

Merton Council

Standards Committee

Membership

Councillors

Peter McCabe (Chair)

David Williams (Vice-Chair)

Michael Bull

John Dehaney

Mary-Jane Jeanes

Philip Jones

Ian Munn BSc, MRTPI(Rtd)

Tobin Byers

Co-opted members

Sophie Bowen

Nigel Brotherton

Beverley Huie

Substitute Members:

Charlie Chirico

Oonagh Moulton

Gregory Patrick Udeh

A meeting of the Standards Committee will be held on:

Date: 26 February 2015

Time: 7.15 pm

**Venue: Committee rooms B & C - Merton Civic Centre, London Road,
Morden SM4 5DX**

Merton Civic Centre, London Road, Morden, Surrey SM4 5DX

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3616.

Press enquiries: press@merton.gov.uk or telephone 020 8545 3181

For more information about Merton Council visit www.merton.gov.uk

Standards Committee

26 February 2015

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| 7 | Work programme - Verbal Update | |

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

STANDARDS COMMITTEE

23 OCTOBER 2014

(19.15 - 21.15)

PRESENT: Councillor Peter McCabe (in the Chair),
Councillor David Williams, Councillor Tobin Byers,
Councillor Michael Bull, Councillor John Dehaney,
Councillor Mary-Jane Jeanes, Councillor Philip Jones and
Councillor Ian Munn
Co-opted members Nigel Brotherton and Beverley Huie

ALSO PRESENT: Zoe Church (Head of Business Planning), Paul Evans (Assistant Director of Corporate Governance), Karin Lane (Head of Information Governance) and Julia Regan (Head of Democracy Services)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were from Sophie Bowen.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

No declarations were made.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: that the minutes of the meeting held on 17 June 2014 are agreed as an accurate record.

The Chair noted that all additional information requested at the last meeting had been provided to members of the committee.

4 RECORDING OF KEY AND NON-KEY DELEGATED DECISIONS (Agenda Item 4)

Paul Evans introduced the report. He said that the proposals on recording non key delegated executive decisions were in response to the Openness of Local Government Bodies Regulations 2014. The report also contains a change to the constitution in order to comply with recent legislation on filming council meetings.

Members discussed the distinction in the proposals whereby non key delegated executive decisions made by a cabinet member would be subject to call-in and those made by an officer would not.

Paul Evans advised that if Council wished to extend the range of officer decisions that could be called in, that could be done by reducing the financial limits on key decisions. He reminded the committee that notification of a key decision has to be

published on the Forward Plan for 28 days prior to being taken, it is subject to call-in and cannot be implemented until the call-in period has elapsed.

The Committee RESOLVED to make a recommendation for consideration by General Purposes Committee that non key delegated decisions made by officers should be subject to call-in so that they are treated in the same way as non key delegated executive decisions taken by a cabinet member.

5 ANNUAL COMPLAINTS REPORT 2013/14 (Agenda Item 5)

Karin Lane introduced the report and provided additional information in response to questions from members of the committee:

- The Member Enquiry data in the report relates just to those that are logged through the in-box held by the corporate Complaints Team
- The number of missed refuse collections is collected and monitored by the waste services team
- Penalty charge notices (PCNs) are dealt with through a separate appeals procedure
- The “report it” icon is used for service failures and these are actioned by the appropriate service
- The Local Government Ombudsman (LGO) report and letter is available via a link on the council’s website the LGO website
- Karin Lane regularly meets with departmental management teams and provides monthly monitoring reports to action any trends to trends and identify any action that is required by the department

Members had had differing experiences of using the Member Enquiries in-box compared to making direct contact with officers and agreed that this choice should continue to be made available to councillors.

Following discussion, the Chair suggested that it would be helpful to add a note to the table in Appendix E to make it clear that many member enquiries are also sent direct to officers and the table does therefore not reflect the level of activity by ward councillors. He suggested renaming the report in future – complaints management and member enquiries – and more consistency in the presentation of data (i.e. so that the tables in sections 3 and 5 would both show percentage change).

Members were impressed with the information in Appendix F showing action taken by parking services in response to analysis of trends in complaints made.

Karin Lane undertook to seek comparative data from other local authorities on how much is paid out in compensation to complainants.

RESOLVED: to note the report.

6 ANNUAL FREEDOM OF INFORMATION REQUESTS REPORT 2013/14

(Agenda Item 6)

Karin Lane introduced the report. She explained that it was the first annual report on Freedom of Information (FOI) requests, showing an increase in the number of FOIs received and a slight drop in performance on response times. She drew attention to the estimate of cost made by the University College of London (paragraph 14.1), saying that she thought the estimate of average time taken of 7.5 hours was perhaps a little high.

