

# WIRRAL COUNCIL

## STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

28 APRIL 2014

<b>SUBJECT:</b>	<b><i>SUMMARY OF THE WORK AND PROPOSALS OF THE STANDARDS WORKING GROUP</i></b>
<b>WARDS AFFECTED</b>	<b><i>ALL</i></b>
<b>REPORT OF:</b>	<b><i>HEAD OF LEGAL AND MEMBER SERVICES AND MONITORING OFFICER</i></b>

### 1.0 EXECUTIVE SUMMARY

1.1 This report provides details of the work undertaken by the Standards Working Group in relation to the Council's Ethical Framework relating to Member conduct, related issues and the analysis undertaken in relation to the Member Survey on Perceptions and Experiences on the Council's Governance Arrangements.

1.2 The Working Group has considered the following matters and made recommendations for consideration by the Committee:

- Member Survey on Perceptions and Experiences on the Council's Governance Arrangements;
- Members' Code of Conduct;
- Protocol on Dealing with Complaints Against Members;
- Disclosure and Barring Service checks for Members;
- Amendment to the Council's Constitution to give effect to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.

### 2.0 BACKGROUND AND KEY ISSUES

2.1 Council on 16 April 2012 approved a new Members' Code of Conduct and the Protocol: Arrangements for Investigating and Making Decisions in relation to allegations made under the Members' Code of Conduct, which came into effect on 1 July 2012.

2.2 The new Ethical Framework has now been in place for 22 months. The Standards Working Group was established by the Committee to review the Ethical Framework and consider whether any amendments should be made or alternative arrangements considered given the Council's statutory duty to promote and maintain high standards of conduct amongst Members.

- 2.3 Standards Working Group has now completed its work, which included consideration of two Members' Surveys, one of which related to changes to the Council's Constitution which has been considered and dealt with; and the other is referred to within this report.
- 2.4 The Working Group has made a number of recommendations for consideration by the Committee.

### **Member Survey on Perceptions and Experiences on the Council's Revised Governance Arrangements**

- 2.5 The above survey was undertaken so as to gauge a better understanding of Members views and thoughts concerning the current governance arrangements. The Working Group included specific questions concerning the Ethical Framework.
- 2.6 A copy of the Survey is attached at Appendix 1.
- 2.7 The Working Group has considered all the responses and made comment and recommendations as appropriate. Details of the responses and recommendations are contained within Appendix 2.
- 2.8 The Working Group noted that overall the current governance arrangements were satisfactory and whilst improvements could be made, the general view of Members was more positive than negative of the current arrangements.
- 2.9 The Working Group noted that Members sought better training, not in terms of the variety of training provision, but training that recognised their experiences, skills and abilities and therefore was better tailored to them. Members were keen for the Council not to adopt a 'one size fit all' approach and welcomed the review of Member training and development.
- 2.10 The Working Group noted that Members further improvements were made to ensuring open and transparent decision making, with more pre-scrutiny and better use of delegated powers. Concern was raised over the workload of the Policy and Performance Committee (Families and Wellbeing) but it was recognised that the remit of Families and Wellbeing was correct given the synergies. However, it was important that the current policy and performance arrangements be reviewed in 12 months' time so that a more informed analysis and assessment can be undertaken. One particular issue raised was the need to ensure continuity of membership on policy and performance and regulatory committees to ensure experiences and knowledge gained can be fully utilised – which will assist in dealing with matters more effectively and efficiently.

### **Members' Code of Conduct and the Protocol on Dealing with Complaints Against Members**

- 2.11 The Working Group undertook a review of the Members' Code of Conduct and the Protocol. The Working Group noted that the responses received to questions on the Ethical Framework included in the above-mentioned survey, did not reveal any significant concerns or issues from Members.

- 2.12 The Working Group considered the Code required greater clarity with regards to interests given that members often declare 'interests' which are not disclosable pecuniary interests. It was recognised that members also referred to interests as 'personal' interests and would withdraw from a meeting if they felt they had a 'prejudicial' interest. Accordingly, the Code has been amended to clarify and take account of practices which are currently in place but not expressly stated within the Code.
- 2.13 The Code has been extended to include a requirement that Members when appointed to another 'relevant authority' they are required to comply with any Code of Practice of that authority and if they are appointed to a another body, they must abide by the Council's Members' Code of Conduct.
- 2.14 The Working Group considered it appropriate to extend the remit of dispensations to Members to include membership of a trade union (providing the member is not is a position of control).
- 2.15 The Protocol remains by and large unchanged. However, one important change proposed is that the Monitoring Officer when undertaking an initial assessment and evaluation of a complaint does not seek the views of all three group Leaders, but instead notifies (by way of summary) the relevant Group Leader of the complaint made against a Members of his/her political group.
- 2.16 The proposed changes to the Members' Code of Conduct and relating Protocol are set out at Appendix 3 and 4 respectively. It is proposed that the revised Code of Conduct if approved take effect as from 1 August 2014 to enable training to be provided to members in advance of its application.

