

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 27 February 2018

Present: Councillor M McLaughlin (Chair)

Councillors P Stuart B Kenny
RL Abbey P Hayes (In place
C Blakeley of J Hale)
G Ellis C Meaden (In place
P Gilchrist of WJ Davies)

In attendance: Ind. JR McCosh RS Jones
Members AC Wilson

29 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bill Davies (Councillor Meaden substituting) and John Hale (Councillor Hayes substituting) and from Angela Lloyd-Prince (Independent Person).

30 DECLARATIONS OF INTEREST

There were no declarations of interest.

31 MINUTES

RESOLVED:

That the minutes of the meeting of the Standards and Constitutional Oversight Committee held on 20 November 2017 be approved as a correct record.

32 STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP

RESOLVED:

That (1) subject to the amendment of Minute 19 to indicate the next meeting of the Working Group to be held on Friday 23 March 2018, the minutes of the Standards and Constitutional Oversight Working Group be approved as a correct record;

(2) the recommendation at Minute 11 'Discussion on the Timely Handling of Cabinet Member Questions at Council' be confirmed and the

Council be recommended that Cabinet Member question time be extended to 45 minutes.

33 **FILMING OF PUBLIC MEETINGS**

Further to Minute 15 of the meeting of the Standards and Constitutional Oversight Working Group held on 13 February 2018, the Committee received a recommended draft Protocol for Webcasting, Filming and Recording of Council Meetings. Further to the submitted draft Protocol, the Committee was asked to note the references to 'public meetings' in paragraphs 15, 17 and 18 should be amended and read as 'meetings held in public'.

The Monitoring Officer advised that the Council was moving towards the webcasting of meetings and it was appropriate for the Council to have a policy in relation to the recording of meetings. To date the Council had relied on the Department for Communities and Local Government (DCLG) guidance; this had been enhanced and the draft Protocol was now presented for adoption. The Chair confirmed that the Protocol had been considered by the Working Group and recommended as now submitted to the Committee for adoption.

The Chair, noting that Mr J. Brace had submitted written questions in respect of this item and received answers prior to the meeting, permitted Mr Brace an opportunity to address the Committee.

Mr Brace addressed the Committee, commenting that while the proposal was very different to the current Policy, there had been no consultation with the media or public on the revised Protocol. He noted a major change to be the introduction of a designated area for public filming and queried who would decide where this area was to be, would there be a sufficient area identified, and would chairs be provided. Mr Brace asked the Committee that if a person took a photograph on a mobile phone in the public area, would they be asked to move, and queried whether anyone had complained of problems hearing meetings in progress as he struggled at times due to other noises in the room. Content relating to filming and exclusion from the meeting at paragraph 15 of the draft Protocol was highlighted. It was queried as to what constituted disruptive behaviour, it being suggested that the Council had legal powers only to suppress disorderly behaviour, and whether the Council Constitution would need amendment.

Further to his comments regarding control of the meeting and consultation, Mr Brace asked the Committee to consider the withdrawal of the second sentence of paragraph 15 in the draft Protocol; this sentence referred to the designated area.

Councillor Gilchrist noted that whoever filmed and wherever they were sat, all members of the public should have full sight of the meeting process. Further,

there were times when committee rooms were full and there was a need to be clear on safety grounds for everybody's protection.

On matters raised, the Monitoring Officer commented on the DCLG guidance that noted recording equipment might not be left in the room where a private meeting is held and that those undertaking recording activities must not act in a disruptive manner, which could result in their being excluded from the meeting. This meant that the Council could require that equipment was not left unattended and be removed when a meeting went into private session, and that the Council could reasonably ask that filming was not disruptive or distracting to the meeting.

In response to a query from Councillor Blakeley seeking a practical consideration of where a designated area might be in the Committee's meeting room in the event of it being full, the Monitoring Officer commented that considerations could include the use of a tripod, as at the current meeting, as potentially disruptive, and that the person filming might be asked to use one leg of the tripod only or to hand hold their camera.

