

WIRRAL COUNCIL

STANDARDS COMMITTEE

29 SEPTEMBER 2011

SUBJECT:	SUMMARY OF COMPLAINTS MADE UNDER THE COUNCIL'S MEMBERS' CODE OF CONDUCT
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW, HR AND ASSET MANAGEMENT
RESPONSIBLE PORTFOLIO HOLDER:	THE LEADER OF THE COUNCIL
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to provide a summary of all the complaints made against Wirral Members which have alleged that the Council's Members' Code of Conduct has been breached.
- 1.2 Due to legal and confidentiality reasons, the level of detail provided in the summary, which is set out in Appendix 1, has been restricted.

2.0 RECOMMENDATION/S

- 2.1 The Committee is recommended to:
 - (a) Note the summary of the complaints received by the Council, set out at Appendix 1 to this report, in relation to alleged breaches of the Council's Members' Code of Conduct;
 - (b) Require the information set out in Appendix A to be updated for and reported to all future meetings of this Committee; and
 - (c) Consider adopting the amended draft Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members, as set out in Appendix 2, with immediate effect, to ensure that there is in place a clear timescale for progressing complaints.

3.0 REASON/S FOR RECOMMENDATION/S

- 3.1 The Committee has previously expressed serious concern about the time it has taken to deal with the complaints against Wirral Members alleging that the Council's Members' Code of Conduct has been breached.

- 3.2 This issue was considered by the Scrutiny Programme Board on 8 September 2011 (see below) when it was resolved, amongst other things, *‘That the Standards Committee be recommended to put in place proper timescales and a monitoring regime for dealing with complaints’*.
- 3.3 Committee is recommended to consider adopting a Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members with immediate effect. This will ensure that there is in place a clear timescale for progressing complaints.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 The Local Government and Public Involvement in Health Act 2007 (“the Act”) provides, among other things, for a revised ethical framework for local government. The implications of the Act were reported to the Council’s Standards Committee on 28 January and 31 March 2008.
- 4.2 The relevant provisions were brought into force on 8 May 2008 by the Standards Committee (England) Regulations 2008 (“the Regulations”).
- 4.3 The Act made a number of key changes to the ethical framework under which local authorities were required to operate. These are:
- Standards Committees would be responsible for receiving allegations made against Members and deciding whether any action should be taken (referred to as ‘local assessment’).
 - Standards Committees must be chaired by an independent member.
 - Standards Committees would report periodically to the Standards Board for England now Standards for England (“SfE”).
 - The SfE will be responsible for monitoring and ensuring the effectiveness of local arrangements, including supporting authorities which are experiencing difficulties and driving up their performance.
- 4.4 Annual Council on 14 July 2008 approved the requisite changes to the Council’s Constitution, namely amendments to the Standards Committee’s Terms of Reference which also included new terms of reference for Initial Assessment, Review and Hearings Panels as required under the Act.
- 4.5 Members of this Committee have expressed dissatisfaction with delays in dealing with Standards complaints. In response to this, on 26 January, 2011 I submitted a report to this Committee, seeking approval for a Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members. The aim of the local protocol was to improve the manner in which allegations and complaints are handled and processed.

- 4.6 Members of the Committee expressed concern that delays in dealing with standards complaints were unacceptable for all parties concerned. However, Members were of the view that the timescales within the draft Local Protocol were not sufficiently clear and that there was a need for 'non-complex' complaints to be dealt with within six months of receipt of the complaint.
- 4.7 Members further questioned, notwithstanding any amendments required, whether adoption of a Local Protocol should be deferred whilst clarity on the implications of the current Localism Bill was provided. Members also suggested that officers should explore possible collaborative working arrangements concerning standards matters with neighbouring local authorities. In the light of these considerations, Committee resolved:

'That this matter be deferred for a further report to a future meeting of the Committee in order that amendments to the protocol can be made to address (i) the need for greater clarity on timescales, (ii) the implications of the Localism Bill and (iii) if possible, any collaborative working arrangements with neighbouring Councils.'

- 4.8 Given subsequent uncertainties as to the future of the Standards regime under the Localism Bill this Local Protocol has not been referred back to this Committee. However, given continuing Member concern about delay, this Committee is recommended to consider adopting a Local Protocol with immediate effect. This will ensure that there is in place a clear timescale for progressing complaints. The draft Local Protocol is attached at Appendix 2. The revision (shown as Track Changes) inserts a new paragraph 2.2 to reflect this Committee's comments on the original document.
- 4.9 On 9 June 2011, the Council's Scrutiny Programme Board requested that details be provided at the next Board meeting of all complaints received in pursuance of the revised ethical framework. This information was provided to the Board on 8 September 2011 in table form, substantially as in Appendix A. The draft Minutes of that meeting record that it was resolved:
- (1) That the Scrutiny Programme Board is alarmed and disappointed to note the amount of time it is taking to determine Standards complaints, with some complaints taking almost two years to complete, and believes that this is unfair to both complainants and to those complained against.**
 - (2) That the Scrutiny Programme Board is also concerned about the amount of time being taken from the registration of a complaint to allocating to an Initial Assessment Panel and notes that, in one reported case this was in excess of 16 weeks.**
 - (3) That the Scrutiny Programme Board is aware that individual Members of the Council as well as the Standards Committee have made repeated representations to the Director of Law, HR and Asset Management and his Department about their concerns because of delays and have asked for the process to be speeded up.**

(4) That the Scrutiny Programme Board notes that despite repeated requests to the Director of Law, HR and Asset Management, no apparent improvements have been made to the way in which Standards complaints are being handled and unacceptable delays are still being allowed to occur.

(5) That the summary of complaints received by the Council, set out in the appendix to the report now submitted, in relation to alleged breaches of the Council's Members' Code of Conduct, be noted.

(6) That the Standards Committee be recommended to put in place proper timescales and a monitoring regime for dealing with complaints.

The Board also requested some additional information which was incorporated in a revised table. This was circulated electronically after the meeting and is incorporated in Appendix 1 to this report. Committee will

4.10 Committee previously suggested that officers should explore possible collaborative working arrangements concerning standards matters with neighbouring local authorities. Discussions have taken place at officer level with Chester and Cheshire West Council and two current matters (three complaints) are being investigated by a solicitor from that authority.

5.0 RELEVANT RISKS

5.1 Given the purpose of this report is to provide information to the Committee, no relevant risks are identified.

6.0 OTHER OPTIONS CONSIDERED

6.1 Given the purpose of this report is to provide information to the Committee, no other options were considered.

7.0 CONSULTATION

7.1 Given the purpose of this report is to provide information to the Committee, no consultation issues are relevant.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 There are no such implications arising.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 There are no such implications arising.

10.0 LEGAL IMPLICATIONS

10.1 There are no such implications arising.

11.0 EQUALITIES IMPLICATIONS

11.1 There are no such implications arising.

11.2 Equality Impact Assessment (EIA)

- | | |
|---------------------------------------|-----|
| (a) Is an EIA required? | No |
| (b) If 'yes', has one been completed? | N/A |

12.0 CARBON REDUCTION IMPLICATIONS

12.1 There are no such implications arising.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 There are no such implications arising.

REPORT AUTHOR: **Bill Norman**
Director of Law, HR and Asset Management
telephone: 0151 691 8598
email: billnorman@wirral.gov.uk

APPENDICES

Appendix 1: Summary of Complaints made under the Council's Members' Code of Conduct.

Appendix 2 Amended Draft Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members.

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standards Committee	26 January 2011
Scrutiny Programme Board	9 June 2011
	8 June 2011