



Standards and Audit Committee

Wednesday 29 September 2010 7.30pm

**Committee Room
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors A Alderson, J Broadhead, R J Edis, Mrs C E Gant and A P Tollett

Additional Non-Elected Members of Standards and Audit Committee

Mrs C A Spurling (Vice-Chairman) and Mr S Tully (Chairman)

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant "background papers" are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Administration and Leisure Department, Committee Section, Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk).**
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LIST OF MATTERS FOR CONSIDERATION

PART I

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PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Items

Exempt Appendix 'A' to Item 5: Internal Audit – Recommendations Progress Report

b) Confidential Items

(No items to be considered under this heading).

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions, which set out the procedures to be followed in the event of fire or other emergency.

2. MINUTES

To confirm and sign the Minutes of the Meeting held on 8 June 2010 which were included in the July 2010 Minute book previously circulated.

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

If Members have an interest in an item, please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests, which are recorded in the Minutes to be considered at this meeting, need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

5. INTERNAL AUDIT – RECOMMENDATIONS PROGRESS REPORT (DF)

(Ref: Minutes of Standards and Audit Committee, June 2010, page 47, para 65)

1. **Purpose of Report**

1.1 **The purpose of this report is to review the recommendations made in audit reports issued, and the progress made in their implementation.**

2. Background Information

2.1 Since the Standards and Audit Committee was created, established practice has been to report the status of current audit recommendations to each meeting of the Committee.

2.2 The previous report was made to the last meeting of this Committee in June 2010.

3. Progress in Implementing Audit Recommendations

3.1 Previously reported recommendations, where progress has been made in their implementation, together with recommendations made in more recent audit reports, are tabled in Exempt Appendix 'A'.

3.2 The audits are listed in order of the audit opinion determined by the conclusions formed from conducting each audit. The opinions range from 'good' to 'critical' and a definition of each appears on the last page of Exempt Appendix 'A'.

3.3 Most of the outstanding recommendations from internal audit reports issued prior to 2009/10 have now been cleared. The few that remain outstanding are either being implemented or pursued by Internal Audit.

4. Legal Implications

4.1 Internal Audit is conducted as part of the authority's duty to make proper arrangements for the administration of its financial affairs under the Local Government Act 1972 (Section 151). It is specifically required and governed by the Accounts and Audit Regulations 2003 (as amended in 2006 and 2009).

4.2 Regulation 6 of the Accounts and Audit (Amendment) (England) Regulations 2006 provides that a relevant body shall:

‘.....maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control.

Any officer or member of a relevant body shall, if the body requires:

- a) make available such documents of the body which relate to its accounting and other records as appear to that body to be necessary for the purposes of the audit;
and
- b) supply the body with such information and explanation as that body considers necessary for that purpose.’

4.3 The Regulations state that the ‘relevant body’ is responsible for maintaining the Internal Audit system, rather than any one specific officer. It is not possible to delegate this responsibility but in managerial terms it is exercised in Runnymede through the Director of Finance.

OFFICERS' RECOMMENDATION that –

the Committee expresses satisfaction with the matters identified and the action taken to date.

(TO RESOLVE)

Background Papers

Internal Audit reports (exempt)

6. REVIEW OF THE EFFECTIVENESS OF THE SYSTEM OF INTERNAL AUDIT (DF)
(Ref: Minutes of the Standards and Audit Committee, February 2010, page 570, para 577)

1. Purpose of Report

1.1 **The purpose of this report is to review the effectiveness of the Council's internal audit in order to provide additional supporting evidence for the Statement of Internal Control which forms part of the Statement of Accounts.**

2. Background Information

2.1 Regulation 4 of the Accounts and Audit Regulations (2003) requires the Council to conduct a review at least once a year of the effectiveness of its system of internal control and publish a statement on internal control (SIC) each year with its financial statements.

2.2 A requirement in the Accounts and Audit (Amendment) Regulations 2006 is for the Council to review the effectiveness of its system of internal audit once a year and for the findings of the review to be considered by a committee or by the Council as a whole, as part of the consideration of the system of internal control referred to in Regulation 4.

3. Report

3.1 Officers believe that a review of the effectiveness of internal audit needs to consider the following questions:-

- do the managerial and reporting arrangements provide an appropriate environment for an effective internal audit to operate?
- are the resources adequate?

