

WIRRAL COUNCIL

STANDARDS COMMITTEE

3 JULY 2012

SUBJECT:	New Standards Regime - Update
WARD/S AFFECTED:	All
REPORT OF:	Director of Law, HR and Asset Management

1.0 EXECUTIVE SUMMARY

1.1 On 21 May 2012, the Council approved new arrangements in relation to the promotion and maintaining of high standards of conduct by Members. The changes included:

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

1.2 Council also authorised the Monitoring Officer to make arrangement to enable the Council to appoint 'Independent Persons' to support the effective administration of standards complaints and decisions, in accordance with the requirements of the Localism Act 2011.

2.0 BACKGROUND AND KEY ISSUES

2.1 The Localism Bill was published on 13 December 2010 and received Royal Assent on 15 November 2011. As reported to this Committee in January 2011, the Localism Bill, as it was then, sought to devolve greater power and freedoms to councils and neighbourhoods, establish powerful new rights for communities, revolutionise the planning system, and give communities control over housing decisions. The reform covers four broad areas:

- Strengthening local democracy;
- Community empowerment;
- Reform of the planning system; and
- Social housing reform.

- 2.2 On the 15 November 2011, the Localism Bill received Royal Assent and became the Localism Act 2011 (“the Localism Act”). The relevant provisions relating to standards matters are set out in Chapter 7 and Schedule 4 of the Localism Act.
- 2.3 The Standards Committee Working Group met on 1 and 28 March. The Working Group specifically identified the need to ensure that a more open, transparent, efficient and cost effective standards regime was introduced. It also needed to be capable of adapting to change and sufficiently flexible so as to allow ‘common sense’ to prevail without undermining the standards regime and the duty upon the Council to promote and maintain high standards of conduct.
- 2.4 The Standards Committee Working Group on 28 March reviewed the initial drafts of the new draft Members’ Code of Conduct; draft Terms of Reference for the Standards Committee; and draft Protocol for dealing with complaints against Members/Co-opted Members (all of which are set out in the Appendices). The drafts attached incorporate the Working Group’s amendments and comments.
- 2.5 The Standards Committee approved the new standards arrangements as detailed in paragraph 1 above, on 16 April 2012; with Council approving the changes on 21 May 2012.
- 2.6 A copy of the report considered by the Standards Committee on 16 April 2012 is set out at Appendix 1.

Legal Requirements

- 2.7 The Localism Act 2011 (‘the Act’) states that :
 - a. the Council “must promote and maintain high standards conduct by Member and Co-opted Members” of the Council (section 27(1) of the Act);
 - b. The Council must 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. (section 27(2) of the Act);
 - c. the Council to have in place arrangements under which:
 - (i) allegations that the Members’ Code of Conduct has been breached can be *investigated*; and
 - (ii) *decisions* can be made in relation to those allegations.(section 28(6) of the Act).
 - d. The arrangements referred to at (c) above, must include provision for the appointment by the Council of at least one ‘Independent person’. (section 28(8) of the Act).
 - e. Members and Co-opted Members of the Council have a legal obligation to notify the Council’s Monitoring Officer of any “disclosable pecuniary interest” for the purposes of inclusion within the register of Interests.

Standards Committee and its' Panels

- 2.8 Under the proposed new arrangements, the Council retained a Standards Committee. The Committee has two sub-committees: a 'Standards Panel' and a 'Standards Appeal Panel'.
- 2.9 The Standards Committee is politically balanced and will not include any Independent Members. Under the Localism Act 2012, the 'Independent Member' has been replaced by the 'Independent Person'. The Council must appoint at least one 'Independent Person'. The definition in the Act of 'Independent Person' initially seemed to prevent the current Independent Members being appointed to this role. Counsel, Clive Sheldon QC, advised this when he was asked by ACSeS to provide advice on the Localism Act 2011. Regulations issue in June 2012 now enable Independent Members under the old regime to be appointed as Independent Persons.