Karin Lane provided further information in response to questions and observations from members of the committee:

- officers have to provide the information that is requested unless there is a valid reason for the information to be exempted
- the reason for the increase in the number of exemptions (Appendix 1) is that the overall number of FOIs has increased
- the FOI team (1 officer) only co-ordinates requests that cross departments, otherwise departments send the response themselves

Karin Lane undertook to:

- add the cost estimates to the FOI webpage
- clarify and send to committee members the reason why the new category of “charity” was chosen and how this is defined.

RESOLVED: to note the report.

7 FINANCIAL REGULATION UPDATE (Agenda Item 7)

Zoe Church introduced the report. She explained the reasons for making each of changes to the Financial Regulations that were underlined in the appendix to the report. She said that, subsequent to the publication of the agenda, the limits for capital virements (referred to in paragraph 2.2c) had not been increased.

Members discussed the issue previously raised at General Purposes Committee regarding the transparency of transfers made to and from the council’s reserves and the desirability of opportunities for councillors to question these prior to transfers being made.

RESOLVED:

- 1) To note the report
- 2) to ask the Director of Corporate Services to consider what arrangements could be made to increase the transparency of movements in the council’s reserves, if this is not already addressed through reports to Cabinet.

8 MEMBERS GIFTS AND HOSPITALITY REGISTER (Agenda Item 8)

Paul Evans introduced the report, saying that the level of declarations was as expected and that there were no unusual items to indicate issues of concern. In response to questions and a request, he undertook to:

- provide information to committee members on former councillors for the period 23 October 2013 to 24 May 2014
- check and confirm the entry for Councillor Edith Macauley
- review the form to check there is a box to declare the name of the donor

RESOLVED:

- 1) To note the report
- 2) To request that future reports should include an assurance that those councillors who have not declared gifts and hospitality have been contacted to confirm that they had nothing to declare

9 OFFICERS GIFTS AND HOSPITALITY REGISTER (Agenda Item 9)

Paul Evans introduced the report.

Members commented on the number of low value gifts declared by the Community and Housing department. Paul Evans said this reflected an increased level of awareness of the need to make such declarations following the low number declared in the previous report to the committee.

Members requested that the donor name be recorded unless there was a reason for confidentiality.

RESOLVED: to note the report

10 REGULATION OF INVESTIGATORY POWERS ACT (Agenda Item 10)

Karin Lane introduced the report and outlined the investigations authorised since June 2014 under the Regulation of Investigatory Powers Act. In response to a question she explained that one request could include a large number of venues.

RESOLVED:

- 1) To note the report
- 2) To request that the number of venues be provided in future reports

11 WORK PROGRAMME (Agenda Item 11)

Noted that the agenda for each meeting should include reports on:

- Regulation of Investigatory Powers Act 2000 authorisations
- Complaints against members

Paul Evans gave a verbal update on complaints against members. He has received three in the last 6 weeks and discussed each with an Independent Person. None require further action.

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Committee: Standards Committee

Date: 26 February 2015

Wards: All

Subject: Appointment of independent persons and independent non-voting co-opted members

Lead officer: Paul Evans, Assistant Director Corporate Governance

Lead member: Councillor Peter McCabe, Chair of Standards Committee

Contact officer: Julia Regan, Head of Democracy Services, 0208 545 3864

Recommendations:

- A. That the Standards Committee appoints an interview panel comprising one councillor from each political group to interview and recommend to Council the appointment of two independent persons to serve for a period of three years from 12 July 2015
 - B. That the Standards Committee agrees to combine the role of the independent person and the independent non-voting co-opted members so that the two independent persons appointed from 12 July 2015 will also become co-opted members of the Standards Committee
 - C. That the Standards Committee agrees to review this arrangement when their February 2016 and to take a view on whether it still requires a third co-opted member
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report asks Standards Committee to put arrangements in place for the recruitment of two independent persons. It also asks the Committee to agree to combining the roles of the independent persons and the independent non-voting co-opted members of the Standards Committee.

2 DETAILS

Independent persons

- 2.1. The Localism Act 2011 requires the council to appoint at least one independent person. The functions of the independent person, set out in the council's constitution, are:
 - The independent person must be consulted and views taken into account before the authority takes a decision on any allegation it has decided to investigate
 - The independent person may be consulted by the authority in circumstances where the authority is not taking a decision whether to investigate the allegation
 - The independent person may be consulted by a member of the authority against whom an allegation has been made