RESOLVED:

That the Protocol for Webcasting, Filming and Recording of Council Meetings, as submitted and amended by references to 'public meetings' in paragraphs 15, 17 and 18 being read as 'meetings held in public', be approved.

34 **SOCIAL MEDIA POLICY**

Further to Minute 17 of the meeting of the Standards and Constitutional Oversight Working Group held on 13 February 2018, the Committee received a draft revised Social Media Policy for consideration.

The Working Group had recommended re-affirmation of the current Policy subject to the following amendments which were indicated within the submitted draft -

- amendment to Section 2 to indicate that the listings of online forums and sharing websites are examples only and not comprehensive;
- amendment to the last sentence of Section 7 such that "Employees must [*delete 'should'*] not...."; and
- amendment to Section 10 to indicate adherence to the Policy is required by all groups identified in that Section.

Councillor Abbey noted the list of related policies listed at Section 12, and sought clarity as to which applied to elected members. The Monitoring Officer noted that the Disciplinary Process and Employee Code of Conduct might be considerations in the event of failure by staff to comply with the Policy; the comparable policy for elected members would be the Members' Code of Conduct.

RESOLVED:

That the recommendations of the Standards and Constitutional Oversight Working Group in respect of the Social Media Policy be accepted and the revised Social Media Policy be adopted.

35 COMMITTEE ON STANDARDS IN PUBLIC LIFE - STAKEHOLDER CONSULTATION

The Monitoring Officer advised that the Committee on Standards in Public Life, in recognition that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government, had launched a consultation exercise to inform their review of local government ethical standards.

The terms of reference for the review are to:

- examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- make any recommendations for how they can be improved
- note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

The Committee gave consideration to the formal consultation document, appended to the submitted report, and the following comments and observations made –

Structures, processes and practices - The Committee considered that structures and procedures were considered to be working to ensure high standards of conduct, though there were concerns about sanctions and timescales, both matters considered under later sections.

Codes of conduct – The Monitoring Officer advised that legislation gave considerable freedom with regard to content of a Code of Conduct. The Wirral Council Code was comprehensive, following the former Model; this was not the case elsewhere and some Codes contained little more than the Nolan principles. The Committee agreed that the Council's Code was extensive, and the approach should be a model followed by all Authorities.

Members agreed that the Code was something that should be included in Member induction, but that the way this was presented needed to be checked given the amount of material available to new members. Refresher training for all Members should also be required on a periodic basis.

Investigations and decisions on allegations - The Committee considered that the investigation procedure required timescales which ensure prompt consideration and that could be rigorously applied, noting that in instances where the subject member prevaricated or did not respond the timescales for dealing with a complaint became unreasonably long. It was however noted that a timescale should not be imposed that might allow allegations to be ruled out of order because they were not dealt with; if personal circumstances did not allow for a speedy consideration this should be accommodated.

It was noted that the only timescale applying was when notifying the subject member of the receipt of a complaint. Thereafter, timescales were discretionary. It was suggested that deadlines for each stage should be specified and take no more than six months, and that should a subject member be not compliant with timescales, the Standards Panel should have the ability to hear the case without them.

With regard to the role of the Independent Person, the Committee considered that their role had been invaluable. Having sought advice from the Independent Persons in attendance and concurring that the role and opinions of the Independent Person must be sought and taken into account, the Committee would not seek voting rights for the Independent Persons.

With regard to the role of the Monitoring Officer and following queries of Members regarding potential conflicts of roles and risks, the Chair invited observations from the Monitoring Officer. The Committee was advised that conflicts of role could arise, noting that the Monitoring Officer could not be investigator and advisor, but it was considered that the Council had sufficient safeguards in this regard. It was acknowledged that undue pressure on Monitoring Officer's had occurred at certain authorities, but the Council had retained certain safeguards and Monitoring Officers retained a statutory right to demand appropriate resources to undertake their role. There were issues of job protection, it being noted that employment protection for the Head of Paid Services, Chief Finance Officer and Monitoring Officer had been watered down by recent legislation. A Monitoring Officer Protocol that described the role of the Monitoring Officer and how they go about their role gave some assurance, and the Committee concurred that adoption of a Monitoring Officer Protocol should be recommended.

