and key will undoubtedly lead to accusations of a cover up." Cllr Hayes did not dispute that he had made this statement.
7. The Standards Panel found that it is not disputed that Cllr Lewis declared an interest at the Health and Wellbeing Board because of the complaint made by Dr Atkinson

Decision of the Standards Panel

The Standards Panel decided that Cllr Hayes' comments in the press release failed to put the matter fully in context and Councillor Hayes' remarks could have been better framed and balanced. As such they represent a minor breach of the Members' Code of Conduct in that he had failed to show respect to Dr Atkinson in breach of para 1.1 of the Member's Code of Conduct.

The Standards Panel noted that Cllrs Anderson, Hayes or Lewis had been found not to be in breach of the Code of Conduct in relation to any of the other complaints made against them.

Reasons for decision

In the comments made by Cllr Hayes to the press he is explicit in stating that he is making those comments as a councillor about council business. They are clearly made in his capacity as a councillor. He has not sought to argue that the comments were made in any other capacity.

The comments which Cllr Hayes made were political comments which benefit from enhanced protection. However, this needs to be balanced against the right of Dr Atkinson and others to be protected from unjustified public comments.

Cllr Hayes is entitled to criticise the decision not to publish the SCR and to challenge the decision not to publish the SCR. However, the use of the term "cover up" suggests an attempt to conceal evidence of wrongdoing, error or incompetence which is not justified particularly given that he knew that the decision had been subject to a review by an independent national body.

Actions

The Panel having found Cllr Hayes in breach of the Members Code of Conduct determined that the following actions be imposed (subject to any valid appeal being accepted)

- a) That the Chair of the Panel write to the Leader of the Conservative Group and request that he gives advice and guidance to his group on press releases in the future.
- b) The Panel's decision be reported to the next ordinary public meeting of the Standards and Constitutional Oversight Committee for consideration.

Right of appeal

This Decision Notice and the full Investigator's report will be published on the Council's website unless a request seeking permission to appeal is made under paragraph 18 of the Council's Arrangements for Investigating and Making decisions in relation to allegations made under the Members' Code of Conduct.

Signed



Date

18th October 2018

Cllr Phil Gilchrist

Chair of Standards Panel