- 2.2. It is important to ensure that the impartiality of the independent person is not compromised by undertaking more than one of these roles where it would be inappropriate to do so.
- 2.3. Council, at its meeting on 11 July 2012, therefore agreed the appointment of two independent persons, Carole Mercer and Derek Prior, for a period of three years from 11 July 2012.
- 2.4. Standards Committee is therefore asked to appoint an interview panel to interview and recommend to Council the appointment of two independent persons to serve for a period of three years from 12 July 2015.
- 2.5. It is recommended that Standards Committee establish a three person panel with one member from each political group. The Committee should determine who will chair the panel. The Chair would not normally have a casting vote. Committee, however, is free to make any alternative arrangement it wishes to make.
- 2.6. The independent persons have been consulted by the council's Monitoring Officer a total of six times regarding six complaints made against councillors since July 2012.
- 2.7. Independent non-voting co-opted members
- 2.8. The Localism Act 2011 introduced a new standards regime for councils. One of the aspects of this was the abolition of statutory Standards Committees. Council, at its meeting on 11 July 2012, therefore agreed to establish a new Standards Committee that would be an ordinary proportional committee of 8 councillors and 3 non-voting co-opted members appointed to the Standards Committee.
- 2.9. The second term of office for two of the co-opted members, Nigel Brotherton and Beverley Huie, will expire on 1 July 2015, and Sophie Bowen's first term of office will expire on 30 June 2016.
- 2.10. These posts are entirely discretionary and the Standards Committee could agree to recommend to Council that there be no further appointments.
- 2.11. However, there are benefits to having independent voices on the Committee and it is therefore recommended that Standards Committee agree that the roles be combined so that the two people who are appointed as independent persons should also be co-opted to serve on the Standards Committee. This would enable the committee to fully benefit from the expertise and experience of those persons.
- 2.12. Standards Committee will need to take a view in due course as to whether it still requires a third co-opted member.
- 2.13. Part 3B of the Council's constitution states that:
- the term of office for non-voting co-opted members shall be three years
 - a maximum of two terms can be served consecutively
 - persons who have served as councillors or co-opted members within five years prior to the appointment date, or close friends or relatives of such persons, are not eligible to serve as co-opted members

3 ALTERNATIVE OPTIONS

- 3.1. The Council must appoint at least one independent person.
- 3.2. The composition of the interview panel is discretionary.
- 3.3. The appointment of co-opted members to Standards Committee is entirely discretionary.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None

5 TIMETABLE

- 5.1. Advertisements will be placed in April 2015 with a closing date of 30 May. Shortlisting and interviewing will take place in June. Council will agree appointments at its meeting on 8 July.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Independent persons and co-opted members of the Standards Committee are paid £100 per meeting. The recommendations in this report will not lead to any increase in the overall budget for allowances.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. See body of the report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None specific to this report.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None specific to this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None specific to this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- none

12 BACKGROUND PAPERS

- 12.1. None

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Committee: Standards Committee

Date: 26 February 2015

Wards: All

Subject: Regulation of Investigatory Powers Act Authorisations

Lead officer: Karin Lane, Head of Information Governance

Lead member: Councillor Peter McCabe, Chair of Standards Committee

Contact officer: karin.lane@merton.gov.uk

Recommendations:

- A. That members note the purposes for which investigations have been authorised under the Regulation of Investigatory Powers Act (RIPA) 2000.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To inform members about investigations authorised since October 2014 under RIPA.

2 DETAILS

- 2.1. The council has a number of statutory functions that involve officers investigating the conduct of others with a view to bringing legal action against them. These functions include investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, contraventions of trading standards, licensing and food safety legislation.
- 2.2. Whilst the majority of investigations are carried out openly, some investigations must be carried out using covert surveillance techniques or involve the acquisition of communications data. Communications data is information about the times of calls or internet use and the location and identity of the callers, but not the content of the calls or details of the websites viewed.
- 2.3. RIPA regulates the authorisation and monitoring of these investigations to safeguard the public from unwarranted intrusion of privacy.
- 2.4. With effect from 1 November 2012, the Protection of Freedoms Act 2012 requires local authorities to obtain the approval of a magistrate for the use of covert surveillance.
- 2.5. In line with the revised Code of Practice, reports detailing the use of RIPA are submitted to Standards Committee on a quarterly basis.
- 2.6. Since October 2014, covert surveillance has been authorised on one occasion for Trading Standards and the age related sales of fireworks. However, the planned activity did not go ahead due to staff shortages.
- 2.7. Since October 2014, there have been no requests for CCTV footage for RIPA investigations.
- 2.8. No RIPA authorisations have been rejected by the Magistrates Court.

2.9. Since October 2014, no applications have been made for the acquisition of communications data.

3 ALTERNATIVE OPTIONS

3.1. The report is for information only.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. No consultation has been undertaken regarding this report.

5 TIMETABLE

5.1. N/A.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. None.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. All investigation using covert surveillance techniques or involving the acquisition of communications data is in line with the Regulation of Investigatory Powers Act 2000.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. RIPA was introduced to regulate existing surveillance and investigations in order that they meet the requirements of Article 8 of the Human Rights Act. Article 8 states:

1) Everyone has the right for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

9 CRIME AND DISORDER IMPLICATIONS

9.1. RIPA investigations are authorised for the prevention or detection of crime or the prevention of disorder.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

11.1. None.

12 BACKGROUND PAPERS

12.1. None.