

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 31 January 2019

Present:

Councillor B Mooney (Chair)

Councillors	Lloyd-Prince	J McManus
	McCosh	C Blakeley
	A Davies	T Cox
	C Jones	G Ellis
	B Kenny	P Gilchrist
	J McManus	

In attendance:

Independent Members

A Lloyd-Prince and J McCosh

20 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

No declarations of interest were received.

21 **ARRANGEMENTS FOR DEALING WITH COMPLAINTS AGAINST MEMBERS**

A joint report of the Monitoring Officer and the Deputy Monitoring Officer reminded the Committee that 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 the experience gained from dealing with complaints had highlighted areas for improvement and clarification in the arrangements for handling complaints made under the Members' Code of Conduct. In particular, Members noted that issues had been raised in relation to the timeliness with which complaints had been dealt with under the current Protocol. The report sought approval to adopt a revised procedure for investigating and making decisions in relation to allegations made under the Members' Code of Conduct.

Appended to the report were:

- A Draft Revised Protocol – Arrangements for Investigating and Making decisions in relation to allegations made under the Members' Code of Conduct. (Appendix A)
- The online Complaint Form (Appendix 1).
- The Standards Complaint Process Flowchart (Appendix 2).
- The Standards Panel Procedure for Investigations (Appendix 3).

It was reported that robust standards arrangements were needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. The proposed amendments would improve the clarity of the process and would provide the Standards and Constitutional Oversight Committee and the Monitoring Officer with the opportunity of dealing with complaints in a timely manner in accordance with what was currently considered to be professional best practice. They would also provide clarity and transparency for the general public.

Other options for the Committee to consider were that the present Protocol for dealing with complaints about Members could remain unchanged or it was revised in some other way.

The Deputy Monitoring Officer in introducing the report referred to the Committee's meeting on 7 November 2018 when Members had requested that the Protocol be revised and informed that she had considered the comments Members had made and in particular, that complaints should be dealt with within a maximum of six months from being received and that Members had wanted more involvement when there were complicated and difficult complaints being considered. Therefore, the Deputy Monitoring Officer had revised the Protocol to include an Assessment Panel. She had also tried to include a clear set of criteria against which to assess allegations.

At the previous meeting Members had indicated that they wished to retain the right of appeal although many local authorities no longer did this. The right of appeal was included in the revised Protocol. Flow charts were appended to the report to make it easier for members of the public to understand the process. The Deputy Monitoring Officer also informed that a number of amendments had been made throughout the Protocol and she was interested in receiving Members' comments on them. She had tried to maintain the overall timescales but there were some elements within the Protocol which were conflicting.

A Member informed that it would have been useful if the proposed changes to the present Protocol had been highlighted.

A Member had regard to paragraph 3.6 in the report where reference was made to the Monitoring Officer's discretion to refer complaints to the Committee's Assessment Panel in order to assess more serious or complex allegations and queried this arrangement and the Panel's make up. The Deputy Monitoring Officer informed that it was for the Committee to determine appropriate arrangements and the Panel's make up.

A Member thanked the Deputy Monitoring Officer for the work she had done but informed that he remained disappointed that officers still gave themselves 'escape clauses' as the timescales for considering complaints about Members had not been tightened up. The Member also informed that he had a whole host of changes (13) that he sought clarity on. He was prepared to go through them at the meeting but instead the Monitoring Officer proposed that a Standards Workshop be held to go through all Members' queries, issues etc.

He also proposed that they be submitted to him in advance so he could carry out any necessary research before the Working Group's meeting.

The Monitoring Officer reported that the Committee on Standards in Public Life had published its review of Local Government Ethical Standards earlier in the month and Members would need to compare Wirral Council's best practices with that Committee's findings as they may have an impact on how things were done in future.