Sanctions - The Committee considered that existing sanctions had proved adequate for normal cases, but additional options were needed for more serious breaches of the Code of Conduct or where a subject member did not engage with the current sanctions applied. Members considered that options

to either remove a subject Member from committees or outside bodies, or to suspend a Member, would give the process real teeth.

The Committee considered whether such additional powers should lie with this Committee or with the full Council. It was noted that the Council's current Panel had operated in a non-partisan manner and that the Panel had the benefit of advice from the Independent Person, which would not be the case should the decision lie with the Council. The Committee considered that the decision should remain with the Panel.

Declaring interests and conflicts of interest - The Committee considered that the Council's existing arrangements for declaration of councillors' interests and management of conflicts of interest were satisfactory.

The Monitoring Officer noted that the Council's arrangements covered both the statutory disclosure of pecuniary interests and a range of other interests, such as personal and prejudicial interests brought over from the previous standards regime, to cover potential situations of bias or conflict of interest. It was noted that not all authorities had done so, and the Committee considered that this Council's approach should be recommended.

Whistleblowing - The Committee noted that much work had been done on whistleblowing and considered that the Council's arrangements were satisfactory.

Improving standards – Members agreed the importance of training to increase and improve knowledge on conduct and ethical issues, and would recommend that for all local authorities the code of conduct form part of Councillor induction processes, followed thereafter by two-yearly training or refresher sessions. With regard to the contribution of central government, the Committee would wish to see local authorities being given the powers to deal with conduct issues appropriately, such as those suggested elsewhere in this consideration.

Intimidation of local councillors – Members commented on the need for guidance around this issue, as there appeared no route other than going to the Police with concerns; it was suggested the Police might not necessarily view such referrals as priority as councillors had voluntarily put themselves into the public domain. It was noted that elected members needed to be accessible, for example through surgeries, but using personal phones and email and having addresses in the public domain could make Councillors and their families vulnerable and had on occasion left them open to abuse. All local authorities needed to consider how this might be mitigated and what facilities might be provided by a council to address intimidation and identified concerns. The Committee agreed it be recommended that all local authorities should be have the necessary powers and resource to address these

concerns, including provision of the equivalent legal, professional and emotional support that was available to Council employees.

RESOLVED:

That the Monitoring Officer be authorised to respond to the consultation being undertaken by the Committee on Standards in Public Life reflecting the considerations given by this Committee and minuted above.

36 **CONSTITUTIONAL UPDATES**

The Committee were advised of required amendments to Part 3 of the Council's Constitution relating to delegation of functions.

The following Committee were advised of the relevant legislative provisions and considerations given by the Council that now required amendment to the constitution:

- i. a delegation at Part 3 'Responsibility for Functions' Schedule 4A Part 2 of the Council Constitution enabling Officers, including the Assistant Director of Environmental Services, to authorise Officers to issue Fixed Penalty Notices to drivers of idling vehicles pursuant to Part 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002, as recommended by the Environment Overview and Scrutiny Committee at a meeting held on 30th November 2017; and
- ii. a delegation at Part 3 'Responsibility for Functions' Schedule 5 'Delegation of Functions to Individual Cabinet Members' of the Council Constitution to enable the Cabinet Member for Environment, supported by Officers, to be the person nominated by the authority to hear the applicant and determine the matter pursuant to Schedule 1 s7 to the Scrap Metal Dealers Act 2013, agreed by the Cabinet at a meeting held on 10 October 2013, but not included in the Constitution at that time.

RESOLVED:

That the required amendment to the Council Constitution be noted and the Council be recommended to confirm their adoption.