- does internal audit make an effective contribution to the Council's systems and controls?
- does the organisation give sufficient weight to the work of internal audit? (does the organisation respond effectively to audit recommendations?)
- is internal audit subject to regular operational reviews by an appropriate committee that will ensure the organisation responds with integrity to reports that are intended to minimise the opportunity for error and fraud?
- how do the operational and committee arrangements compare against external standards and best practice?

- 3.2 Consideration of these issues is integral to the business of the Standards and Audit Committee. An exercise formally badged as a 'review of the effectiveness of internal audit' was first considered by Corporate Management Committee in June 2007 where the Statement of Internal Control was also being reported. The exercise was later reported to the Standards and Audit Committee, where it was agreed that subsequent reports for future reviews would be considered.
- 3.3 As in previous years, this review has been conducted by the Directors' Management Team. The Department of Communities and Local Government (DCLG) issued guidance on the amendment Regulations and this cites the *CIPFA Code of Practice for internal audit in local government in the United Kingdom* as proper practice in relation to internal audit. The approach adopted by the team has drawn heavily on the code of practice, using a checklist reproduced from the code. In addition, another CIPFA publication *Audit Committees – Practical Guidance for Local Authorities* includes a self-assessment checklist for measuring the effectiveness of an audit committee. These checklists are reproduced at Appendices 'A' and 'B' where the findings of the team are detailed against each point. With regard to Appendix 'A', it should be noted that the numeric references have been taken directly from the Code. Some of those references are duplicated; some references are missing from the numeric sequence.
- 3.4 Directors believe that internal audit operates effectively at Runnymede and that there are no significant points (itemised in Appendices 'A' and 'B') where organisational practices depart from the Code. Directors have identified two practices which do not comply strictly with the Code (indicated with the answer 'No' in the Appendices). In both cases Directors have taken the view that the departure from the Code is not a cause for concern. The two practices are:-
- i) *Appendix 'B', Does the Committee input into the external audit programme?*
Comment: Although this has not occurred, there is no impediment to any input.
- ii) *Appendix 'B': Private meetings of the Standards and Audit Committee with the external auditor and the Chief Internal Auditor*
Comment: There have been no private meetings with the external auditor but this has never been requested either by the Committee or the Audit Commission. The Committee usually considers part of the Chief Internal Auditor's reports in the confidential part of the agenda and this could equally apply to any matters that the external auditor wished to raise.

4. Legal Implications

- 4.1 Regulation 6 requires the Council to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices. It is the responsibility of the local authority to conduct the annual review of its internal audit. The external auditor should not be relied on to undertake this task, although the external auditor can be expected to consider the Council's review as part of the annual audit.

OFFICERS' RECOMMENDATION that –

the review of the effectiveness of internal audit be approved.

(TO RESOLVE)

Background Papers

Department for Communities and Local Government, Circular 03/2006, Guidance on the Accounts and Audit Regulations 2003, 18 August 2006.

CIPFA, 'Code of Practice for internal audit in local government in the United Kingdom', 2006.

CIPFA, 'Audit Committees: Practical Guidance for Local Authorities', 2005

7. DATA MATCHING (DF)

(Ref: Minutes of the Standards and Audit Committee, February 2010, page 571, para 578)

1. Purpose of Report

1.1 **The purpose of this report is to update the Committee with the latest outcomes and costs of the 2008 Data Matching exercise.**

2. Background Information

2.1 The Audit Commission runs a data matching exercise as part of a National Anti Fraud Initiative (NFI). The Council participates in this exercise, which to date has been a biennial event.

2.2 When the NFI commenced in 1996, the objective was to combat Benefit fraud. Since then, the scope has been broadened to cover fraud in a wide range of public services. Data sets are now provided by a number of public sector organisations (normally every two years) and matched against each other to identify e.g.

- employees of public sector organisations not having UK visas,
- tenants exercising their Right to Buy who are in receipt of Benefit or have rent arrears,
- duplicate payments,
- fraudulent
 - benefit claims,
 - pension payments,
 - insurance claims,
 - parking permits.

2.3 It must be stressed that a data match does not necessarily mean that a fraud has been committed. At this stage, the output from the exercise has simply reported that there are two or more records in two systems where the details (e.g. a name, address or date of birth) are the same. Where there is a data match the onus is on the participating organisations to investigate the reasons for the match to establish whether or not there is any evidence of fraud or error.

