



Walsall Council

Standards Committee

Monday 31st January, 2023 at 6.00 p.m.

at the Council House, Walsall

Public access to meeting via: www.walsallcouncilwebcasts.com

MEMBERSHIP:

Councillor P. Kaur (Chair)
Councillor Burley (Vice-Chair)
Councillor Allen
Councillor Andrew
Councillor Follows
Councillor James
Councillor Lee
Councillor Nazir
Councillor Towe
Councillor Young

Independent Persons:

Mr A. Green
Deborah Mardner
Carl Magness

Quorum:

Four Members

A G E N D A

1. Apologies
2. Substitutions
3. Declarations of Interest
4. **Local Government (Access to Information) Act, 1985 (as amended)**:

To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
5. Minutes of the previous two meetings - *Attached*
6. Review of Planning Protocol Guidance – *Attached*
7. Standards of Conduct for Senior Officers – *To follow*
8. Members Criminal Record Checks – *Attached*

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Monday 11 July, 2022 at 6.00pm.

In a Conference Room at the Council House, Walsall

Members Present

Councillor Kaur (Chair)
Councillor Burley (Vice-Chair)
Councillor Andrew
Councillor Elson
Councillor Lee
Councillor Nazir
Councillor Young

Officers Present

Mr A. Cox - Director of Governance
Mr N. Picken - Principal Democratic Services Officer
Ms S. Lloyd - Democratic Services Officer

18/22 Apologies

Apologies for absence were received on behalf of Councillor James, Councillor Lee, Mr A. Green and Mr C. Magness.

19/22 Substitutions

There were no substitutions.

20/22 Minutes

Resolved

That the minutes of the meeting held on 5th April, 2022 be approved and signed by the Chairman as a correct record.

21/22 Declarations of Interest

There were no Declarations of Interest.

22/22 Local Government (Access to Information) Act, 1985 (as amended)

There were no items for consideration in private session.

23/22 **Role of Standards Committee**

The Director of Governance referred to the remit of the Committee, which had been circulated at the meeting.

He explained that Walsall had made the decision to maintain a separate Standards Committee to promote and uphold good standards in public life when the new standards regime was introduced by the Localism Act 2011. He highlighted that some Councils had amalgamated Standards within Audit Committees but, on balance, it was important to have a separate meeting to focus on standards. In closing, he welcomed feedback from members of the committee on the remit to ensure that it remained fit for purpose and committed to bring a further report to the October meeting.

In response to a question relating to approach to Standards adopted by other authorities, the Director of Governance advised that when reviewing the remit of Standards in Walsall, he had looked at a number of other Councils. Of the 13 authorities reviewed only one had merged standards with audit. In addition, with regards to frequency of meetings, the majority met on a quarterly basis.

Resolved

That:-

1. A further report on the role and remit of Standards Committee be added to the work programme for the October 2022 meeting; and
2. Future reports include comparison and examples of best practice.

24/22 **Member Complaints**

A report was submitted in respect of complaints received by the Monitoring Officer concerning allegations made about breaches of the Council Code of Conduct by Elected Members 2021/22

(See annexed)

The Director of Governance confirmed that the information was provided on an annual basis and advised that, at the request of an independent member, the time each complaint took to assess a complaint would be included in future reports as it was important to be transparent. He clarified that there was no further right of appeal against an assessment of complaints as it was designed to be an efficient process. However, the decision by the Director of Governance could be challenged by way of Judicial Review or complain to the Local Government Ombudsman. He explained that the Council had Independent Persons, a statutory requirement under the Localism Act 2011 that were consulted before a decision is reached in relation to an assessment.

It was highlighted that Mr Green had suggested that the annual report include a breakdown of decisions that independent persons agreed or disagreed with an assessment and that this would be included in future.

The Committee were informed that there had been 9 complaints over the preceding 12 months, some of which had been one issue with multiple complaints. Having investigated, there had been no breaches of the Code of Conduct. It was also mentioned that member to member complaints do occur, but these were not a common occurrence at Walsall. In terms of the use of external persons to assess reviews, this had been used for 2 of the complaints submitted as this provided an additional tier of independence.

In response to a question regarding the appointment and allowances for Independent Persons, the Director of Governance confirmed that the term of office was 4 years, via an interview process and approved by Council. Many authorities struggled to appoint Independent Persons and so Walsall agreed to pay a small allowance which had enabled the Council to recruit further individuals.

A discussion ensued about the level of detail provided in terms of each complaint. The Director of Governance agreed to provide further detail in future reports.

Resolved

That a report detailing the source of complaints and broad nature of them be submitted to the October meeting.

