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STANDARDS COMMITTEE

Monday 30 March 2009

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| <u>Present:</u> | Mr | Brian Cummings (Chair) | |
| | Councillors | C Blakeley WJ Davies K Hayes AR McLachlan | C Meaden L Rowlands C Teggin P Williams |
| <u>Deputy:</u> | Councillor | A Bridson | |
| <u>Independent Member:</u> | Mr | Alex Nuttall | |
| <u>In attendance:</u> | Councillor | J Green | |
| <u>Apologies:</u> | Mr | Ken Harrison | |

34 DECLARATIONS OF INTEREST

The members of the Committee were asked to consider whether they had a personal or prejudicial interest in connection with any item on the agenda and, if so, to declare it and to state the nature of such interest. No declarations were made.

35 MINUTES

Resolved – That the minutes of the previous meeting, held on 27 January, be approved as a correct record.

36 ETHICAL GOVERNANCE 2008/09 - DRAFT REPORT AND COMMENTS

Further to Minute 22 (1/12/08), Liz Temple-Murray, the Audit Manager, and her colleague, David Brown, presented their draft report following their Review of Ethical Governance within the Authority. She sought the Committee's agreement to the report and asked that any suggested amendments or additions to the proposed Action Plan be submitted to her by the third week in April.

The main conclusions of the report were:

(i) that the Council had a good understanding of the key Ethical Governance issues that it faced and the action needed to promote and maintain the standards. Positive features included -

- the Members' Code of Conduct was generally operating effectively and the behaviour of members and officers was mostly appropriate;
- members and officers worked well together to achieve the Council's common goals;

- the Council had a good approach to promoting equality and diversity in its policies and services;
- both the Leader and Chief Executive were considered to be role models in promoting the Ethical Agenda; and
- the Council was taking active steps to encourage good conduct by members and officers and to improve transparency in the way that it carried out its business.

(ii) that, although the survey findings were encouraging, and in many cases more positive than average, they pinpointed issues where further work and clarity was needed. In particular, the findings suggested that some members and officers could be helped to develop a better understanding of Ethical Governance, which would be helped by greater communication about the ethical framework.

(iii) there were other areas for development including –

- raising the profile of the Council's Standards Committee through pro-active work and ensuring that all members of the Committee had access to the right information to carry out its functions effectively;
- reviewing the level of training for members and officers on the Ethical Agenda;
- creating a culture in which members and officers could make allegations of misconduct by a member or officer without fear of reprisal and be confident in the action that they should take; challenge member recommendations and Council decisions to improve openness and transparency; and be assured that inappropriate behaviour would be suitably dealt with;
- clarifying the use of Council resources for political and non-political purposes;
- raising trust and confidence in Local Government and democracy; and
- increasing awareness of the Whistle-blowing Policy and reinforcing assurances that reporting through that mechanism could be done without fear of reprisal.

The members of the Committee discussed the report and, whilst noting the statistical evidence within it, expressed the view that the inclusion of comments gleaned from the various interviews might better illuminate the Authority's position. With regard to the Standards Committee, the Chair reported that he had recently met with the Chief Executive, and both had agreed that the profile of the Standards Committee should be raised. Members accepted the need for more training, though it was pointed out that generally the level of attendance at training sessions had not been encouraging.

Ms Temple-Murray responded by stating that with regard to bringing forward interviewees' comments, she would need to check whether or not it was possible to do so without revealing their identities. However, she felt no purpose would be served by delaying completion of the report by a further three months. If there were any issues that needed to be acted upon, they could be dealt with separately, albeit within the context of implementation of the Action Plan. A member suggested that the information sought might be particularly helpful in targeting training. Other members agreed that anecdotal evidence would assist in the implementation of the Action Plan. In response, the Director of Law, HR and Asset Management stated that he could report to the next meeting on that basis.

Resolved – That Liz Temple-Murray and David Brown be thanked for their report; the contents be accepted; and, where possible, the Director of Law, HR and Asset Management report back on those comments made by interviewees that would illustrate how the proposed Action Plan might be taken forward.