3. Report

3.1 For the 2008 Data Matching exercise, Runnymede supplied the following information:

- Payroll
- Trade creditors
- Housing – rents
- Housing – sold Council houses
- Transport passes for the concessionary travel scheme
- Licences - Taxi drivers
- Personal licences to supply alcohol
- Council Tax

- Electoral Register

- 3.2 In addition, the Council's insurers supplied data relating to insurance claimants and the Department for Work and Pensions (DWP) provided Benefits data.
- 3.3 Following the initial work, the Audit Commission requested a second set of data from both the Electoral Register and Council Tax system. The matches identified were added to those already reported for the 2008 exercise.
- 3.4 That exercise is now complete, with the following results:

	Matches	Frauds		Errors	
	Reported & Investigated*	No.	Value	No.	Value
Benefits	558	5	£23,995.31	5	£8,774.18
Payroll	70				
Housing Rents	18				
Creditors	781			1	£16.63
Concessionary Fares	143				
Council Tax	637			114	£57,030.74
Council Tax 2 nd run	445			26	£7,458.81
Total	2,652	5	£23,995.31	146	£73,280.36

*From the work carried out on the creditor matches, 260 items were considered too low risk to warrant investigation.

- 3.5 The £16.63 creditors error related to a VAT error on the part of a supplier. Recovery action is being taken for the Benefit overpayments and Council Tax underpayments identified, though it must be noted that this does not guarantee full payment will be received.
- 3.6 In the case of Benefit claimant errors and frauds, the Council retains all the money recovered and also receives 40% of the total overpayment amount in the form of additional subsidy. All five 'errors' tabled above are claimant errors.
- 3.7 Action is being taken in respect of the frauds identified, which in two cases involves prosecution.
- 3.8 Recovered Council Tax will initially benefit Runnymede by approximately 9% of the actual income received, with Surrey County Council and Surrey Police receiving the rest (77% and 14% respectively). Ultimately Central Government will be the beneficiary.

4. Financial Implications

- 4.1 Resources required for the 2008 exercise are as follows:

	Tasks	Resources required
Staff time	Downloading data and uploading to the NFI secure website	5 days
	Investigating matches	62 days <i>(see note 1 below)</i>
	Scanning	1.4 days
External resources	Additional costs e.g. paying software suppliers to download data	£650 for travel pass data
	Council Tax postage costs	£330 <i>(see note 2 below)</i>
Key contact (Chief Internal Auditor)	Co-ordinating and liaising with Officers and NFI	31 days

Note 1 – this table does not include the time spent by Benefit Fraud Officers investigating matches passed to them for further investigation as this is considered to be fraud work rather than NFI work.

Note 2 –As reported to a previous meeting of this Committee, it is estimated that the routine Single Person Discount review that would normally have been carried out, would have resulted in costs of approximately £7,000.

4.2 In addition to the resources shown in the above table, the Audit Commission charges a fee of £2,000 for the data matching exercise. This forms part of the fee that the Council pays for its external audit.

5. Legal Implications

5.1 Section 32 of the Serious Crime Act 2007 gives the Audit Commission the power to require a body to provide such data as they may reasonably require for the purpose of data matching. Failure to comply with their request without reasonable excuse is a criminal offence.

5.2 A Code of Practice has been approved by Parliament which assists data matching participants balance this with the requirements of the Data Protection Act.

5.3 Regard must be had to the Code of Data Matching Practice when participating in such data matching exercises. Processing personal data engages Article 8 of the EC on Human Rights, which deals with the right to respect for private and family life and the home. This means that any data processing must be in accordance with the law and proportionate.

(FOR INFORMATION)

Background Papers

Further information can be obtained from the following websites:

www.runnymede.gov.uk/DataMatching

www.audit-commission.gov.uk/nfi

8. RISK MANAGEMENT (DF)

(Ref: Minutes of Standards and Audit Committee, September 2009, page 289, para 304)

1. Purpose of Report

1.1 **The purpose of this report is to advise the Committee of progress in implementing the Council's Risk Management Strategy and updating the risk register.**

2. Background Information

2.1 The Risk Management Strategy was last revised and approved by this Committee in September 2009.

2.2 The strategy requires the Council to:-

- identify the risk of events occurring that will threaten the achievement of desired objectives;
- put controls in place to prevent these risks occurring or to mitigate their impact;
- document and prioritise the residual risks;
- produce an action plan to address any residual risks that are unacceptable;
- review the controls that are being operated; and
- report to Committee at least annually on key risks and the way in which the strategy has been implemented.