25/22 Maternity Provisions for Elected Members

A report was submitted in respect of a proposed policy is to ensure that insofar as possible Elected Members are able to take appropriate leave at the time of birth or adoption; that both parents are able to take leave; and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

(See annexed)

Members supported the Policy and agreed, at the suggestion of the Director of Governance, that a working group be established to help develop the Policy prior to its submission to Council for approval. The Director of Governance welcomed this and confirmed that Mr Green had advised that he wished to form part of the working group and had made several suggestions to aid its development.

A member asked about the impact of such a Policy should there be a hung Council. The Director of Governance advised that it would be a matter for each member to determine as to whether to attend a meeting but this would

be considered further during Policy development. In relation to further questions regarding whether the Policy would be compulsory or a matter of choice and whether fostering and adoption would also be considered, the Director of Governance confirmed that it would be a matter for each individual to decide and that adoption and fostering would be considered during the policy development stage.

Resolved

That a working group be established to develop a Maternity Policy consisting of the following:-

- Cllr Young
- Cllr Andrew
- Cllr Burley
- Cllr Kaur
- Andy Green

26/22 Work Programme

The Chair confirmed that she would develop a work programme with the Director of Governance and circulate it to the Committee. In doing so, it was requested that members attendance at meetings be included.

The Director of Governance agreed to circulate the previous years work programme together with the draft work programme for the 2022/23 municipal year.

Resolved

That:-

1. The attendance of members at meetings be included within the work programme 2022/23: and
2. The Director of Governance circulate the draft work programme for 2022/23 together with the work programme for 2021/22.

There being no further business, the meeting ended at 18.26

Signed.....

Date.....

Standards Committee

Tuesday 24 October, 2022 at 6.00pm.

In a Conference Room at the Council House, Walsall

Members Present

Councillor Kaur (Chair)
Councillor Burley (Vice-Chair)
Councillor Allen
Councillor Elson
Councillor James
Councillor Lee
Councillor Nazir
Councillor Towe
Councillor Young

Independent Persons Present

Mr A. Green
Mr C. Magness

Officers Present

Mr A. Cox	-	Director of Governance
Mrs V. Buckley	-	Head of Finance – Strategic Planning & Assurance
Mr M. Halliwell	-	Assurance Lead Officer – Strategy, Change and Performance
Ms S. Lloyd	-	Democratic Services Officer

27/22 Apologies

Apologies were received from Councillor Andrew and Ms. S Gulzar.

28/22 Substitutions

There were no substitutions.

29/22 Declarations of Interest

There were no Declarations of Interest.

30/22 Local Government (Access to Information) Act, 1985 (as amended)

There were no items for consideration in private session.

31/22 Local Government and Social Care Ombudsman – Annual Review 2021/22

The Assurance Lead Officer presented a report regarding the information received from the Local Government and Social Care Ombudsman (LGSCO) in relation to the number and range of complaints referred by them to the Council during the financial year 2021/22. It was noted that there were 41 complaints received by the LGSCO in the last financial year with regard to Walsall Council but not all of these progressed to full investigations. The Assurance Lead Officer advised that of the nine complaints that did proceed to investigation stage, six were at least partially upheld, which was close to an average percentage for similar organisations. He informed the Committee that in 100% of cases the Council had satisfied the LGSCO that it had successfully implemented their recommendations within the directed timescale and that no major concerns had been raised by the LGSCO in relation to any directorates as a result of the complaints received.

Following questions from Members of the Committee the Assurance Lead Officer clarified that his role ended at the end of the LGSCO stage and he was not aware of any specific process for following up changes to policies after any investigations by the LGSCO. The Director of Governance added that this could be considered as part of the review of the remit of Standards Committee. Members asked further questions regarding the age and demographic of those who were raising complaints.

Resolved

That the report be noted.

32/22 Report of Grant Thornton Lesson from Public Interest Report and Other Intervention

The Director of Governance presented the Grant Thornton report to the Committee, explaining that it considered malpractice and serious interventions needed in local government across the UK in order to provide lessons learnt and advice to councils how to avoid any such issues occurring. He highlighted that many of the suggestions related to culture and behaviour at councils, in particular the relationships between officers and Members.

Members of the Committee commented that as there was a specific section in relation to Audit Committee it would be beneficial for them to also consider what lessons can be taken from the report. They also requested clarification on the zero tolerance approach for inappropriate behaviour which the Director of Governance advised was the way in which people are held to account using the Code of Conduct and governance procedures that were in place.

It was emphasised by Members of the Committee that Walsall should take a positive and proactive approach to ensuring that the content of the report is analysed and implemented wherever required.

Resolved

That:

1. **The report be noted;**
2. **The report also be recommended for consideration by Audit Committee; and**
3. **The Director of Governance circulate a copy of the Grant Thornton report to all Elected Members.**

33/22 Review of Terms of Reference/Remit of Standards Committee

The Director of Governance provided a report to the Committee in respect of the remit of the Standards Committee. He advised that the remit of all committees were considered on an annual basis as part of the governance review which culminated in a report to annual council, but this was not an in-depth review and the last amendments to the remit of Standards Committee had been made in May 2019.