37 **REGULATION OF INVESTIGATORY POWERS ACT 2000 - USE OF POWERS**

The Director of Law, HR and Asset Management reported on the operation within the authority of the Regulation of Investigatory Powers Act 2000 (RIPA), which governed how public bodies used surveillance methods. The Council, like other local authorities, was entitled to use directed surveillance where doing so was in the public interest for the purpose of preventing or detecting crime or preventing disorder. The Office of the Surveillance Commissioner (OSC) was responsible for overseeing the operation of RIPA, and the Council had to account to the OSC on an annual basis on its use of investigatory powers. The Council had been the subject of two inspections by the OSC, in July 2003 and July 2007, as well as a recent review by its own Internal Audit Section. The Director reported that one of the recommendations of that review had been for the Council's Policy and Procedures on the use of RIPA to be updated.

The Director commented that there had been a large degree of misreporting on the subject of surveillance and he presented a Home Office document that sought to correct some of the misconceptions. The Council had used directed surveillance to support its enforcement activity since the passing of RIPA, and in the year 2007/08 had granted 45 authorisations. Those related to cases investigated by the Wirral Anti-social Behaviour Team (36) and the Trading Standards team (9), and the use of the powers had assisted in legal action to deal with rogue traders and to obtain court orders to tackle anti-social behaviour.

The Director presented a copy of the latest OSC inspection report and outlined the actions taken by the Council in response to the recommendations. He also presented a revised Policy and Procedure on the use of powers under RIPA, which had been considered by the Chief Officers Management Team and would be presented to the next meeting of the Cabinet for approval. He added that the Council would be subject to a further OSC inspection later in the year, which would test the adequacy of the arrangements that were in place.

In response to comments from members, the Director reported that authorising officers had to be satisfied that the use of covert surveillance was as a last resort and had to be proportionate to the harm the Council was seeking to deal with. All responsible/authorised officers of the Council involved in such activity were required to be trained at least every two years and risk assessments would always be undertaken.

Members stressed the need for the RIPA process to be transparent in order to alleviate public concerns about invasion of privacy.

Resolved – That the document “Policy and Procedure on the Use of Powers under the Regulation of Investigatory Powers Act” be endorsed, subject to the further minor amendments now suggested (including the names of responsible officers).

38 PARTNERSHIP GOVERNANCE FRAMEWORK AND TOOLKIT

The Director of Law, HR and Asset Management reported that the Audit Commission had recently carried out a further review of the Council's arrangements in relation to partnerships. It was expected that the Commission's report would highlight the need for the Council to ensure that its partnership arrangements were strong. To assist in that process, a Partnership Governance Framework and Toolkit had been devised in order to guide elected members and officers in their dealings with partnerships. It would also allow the Council's partners to see the key principles and quality standards that it was committed to and how it was putting collaboration and co-operation at the heart of its operations.

The Director commented that, whilst Wirral had a good record in relation to partnership working, it was easy to be drawn into such arrangements without recognising the risks, and the Council had to be certain that all of its arrangements were fit for purpose. The Toolkit provided a structure for entry into partnerships, participation, review and, when necessary, withdrawal. The Toolkit identified a link officer for each partnership with which the Council was currently involved. The Toolkit dealt with principles, and arrangements would have to be tailored for each partnership.

Members discussed the document and commented that a key element of such arrangements would be to establish each partner's share of costs and how each partnership would take decisions. It was also accepted that regular reviews, in order to check on compliance, would be necessary.

Resolved – That, subject to the minor amendments now mentioned (including updating the names and/or titles of responsible officers), the Partnership Framework and Toolkit be endorsed, the Cabinet be advised accordingly and the Council be recommended to approve the documents and incorporate them into the Constitution.