- 2.3 During the past year, the Directors' (Chief Officers') Management Team has co-ordinated the production of a risk management action plan and monitored the steps taken to control the Council's risks.
- 2.4 The latest annual review of the Council's strategic risks was undertaken in August 2010. This involved a workshop of senior Officers and followed the format adopted in previous years. A report on the outcome of the exercise is reproduced at Appendix 'C'.

3. Report

Annual review of strategic risks

- 3.1 The July review identified 26 corporate risks compared with 29 on last year's risk register (7 risks were removed and 4 new risks recorded). Full details are set out in Appendix 'D'. Officers have scored each risk against the matrix adopted by the Council in its Risk Management Strategy. A diagram of the Council's risk profile, illustrating where each of the risks has been plotted on the matrix and their relationship to the Council's risk appetite, is shown on page 6 of Appendix 'C'.
- 3.2 Chief Officers have compiled an action plan for each of the 12 risks that lie outside the Council's appetite for risk.

Annual review of implementing the risk management strategy

- 3.3 Chief Officers have reviewed the Risk Management Strategy and believe this continues to reflect the Council's business needs. Some minor textual amendments were approved by the Committee last year and Officers do not consider that any further changes are required at this stage. The strategy can be viewed on-line at Appendix 'D' of the agenda of last year's Committee meeting held on 30 September 2009.

Training

- 3.4 The Safety Advisor (an Officer in the Technical Services Department) organises municipal safety training throughout the year to address operational risks faced by each department.
- 3.5 The following courses have taken place over the past twelve months:-

Course Name	Course duration (hours)	Number of courses held	Number of staff attended
Induction Training	4 hrs	5	25
Induction Training (Leisure Centres)	3 hrs	6	28
COSHH* training (Leisure Centres)	1 hr	2	5
Legionella Awareness Training (Leisure Centres)	1 hr	2	5
Fire Warden Training	1 hr	1	2
Refresher training for Cleaner (general health and safety training)	2 hrs	1	1
Refresher training for Halls Staff (general health and safety training)	3 hrs	1	7
HAVS** & Noise Awareness for Grounds Staff	2 hrs	2	8
HAVS** Management for Managers	2hrs	1	3

Course Name	Course duration (hours)	Number of courses held	Number of staff attended
Risk Assessment Training for Housing Maintenance Staff & Contractors	2 Hours	2	23
Risk Assessment Training for Managers	2 hrs	3	24
Fire Awareness Training for Playscheme Staff	1 hr	1	26
Manual Handling Training and Assessment (DSO Refuse and Street Cleansing)	16 hrs Mixed classroom and on the job.	Individual crew training and assessment	39
Construction Design and Management Regulations 2007 "Effective CDM Co-ordination"	3 days (external trainer)	1	13

* COSHH – Control of substances hazardous to health

**HAVS – Hand-Arm Vibration Syndrome, aka Vibration White Finger.

(FOR INFORMATION)

Background Papers

None.

9. STATEMENT OF ACCOUNTS 2009/10 AND AUDITOR'S ANNUAL REPORT TO THOSE CHARGED WITH GOVERNANCE (DF)

(Ref: Minutes of Standards and Audit Committee, September 2009, page 290, para 305 and Corporate Management Committee, June 2010, page 122, para 141)

1. Purpose of Report

1.1 **The purpose of this report is to present the Committee with the Statement of Accounts and the report to those charged with governance issued by KPMG following the conclusion of their audit of the financial statements for the year ended 31 March 2010.**

2. Background information

2.1 The Statement of Accounts was approved by the Corporate Management Committee on 30 June 2010. KPMG commenced their audit of the statements on 12 July 2010. There were no significant changes to the Statements. However, a small number of minor amendments were identified by KPMG (listed in the auditor's report) and improvements to format and clarity of wording were made, where appropriate, during the course of the audit. The Statements are very lengthy and have been reproduced for Members of the Committee only and circulated separately with this agenda. They were published with the Corporate Management Committee agenda for the meeting on 30 June and are on the Council's web-site at <http://www.runnymede.gov.uk/portal/site/runnymede/menuitem.790b33f78853d6a6bf12d754af8ca028/>.

2.2 The Council's appointed auditor is Andrew Sayers, a Partner of KPMG, and the day to day management of the audit was co-ordinated by Rebecca Pett, a Manager at KPMG, who presented their report to the Corporate Management Committee on 2 September. The report was published with the agenda of the Corporate Management Committee. A copy of KPMG's report has been circulated to Members of this Committee only.