The Director of Governance provided remits of Standards Committees at other Local Authorities for reference and explained that some councils had amalgamated the standards function with the audit function in terms of committee but Walsall Council had previously opted to have a distinct Standards Committee to emphasise the importance of Standards to the operation of the Council and he believed this was preferable.

Resolved

That:

1. **The report be noted; and**
2. **The Committee establish a working party consisting of Councillors Burley, Lee and James and Mr A. Green to review the remit of the committee to ensure that it is fit for purpose and report back to the next meeting of Standards Committee.**

34/22 Update on Member Complaints

The Director of Governance presented a report on complaints in relation to Members which had been requested by the Committee at a previous meeting, noting that some details had to be removed for confidentiality purposes. He

highlighted that a larger proportion of the complaints were in relation to Planning Committee which was thought to be in part due to its adversarial nature where usually one party does not obtain the outcome that they wished. The Director of Governance added that this highlighted the need for members to be sensitive about comments they make before, during and after such meetings due to the potential for allegations to be made against them.

In regard to the timescale it was noted that many complaints were taking longer than the 20 working days target, particularly those that involved external solicitors or legal experts. The Director of Governance stated that he believed that it was important however to retain this figure as aspirational.

Following questions from Members of the Committee the Director of Governance advised that there can be a number of reasons that an external solicitor becomes involved in cases including benchmarking, ensuring independence in the review and to expedite the process. He also explained that annual training was mandatory for members on Planning Committee and this training did make reference to bias and predetermination due to the nature of this meeting although further training on this point could be considered as it is a complex area.

Resolved

That the report be noted.

35/22 Review of Work Going To Standards Committee

Following a request at the meeting of Standards Committee on 11th July the Director of Governance presented an item in relation to the previous work undertaken by the Committee and benchmarking the frequency, type of work and volume of work before standards committees at other councils. He advised that in reviewing other councils Standards Committees the frequency of meetings would appear to be in general once per quarter and this meant Walsall was in line with other authorities.

Resolved

That:

- 1. The report be noted; and**
- 2. Standards of Conduct for Senior Officers and Members DBS Checks be discussed at the next meeting of the Standards Committee.**

36/22 Date of next meeting.

It was noted that the date of the next meeting would be the 31st January 2023.

There being no further business, the meeting ended at 7.21pm.

Chair

Date

Review of Planning Protocol Guidance

Summary of report:

The report is to provide information to Elected Members on recent planning case law and the government's indication of its intention to make changes to planning law, both of which necessitates the need for the Council to review its Planning Protocol Guidance.

Background papers:

None

Recommendation:

To note the content of the report.

1.0 Background

- 1.1 In accordance with best practice the Council has as part of its constitution the Planning Guidance Protocol (PPG) which was approved in June 2014 by full Council. The PPG provides advice and guidance to elected members and officers involved in the planning process.
- 1.2 Since the PPG was last updated there's been a number of significant changes that necessitate a review of it, a brief summary of which is set out below.
- 1.3 The law requires that decision-making on planning applications is a plan led system of development control as per the Town & Country Planning act 1990. Further. Under the Planning and Compulsory Purchase Act 2004 the government issued planning guidance and policy, previously these were known as Planning Policy Guidance Notes. Over time these have been replaced by a new planning policy system called the National Planning Policy Framework (NPPF).
- 1.4 The NPPF sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and it is a material consideration in planning decisions.

- 1.5 The government has recently made a number of changes to the NPPF, which necessitates a review of the Councils PPG. In addition, part of the NPPF reflected the U.K.'s membership of the European Union, at the time, by implementing European law into UK law, some of which is applicable in the planning decision-making process such as the Habitats Directive as reflected in the Habitats Regulations 2017. At the time of leaving the European Union transitional legislative provisions carried over European Law to enable the government to have time to review the legislation. The government has announced as part of the Levelling up and Regeneration Bill that elements of European Law that are applicable to the planning process are to be reviewed and replaced, the details of which have yet to be announced but are expected soon.
- 1.6 In November 2022 the High Court handed down a significant decision relating to planning decisions and bias/predetermination. A charity, the Campaign to Protect Rural England (CPRE) brought judicial review proceedings challenging a District Council's decision to grant planning permission for some buildings to store carnival floats. CPRE argued that the decision was unlawful because two of the councillors who had voted in favour of the scheme when it was before the Council's planning committee were involved with other organisations which supported the scheme, meaning they were either biased or should be held to have predetermined the application. The court held that, a fair-minded observer would consider that there was a real possibility of bias. Accordingly, the court quashed the planning decision. This further necessitates a review of the Councils Planning Guidance Protocol.
- 1.7 In terms of timelines, whilst it is proposed that the review be commenced now, to enable the review to respond swiftly to any changes, to some extent it has to be acknowledged that the timescales will be influenced by the reshaping of government policy around European law and its implications for English planning law. As set out above to date the government has not set out the details of the proposed changes but they are anticipated to be publicised, in draft, soon.