### **Disclosure and Barring Service (DBS) checks for Members**

- 2.17 The Working Group identified that there was no clear policy in place with regards to when DBS check for Members should be undertaken.
- 2.18 Accordingly, the Working Group considered this issue and noted that the arrangements in place among many local authorities varied from DBS checks for all members through to specific members being subject to the check depending on the nature of the work/role undertaken.
- 2.19 The guidance from DBS is that a blanket check for all Members is not necessary and a more tailored approach should be considered. The Working Group has accepted that guidance and accordingly has proposed that the Council's current DBS Policy (which covers Officers only) be extended to include Members.
- 2.20 The Standards Working Group has proposed an amendment to the DBS Policy, which is set out at Appendix 5. It is proposed that the DBS Policy amendment if approved take effect from 1 October 2014 so as to allow for requisite assessments and checks to be commissioned (which can take up to 3 months to undertake by the DBS).

## **Proposed Amendment to the Council's Constitution**

- 2.21 Under The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, where a budget decision is being taken at a budget decision meeting then the Council must record the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
- 2.22 Under the Regulations, we are obliged to amend our Constitution to give effect to the above requirement.
- 2.23 The Working Group has considered this issue and is proposing that Standing Order 13 of the Council Procedure Rules be amended to ensure compliance with the Regulations and provide improved arrangements concerning how the Budget Council Procedure is agreed.
- 2.24 Appendix 6 details the proposed amendment to Standing Order 13 of the Council Procedure Rules.

### **3.0 RELEVANT RISKS**

- 3.1 The Council is required to comply with the provisions of the Localism Act 2011 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.
- 3.2 To ensure the Council's Standards Regime is effective, a regular review and assessment of its effectiveness will help ensure the Council remain compliant with its legal obligations and instils confidence in democratic arrangements.
- 3.2 The Council must comply with all other relevant and applicable legislative requirements.

### **4.0 OTHER OPTIONS CONSIDERED**

- 4.1 The review of the current Standards Regime provides an opportunity for Members to consider and/or revise the existing arrangements or propose alternative arrangements.

### **5.0 CONSULTATION**

- 5.1 The Standards Working Group has a consultative role by virtue of its cross-party membership.

### **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 Any proposed changes to the Standards Regime will need to consider these implications.

## **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) No EIA is required.

## **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 Committee:

- (a) Notes the Member Survey on Perceptions and Experiences on the Council's Revised Governance Arrangements and the Standards Working Group's comments; and agrees the recommendations as set out in Appendix 2;
- (b) Agrees the revised Members' Code of Conduct set out at Appendix 3 and recommends its approval to Council with an effective date of 1 August 2014 ;
- (c) Agrees the revised Protocol on Dealing with Complaints Against Members set out Appendix 4 and recommends its approval to Council with an effective date of 1 August 2014;
- (d) Agrees the proposed amendment to the Council's Disclosure and Barring Service Policy set out at Appendix 5 and recommends its approval to Council (as necessary) with an effective date of 1 October 2014;
- (e) Agrees the proposed amendment set out at Appendix 6 to Standing Order 13 of the Council's Council Procedure Rules contained within the Council's Constitution to give effect to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and recommends the same to Council for approval.

## **13.0 REASON/S FOR RECOMMENDATION/S**

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

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## **APPENDICES**

Appendix 1 - Member Survey on Perceptions and Experiences on the Council's Revised Governance Arrangements

Appendix 2 - Outcome of Members' Survey on Perceptions and Experiences of the Revised Governance Arrangements

Appendix 3 – Revised Members' Code of Conduct

Appendix 4 – Revised Protocol: Arrangements for Investigating and Making Decisions in relation to allegations made under the Members' Code of Conduct

Appendix 5 – Proposed Amendment to the Council's DBS Policy

Appendix 6 – Proposed Amendment to Standing Order 13 of the Council Procedure Rules