Current Position

- 2.10 With regards the Panels, the terms of Reference currently requires three Members (one member from each political groups) to sit on them (and those members will be made up of Members of the Standards Committee unless other Members are nominated by party spokespersons to sit on the Panels). The membership was based on the political balance that existed at the time and it was clearly inappropriate to speculate the implications that could arise following the May 2012 Local Elections.
- 2.11 Members will be aware of the issue that has arisen with regards the Standards Committee and its composition. Some Members of the Working Group did not appreciate that the Committee would need to be politically balanced. This issue was considered at a Special Meeting of the Standards Committee on 25 June 2012 and Members are referred to the minutes of that meeting accordingly.
- 2.12 A further issue that needs to be addressed is the need to amend the composition of the Standards Committee's Panels in the event that Council does not agree the recommendation of the Standards Committee made on 25 June 2012. Following the May 2012 Elections, the number of members on the Standards Panel and Standards Appeal Panel need to be increased. In order to include a member from all the political groups, it is proposed that the membership of each Panel should be increased to a minimum of 7 members (4 Labour; 2 Conservative; and 1 Liberal Democrat).
- 2.13 The Standards Committee on 16 April 2012, committed itself to undertaking a review of the new Standards Regime during the first six months of its inception. In order to do so, it is proposed that a cross-party Standards Working Group be established. It is anticipated that further guidance and advice will be issued in relation to the new arrangements/obligations arising under the Localism Act 2011 concerning the Standards Regime. It is considered prudent that the Council have a mechanism in place to be able to consider and address any such issues/matters arising and make recommendations to the Standards Committee. A draft of the Terms of Reference for the Working Group is attached at Appendix 2.
- 2.14 The Independent Person recruitment exercise is ongoing. Regulation issued in June 2012, now enable Independent Members under the old regime to apply to be an Independent Person. Both the Standards Working Group and Standards Committee previously expressed its sadness and disappointment that the Independent Members

under the old regime could not be Independent Persons. It is hoped that members welcome the opportunity for Independent Members to now apply and authority is sought to allow the recruitment exercise to enable applications to be received up to and including 6 July 2012. Any applications received would be subject to the same assessment process and require Council to formally make the appointment.

2.15 Three training sessions have been undertaken with Members in relation to the New Standards Regime. Not all Members have attended the training and a further opportunity will be afforded to those Members still needing to attend. A training session will also be arranged for co-opted members.

2.16 During some of the training sessions, members raised the issue of further clarity being required with regards the use of ICT facilities provided by the Council to Members. Some Members felt that the current Members' ICT Policy (set out at Appendix 3) was ambiguous and it was appropriate that it be reviewed by the Standards Committee. Given the potential for this issue to become a standards matter, the proposed terms of reference for the Standards Committee (set out at Appendix 2) allows the Standards Working Group to review the policy and make recommendation for improvement.

3.0 RELEVANT RISKS

3.1 The Council is required to comply with the provisions of the Act with regards the arrangements for dealing with standards matters. Should it fail to do so, the Council exposes itself to risk of challenge and reputational harm.

4.0 OTHER OPTIONS CONSIDERED

4.1 No other options have been considered.

5.0 CONSULTATION

5.1 The consultation undertaken has been through the Standards Committee Working Group which is a cross-party working group as part of the wider discussions on the new regime

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no such implications arising.

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

7.1 There are no such issues arising.

8.0 LEGAL IMPLICATIONS

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

9.0 EQUALITIES IMPLICATIONS

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

(a) Yes and impact review is attached.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no such implications arising.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no such implications arising.

12.0 RECOMMENDATION/S

12.1 That the Standards Committee:

- (i) Notes this report;
- (ii) Agrees to a Standards Working Group being convened in accordance with the Terms of Reference set out at Appendix 2; and
- (iii) Agrees to the recruitment exercise for Independent Person to 6 July 2012 and authorises the Head of Legal & Member Services to recommend to Council all suitable persons for the role of Independent Person.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 The Council is required to comply with the provisions of the Localism Act 2011 and the recommendations enable this to be achieved.

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APPENDICES

Appendix 1 - Standards Committee Report – New Standards Regime (16 April 2012)
Appendix 2 - Standards Committee Working Group (Terms of Reference)
Appendix 3 - Members ICT Policy

REFERENCE MATERIAL

ACSeS Website and circulars
Guidance on the Localism Act 2011

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards Committee	26 January 2012 16 April 2012
Council	21 May 2012