RESOLVED: That

- (1) a Workshop consisting of Councillors C Blakeley, A Davies, P Gilchrist, J McManus, B Mooney and Independent Member Mr J McCosh be convened as soon as possible to consider any proposed changes or issues in respect of the Protocol currently under review;**
- (2) Members be requested to submit their queries, issues etc. on the Draft Revised Protocol, as soon as possible, to the Monitoring Officer; and**
- (3) if need be, the next meeting of the Committee scheduled for 26 February 2019 be postponed until the middle of March 2019 so that the Workshop can complete its work at (1) above and present its report to the Committee for consideration within statutory timescales.**

22 COUNCIL PROCEDURE RULES - STANDING ORDER CONCERNING VOTING AND ELECTRONIC VOTING

The Director: Governance and Assurance, Monitoring Officer introduced his report that set out proposals to address deficiencies in Standing Order 18 of the Council Procedure Rules (Part 4(A) of the Constitution) concerning voting methods. The report had regard to the model standing order contained in statutory Guidance and recommended a revised standing order for procedural improvements and to cater for use of the electronic voting system in the Council Chamber.

The report informed that Council was legally required to have regard to the statutory Guidance in drafting Council standing orders. A draft revision at the report Appendix C was based on the model standing order contained within the Guidance, together with:

- (a) those elements of the existing WBC standing order that appear to have been drafted with good reason and are not otherwise found in the Model; and**
- (b) amended to cater for the addition of an electronic voting system and the Council's preferred custom and practice.**

The Monitoring Officer, apprised the Committee that the Council's current Model Standing Orders build on, and remain largely similar to, the model standing orders issued in 1963 (and reprinted 1973) and earlier. They provided a 'factory re-set', which was worth regularly coming back to, to re-examine where the Council has strayed from them and whether the reason for so doing remains, and are thus worth retaining or not.

A Member pointed out that at recent meetings of Council he felt that an inordinate amount of time had been taken using the electronic voting for every vote, and asked if the revision to Standing Orders could accommodate this concern.

A Member also requested that the proposed Standing Order 18(1) be amended to reflect that Members not only be present, but be seated in their places, as per the Council's current Standing Orders.

Concerns were also expressed by a Member regarding Council's controls in respect of the methods used when voting.

Members similarly questioned the Monitoring Officer, seeking clarification on the specific nature of the wording in respect of affirmation of Council for procedural votes that could be dealt with without recourse to the electronic voting system e.g. acceptance of meeting minutes, and where it may be the will of Council not to utilise electronic voting for one reason or another. Members believed that this could in effect help address concerns regarding use of electronic voting for every vote.

The Monitoring Officer explained that 'affirmation of the meeting' was included at Standing Order 18(3) specifically for this purpose. Likewise, although not recommended, the Council would always have the backstop of moving the suspension of Council Standing Orders. The Monitoring Officer summarised that the new Standing Order did move the default position from all votes being by a show of hands, to that of use of an electronic voting system if available and functioning correctly.

RESOLVED: That

Council be recommended to adopt a revised Standing Order 18 of the Council Procedure Rules (Part 4(A) of the Constitution) attached at report Appendix C and as appended to these minutes.

Appendix C

RECOMMENDED ALTERATION TO STANDING ORDERS

18. Voting

(1) Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room and seated in their places at the time the question is put.

(2) Casting Vote

If there are equal numbers of votes for and against, the Mayor will have the right to exercise a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote, including the choice not to use such vote.

(3) Method of Voting

Unless a recorded vote is demanded under 18.4 below, the Mayor will take the vote by use of the electronic voting system or, if there is no dissent, by the affirmation of the meeting.

The Mayor may decide at any time to discontinue use of the electronic voting system if satisfied that it is not working correctly. If the Mayor considers that there has been any malfunction of the equipment or any incorrect use of it, the Mayor may require or allow the vote to be retaken, either electronically or by show of hands.

Where the electronic voting system is not working correctly or unavailable, the Mayor will take the vote by show of hands.

(4) Recorded Vote

If a Member of the Council makes a request before a vote is taken (including during the closure procedure referred to in Standing Order 9(1)) and is supported by five other members rising in their places, the voting on any question shall be by roll-call and the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

This standing order will apply automatically in respect of a vote taken at a Budget Decision meeting of the Council in accordance with the Budget and Procedure Rules at Part 4C of this Constitution. *

(5) Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting. *

(6) Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new

vote taken. The process will continue until there is a majority of votes for one person. (This does not apply to the office of the Mayor or Leader which is by election by Council).

**Statutory standing order*