39 REGISTERING OF GIFTS AND HOSPITALITY

Further to minute 18 (30/9/08), the Director of Law, HR & Asset Management reported on the current position in relation to the registering of offers of gifts and hospitality. On a motion by Councillor Blakeley, duly seconded, it was –

Resolved – That

- (1) the Committee welcomes the report;**
- (2) in the interests of clarity, and to avoid any confusion, the Committee requests that the Director of Law, HR and Asset Management writes to all Chief Officers and Heads of Service informing them NOT to record any gifts or hospitality on behalf of elected members in any registers, and requesting that the information in the letter be cascaded down to all officers.**
- (3) the Committee requests that the Director of Law, HR and Asset Management writes to all elected members reminding them of their sole and individual responsibility to:**

(a) register gifts and hospitality in the register of member's interests, which is held within the Legal and Member Services Section (informing members that the ModGov system for the recording of gifts and hospitality is not, as yet, enabled and should not be used until such time that it is enabled);

(b) notify only the Monitoring Officer, or his nominee, in writing of gifts and hospitality, in accordance with the Code;

and includes with that letter -

- a copy of the Standards Board factsheet in relation to gifts and hospitality;
- information that it is best practice also to register gifts and hospitality that are declined;
- notification that, in order to avoid any confusion as to whose responsibility it may be to register gifts and hospitality, Council officers, other than the Monitoring Officer or his nominee, are being instructed NOT to record any gifts or hospitality on behalf of elected members in either the central register of gifts and hospitality, or in any departmental registers that may be active (and which are intended for officers to register any interests or gifts that they have personally received).

(4) the Committee also requests that the Director notifies all those elected members who are appointed to Joint Boards or outside bodies (that have a code of conduct in operation) of their responsibility to record any gifts or hospitality accepted or declined with both the Council and their Joint Board / outside body.

(5) the Committee further requests that the Director arranges with some urgency:

(i) training sessions on the Code of Conduct in order to ensure elected members are fully aware of the requirements of the Code and their responsibilities in complying with it;

(ii) training sessions on the ModGov system in order that, when it is enabled, elected members will be able to use it efficiently, effectively and with confidence for all aspects of the system and particularly with regard to the facility to record accepted or declined gifts and hospitality.

40 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

Resolved – That the Director book five places for this event - one for a member of each of the political groups, one for an independent member and one for the Director, with an extra place for an independent member if any of the political groups is not able to provide a nominee.

41 NORTH WEST INDEPENDENT MEMBERS FORUM

The Committee's attention was drawn to the North-West Independent Members' Forum, which met regularly at different venues around the north-west.

Resolved – That this Committee’s independent members be encouraged to participate in the Forum.

42 **EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

Resolved - That, under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraph of Part I of Schedule 12A (as amended) to that Act.

43 **STANDARDS BOARD DECISION NOTICE**

The Director of Law, H.R. and Asset Management reported on a complaint against a councillor that, for appropriate reasons, had been referred to the Standards Board for England by the Initial Assessment Panel. The Board's decision had been that it would take no further action.

Resolved - That the decision be noted.

44 **OMBUDSMAN COMPLAINT - COMPENSATION (MS R)**

The Chair agreed to consideration of this matter as urgent other business in view of the need to avoid any further delay in settling the compensation in the case.

The Director of Adult Social Services reported on the circumstances of a case involving care services for a young adult that had been the subject of a complaint to the Local Government Ombudsman. There had been a number of elements to the complaint, only one of which had been upheld, namely that there had been an unacceptable delay in the allocation of a social worker. As a result, the Ombudsman had recommended that a sum of compensation be paid to the parent to reflect the personal impact on her and her son for the lack of services for four years, the failure to provide respite care and the loss of social work support for a significant time. The money was considered to be equivalent to what the Council had not spent on the young man’s care, even though he had been assessed as requiring services.

The Committee discussed the basis of the proposed compensation and sought information of what steps were being taken to ensure that such circumstances would not occur again.

Resolved –

(1) That the basis for the proposed compensation be accepted and a sum of £30,000 be paid to Ms R.

(2) That the Committee notes the implementation of the Action Plan drawn up following the Stage 2 complaint.

(3) The Committee notes that the issue of transition from child care to adult care is an issue that both the Children’s Services and Lifelong Learning and the Social Care, Health and Inclusion Overview and Scrutiny Committees are proposing to review and requests that the results of their scrutiny be reported to this committee.

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