

STANDARDS COMMITTEE

Monday, 19 November 2012

<u>Present:</u>		Councillor Bill Davies (Chair)	
	Councillors	D Roberts J Salter L Rowlands	C Blakeley L Fraser
<u>Deputies</u>	Councillors	S Foulkes C Meaden	
<u>Independent Persons</u>	Mr Mr Mr Professor	DR Burgess-Joyce B Cummings C Jones RS Jones	
<u>Apologies</u>	Councillors	R Abbey M McLaughlin	

14 INTRODUCTION

Everyone in attendance at the meeting introduced themselves for the benefit of the four Independent Persons who were attending for the first time in this capacity.

15 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

No declarations of interest were received.

16 MINUTES

RESOLVED:

That the Minutes of the meeting of the Committee held on 3 July 2012 be confirmed as a correct record.

17 INDEPENDENT PERSONS

Following a recruitment process four Independent Persons had been appointed to support the work of the Standards Committee. The role of an Independent Person was to assist the Council in promoting and maintaining high standards of conduct amongst its Elected Members. Independent Persons would be consulted on the decision to investigate complaints and before making a decision on an investigated complaint. The appointed persons may be consulted on other standards matters, including by the Member who was subject to an allegation.

The Council had agreed that fixed attendance allowance of £25 per meeting, would be payable to the Independent Persons (Minute No. 51 refers). The Council would also reimburse travel expenses.

The Committee welcomed the following four Independent Persons to their first meeting:

- Mr Brian Cummings MBE
- Mr David Robert Burgess-Joyce
- Mr Chris Jones
- Professor Ronald Samuel Jones

Members gave consideration to a proposal that one of the Independent Persons be invited to attend each meeting of the Standards Working Group. It was noted that the next meeting of the Working Group was scheduled for 4pm on Monday, 10 December 2012 in Committee Room 2 of the Town Hall, Wallasey. The Committee agreed that it wished to be as transparent as possible and that the proposal was an appropriate way forward.

RESOLVED: That

- (1) the appointments of the four Independent Persons as detailed above be noted; and**
- (2) an Independent Person, to be nominated, by the Independent Persons on a rotation basis, to attend each meeting of the Standards Working Group.**

18 EMAIL FROM MR JOHN BRACE

Members of the Committee acknowledged that they had received an email from Mr John Brace. The Acting Director of Law, HR and Asset Management agreed to speak to Mr Brace, outside of the Committee meeting, about the content of his email.

19 DISCLOSURE OF CONFIDENTIAL REPORTS UNDER THE PREVIOUS ETHICAL FRAMEWORK

Those Members who had been the subject of a complaint and/or had made a complaint against another Member, declared a non disclosable interest in the next item of business on the agenda.

At the last meeting of the Committee held on 3 July 2012 it had resolved

‘That the Head of Legal and Member Services be requested to bring a detailed report, to the next meeting of the Committee, on the confidentiality of findings on complaints made about Councillors under the old Standards Regime.’ (Minute No. 11 refers)

A report by Acting Director of Law, HR and Asset Management and Monitoring Officer provided advice in relation to whether investigation reports carried out under the ethical framework (prior to 1 July 2012) could be disclosed in the public domain given that a new ethical framework was now in place.

On 21 May 2012, the Council had approved new arrangements in relation to the promotion and maintaining of high standards of conduct by Members. (Minute No. 14 refers) The changes included:

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

The new ethical framework came into force on 1 July 2012.

The Acting Director reported that in considering whether investigation reports prepared in relation to complaints made under the previous ethical framework could and/or should be disclosed, consideration needed to be given to the following:

- (a) Under the previous ethical framework (established under Local Government Act 2000 and the Standards Committee (England) Regulations 2008 (as amended)), where an investigation had been undertaken, the investigation report, its findings and conclusion remained confidential unless disclosed in accordance with the above mentioned Regulations.
- (b) The Guidance issued by Standards for England advised that investigation reports be marked 'confidential' and that all interviewees should maintain confidentiality. The member(s) subject to a complaint were required to comply with paragraph 4(a) of the then Code of Conduct regarding the disclosure of information that they receive in confidence (i.e. in relation to an investigation).
- (c) Under Paragraph 7C of Schedule 12A Local Government Act 1972 (as amended), the deliberations of the Standards Committee in reaching any finding on a matter relating to the conduct of an elected/co-opted/advisory member could be exempt from disclosure providing the Committee considered the public interest in not disclosing the exempt information outweighs the public interest in disclosing the information.
- (d) Under paragraph 17 The Standards Committee (England) Regulations 2008, where the Monitoring Officer's investigation made a finding of 'no case to answer', which was subsequently accepted by the Standards Consideration Panel, the Monitoring Officer was obliged to publish a notice in a local newspaper unless the subject member requested that no such notice be published. This was an important issue as there had been a number of matters where a finding of 'no case to answer' had been accepted by the Consideration Panel

however the subject member(s) had decided not to have the notice published in a local newspaper.

To disclose the investigation report would disregard the legal right exercised by certain Members not to have the finding of 'no case to answer' published/put into the public domain.

The 2008 Regulations specifically made provision for a subject member to be publically exonerated through the publication of the notice where a finding of 'no case to answer' has been reached.

- (e) With the passage of time, the need to maintain confidentiality diminished. However, there remained a number of serving Members and a strong argument still existed for confidentiality of investigation reports.
- (f) Moreover, there was a high risk that any disclosure of investigation reports would (at this time and in the short/medium term) give rise to a number of potentially unintended consequences. For example:
 - i. lead to 'unofficial' investigation(s) being conducted by unregulated and unmanaged/able persons– 'double jeopardy';
 - ii. attract unnecessary and unwanted media attention in relation to historic matters that have been concluded;
 - iii. undermine the certainty of closure of a complaint;
 - iv. lead to further expenditure of resources in dealing with issues and matters that would inevitably arise despite the matter having been subjected to an independent investigation;
 - v. discourage legitimate complaints being raised;
 - vi. lead to complainants receiving unwanted attention;
 - vii risks undermining the changes in culture and behaviour the Council was seeking to embed.