2.0 Resource and legal considerations:

- 2.1 None directly related to this report. The review will be managed within Legal and Democratic Services from existing resources.

3.0 Performance and Risk Management issues:

- 3.1 Performance and risk management are a feature of all Council functions. It is important that Council policies and procedures are reviewed and updated on a regular basis. If the Council fails to do this there is an increased risk that the Council will be subject to legal challenge or litigation.

4.0 Equality Implications:

- 4.1 In maintaining up to date policies and procedures the Council will ensure that services are delivered fairly in an open and transparent manner and complying with its equality duties. It is important that planning matters are dealt with in compliance with these principles, the PPG assists Elected Members and officers to do so.

5.0 Consultation:

- 5.1 There is no requirement to directly consult on this report.

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Update on Member Criminal Record Checks

1. Aim

- 1.1 To provide a position statement on uptake of criminal record checks for elected members following a decision by Council in 2016 for all Members to undergo a criminal record check at least every four years.

2. Summary

- 2.1 This report is to present to Standards Committee, for information, an up-to-date situation in relation to Members criminal record checks and the uptake thereof. At the time of writing 29 Members had a valid basic or enhanced criminal record check, two were awaiting the results of their check and the remaining 29 Members did not have a valid check within the last four years.

3. Recommendations

The committee is recommended:

- 3.1 to review the information available;
- 3.2 to comment upon any assistance that could be provided to Members to complete regular criminal record checks;
- 3.3 that a further report be received by the committee in six months' time.

4. Report Detail - Know

- 4.1 As part of a desire to maintain transparency and high standards of behaviour Council agreed at its meeting on 25th May 2016 to ask all Members to undergo criminal record checks at least every 4 years and to make an annual declaration to the Monitoring Officer in the intervening years on any changes to their criminal record. This decision was made following a recommendation of the Standards Committee which had investigated methods to improve accountability and protection of Members as a result of concerns that arose out of multiple national abuse enquiries.
- 4.2 Dependant on their Committee membership Members are asked to either complete a basic disclosure or an enhanced DBS (Disclosure and Barring Service) check. It was agreed by Council that members of a committee or panel or portfolio holders that manage issues relating to children should have further accountability and protection through the enhanced process.

- 4.3 Members are only required to complete these applications every four years. As of 20th January 2023 there are 29 Members who have a valid basic or enhanced criminal record check which has been registered by the Monitoring Officer. Currently 3 Members have submitted their criminal record check applications and are awaiting the results of their check.
- 4.4 In the intervening years Members are also asked to confirm, in the form of an annual declaration, if there have been any changes to their criminal record since their last check was conducted. As of 20th January 2023 there are 9 Members out of a possible 24 who have duly completed this form.
- 4.5 This leaves 31 Members who do not have a valid criminal record check because either they have not completed the process or more than four years have passed since the last time they did. All of these Members were contacted on 29th December 2022 and informed. As mentioned above two of these Members have completed the process and are awaiting their results.
- 4.6 The criminal record check process consists of completing an online form and providing 3 forms of identification from a list of acceptable ID which is circulated to all Members by email when requesting that they complete the check. The identification is to be brought into the Democratic Services Team to be scanned and verified. If it is not provided within 6 months of the online form being completed the form expires and a new form will have to be completed.
- 4.7 Members are requested on a six-monthly basis to take any required action in relation to their criminal record check. The last such emails were sent out on the 29th December 2022, requesting that Members take any relevant action before the 20th January 2023 for inclusion in this report.
- 4.8 If Members require any further assistance with the process Democratic Services Officers can respond to any queries by phone or email or schedule an appointment to complete the online form with the Member.
- 4.9 Once the criminal record check has been successfully completed the certificate is sent to the Member at their home address. This process can take up to 15 working days.

5. Financial information

- 5.1 A single basic disclosure check costs £24.47 and an enhanced disclosure check costs £40.22.

6. Legal implications

- 6.1 The Council is not legally required to undertake criminal record checks of all Members but as stated above doing so provides Members with further

accountability and protection whilst also maintaining transparency and high standards of behaviour.

7. Decide

- 7.1 The committee is asked to review the information available and is invited to comment upon any improvements that could be made to assist Members in completing the process.

8. Respond

- 8.1. The Monitoring Officer and Democratic Services team will continue to request Members complete any required actions in relation to their criminal record checks on a six-monthly basis. The Monitoring Officer will register all criminal record checks received.

9. Review

- 9.1 It is recommended that the committee continues to monitor the status of Members' criminal record checks.

Tony Cox

Director of Governance

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