The Acting Director informed that the Committee must consider what public benefit would be achieved by the disclosure. The parties involved in a complaint would have all received the investigation report. The Council had a duty under the Localism Act 2011 to promote high standards of conduct. The Committee should consider whether disclosure of previous investigation reports was consistent with that duty.

The Acting Director, therefore, advised the Committee to consider all the above issues and implications, including the legal framework and potential implications/impact of disclosing investigation reports in making its decision.

Significant discussion ensued and the Acting Director informed that the detail of complaints against Members could only be published if the complainant(s), other parties named in the complaint and the Member(s) concerned gave their permission. Consent must be sought as s63 still applied.

The Committee accepted that the detail of Standards complaints submitted under the previous regime should not be put into the public domain.

However, the Committee requested that the publication of the findings of investigations into Standards complaints against Members under the new regime, subject to certain safeguards be given serious consideration. If there was agreement to this proposal the name(s) of the complainant(s) should also be published.

The Committee was aware that under the new regime the Monitoring Officer would carry out a preliminary assessment and filter out frivolous and trivial complaints and those that were vexatious at the outset. Therefore, if there was agreed only those complaints that warranted investigation would end up in the public domain.

RESOLVED:

That the Standards Working Group be requested to give consideration to whether to publicise the findings of investigations into Standards complaints against Members under the new regime, subject to certain safeguards being put in place at its next meeting on 10 December 2012.

20 **REPORT OF THE MEMBER EQUIPMENT STEERING GROUP**

Further to Minute No. 13 of the last meeting of the Committee, held on 3 July 2013, when Members' ICT Policy (Use of Council Facilities) had been under consideration, the Head of Information Technology Services was in attendance at the meeting at the request of the Committee to report orally on the work of the Member Equipment Steering Group (MESG).

The Head of Information Technology Services reported that the MESG consisted of both Members and Officers whose remit was to identify the most appropriate ICT equipment to fulfil the Elected Members' function. Members' current ICT equipment was four years old and in need of replacement as the contract expired in March 2013.

The Head of Information Technology Services also informed that the MESG's work currently included looking at ways to:

- procure a Councillors' Case Management System that would be able to produce corporate management information for Members on their enquiries/complaints when dealing with matters in their constituencies;
- reduce the Council's paper usage (KLOE 6 objective);
- install wifi in Wallasey Town Hall soon so that Members were able to work electronically; and
- record committee meetings.

Officers had carried out a Members' Equipment Survey to try to identify the equipment that best meet their needs. Various electronic devices had been demonstrated to Members and a pilot exercise was currently underway where some Members and Officers were trialling ipads and slate type technology. This trial would end in January 2013. The outcomes would then be analysed and equipment selected that Members had indicated met their needs best.

The Head of Information Technology Services was aware that Members were keen to use personal equipment and informed that they must abide by the Government's Code of Connection so finding a way for this solution to work would provide Officers with a challenge.

The Head of Information Technology Services informed that the Cabinet had approved the installation of wifi in Wallasey Town Hall and the business case to illustrate where savings would be made was in the process of being prepared for the Executive Team's consideration.

The Acting Director of Law, HR and Asset Management reported that alongside Streetscene enquiries it was proposed to develop an overall Members' complaints/enquiries system within the Council's CRM system. This would log, monitor and track Members' complaints/enquiries and store all of that information in a central point with a unique complaint/enquiry reference number. This would allow Members and Officers to access the CRM system and Members could do this via the Members' Home Page. Members would be able to lodge requests completing an electronic complaint/enquiry form which would then be entered into the system and either be directed to Streetscene or another Department. There would also be an up to date directory of key Officer contacts available to assist Members.

It was noted that there were other case management systems on the market but the Council's own CRM System was able to deliver what Members required and that the System would be configured in a different way to the Streetscene System which was not without problems.

The Head of Information Technology Services reported that there were two approaches to recording Committee meetings etc:

- **Webcasting** which had been trialled in the past for the Planning Committee and not been entirely successful. Webcasting was streamed and hosted externally from the Council. Since the trial some years ago, advances had been made and the process was much more automated than it had been previously. It would be able to integrate with the system already installed in Committee Room 1. Prices were between £13,500 and £16,000 per annum.
- **Voice Record Committee Meetings** and the way this could be done varied. MP3 files were produced and it could be published via the Council's website. Prices also varied e.g. £1000 to £2,500 to establish it and £1000 per annum maintenance costs thereafter.

The Head of Information Technology Services informed that the MESH would like to give priority to procuring appropriate new replacement ICT equipment for Members.

Following his oral report the Head of Information Technology Services answered Members' questions on a number of issues raised which included:

- security concerns;
- would the new equipment be wifi enabled for Members' own homes?
- costs of the new ICT equipment;
- best practice adopted by other Councils;

- a Merseyside solution;
- Merseytravel's Case Management System (Good Cloud);
- Use of personal equipment e.g. Blackberries, the separate infrastructure required and associated costs;
- arrangements for Members with sight issues; and
- an ICT offer to help Officers become more productive and agile.

The Head of Information Technology Services informed the Committee that the MESH would aim to provide a report on its proposals for procuring appropriate new replacement ICT equipment for Members, for consideration at a Cabinet meeting in February 2013.

RESOLVED:

That the oral report presented by the Head of Information Technology Services on the current work of the MESH be received.