3. Report

- 3.1 The Statement of Accounts for the 2009/10 financial year and the Auditor's report are presented for consideration by this Committee so that Members can be satisfied that the Council has adequately discharged its reporting and governance responsibilities.
- 3.2 In order to meet the deadline for reporting to the Corporate Management Committee, KPMG's report was published without a response to the audit recommendation on page 22. The recommendation together with the management response subsequently provided to KPMG is set out below.

Independent review of amendments to standing data

Observation

Due to the size of the finance team changes to payroll data, payroll exception reports and changes to supplier details are not independently reviewed.

Risk

Incorrect/fraudulent amendments may not be identified.

Recommendation

The Authority should consider implementing periodic spot checks of changes to payroll and supplier data

Management Response

The payroll and payment of suppliers are administered in a small section comprising 2.5 fte staff. This inevitably creates challenges in establishing an absolute separation of duties. The risks have to be balanced against the cost of imposing additional procedures. Payroll controls currently in place include the reconciliation and verification of payroll control totals by the Accountancy Section, the monthly random check of payroll data by the Personnel Section and the verification of data input by another member of staff within the section. Controls over the payment of suppliers include the random checking of supplier data input on the system by the Payroll and Payments Manager. This control was introduced in 2009/10. The additional cost of introducing further random checks by an Officer from another section is considered to be disproportionate to the additional level of control achieved, given the appropriate procedures already in place.

(FOR INFORMATION)

Background Papers

Report to those charged with governance 2009/10, KPMG, dated 25 August 2010.

10. 'THE STANDARDS BOARD REGIME' (DAL)

One of the early policy pronouncements of the Coalition Government was that it intended to abolish 'The Standards Board regime'. It is not clear from this whether the Government proposes to abolish the Standards Board for England, but leave the rest of the ethical framework in place, or make wider ranging changes. It is also not clear what, if any, body would maintain oversight of ethical issues in Local Government were the Standards Board to be abolished.

The Chairman and Chief Executive of the Standards Board have issued the following statement:

"We are very disappointed at the Government's decision to abolish the Local Government's Standard Regime. Since 2007, Standards for England has dealt only with those matters which local authorities could not deal with themselves. Our recent review of this devolved local framework found that it is delivering increased confidence in the accountability of local Politicians, improved Members' behaviour and contributing to better governance.

We do not have clear details as yet of what is proposed for the future, but for now the Local Standards Framework remains pending legislative change. Our priorities are to fulfil our statutory duties, to support Local Authorities in maintaining high standards and to assist the Government in developing and implementing any new arrangements".

Although the Standards Board is continuing to fulfil its statutory functions, it has ceased certain activities such as gathering statistics on complaints of misconduct dealt with by local authorities. It is likely that continuing uncertainty over the future will inhibit its ability to recruit and retain staff and lead to a gradual erosion of its capacity.

Members may recall that the National Conference of Standards Committees which normally takes place every autumn as a briefing and training event was cancelled soon after the Government stated its policy.

Officers will report further when more news is available.

(FOR INFORMATION)

Background Papers

None.

11. INDEPENDENT MEMBERS OF THE COMMITTEE (DAL)

The Terms of Office of the current Independent Members, Chairman and Vice-Chairman, will expire in May 2011. Assuming that the law remains as it is now, the Council will need to advertise the role of Independent Member to the public before making two new appointments for a four year term.

Both the existing Independent Members will be eligible to serve again if they wish to put their names forward.

On the last occasion, the then Chairman of the Committee interviewed candidates together with the Monitoring Officer. If the current Chairman is a candidate for reappointment, this would be inappropriate. The Committee's instructions are sought on the process.

THE COMMITTEE IS ASKED -

- i) to indicate whether it is content to follow the selection process used on the previous occasion; and**
- ii) if so, to nominate an elected Member to interview shortlisted candidates with the Monitoring Officer**

(TO RECOMMEND)

Background Papers:

None.

12. INDEPENDENT MEMBERS AGREEMENT (DAL)

1. Purpose of Report

1.1 **The purpose of this report is to seek agreement for a recommendation to Full Council that the Council enter into an agreement to regulate the appointment of temporary Independent Members with other local authorities in Surrey.**

2. Background Information

2.1 Under section 53 of the Local Government Act 2000 the Council must set up a Standards Committee. The Standards Committee has five statutory functions. It must:

- Give the Council advice on adopting a Local Code of Conduct

- Monitor the effectiveness of the code
 - Train Members on the code, or arrange for such training
 - Promote and maintain high standards of conduct for Members
 - Help Members to follow the Code of Conduct
- 2.2 In Runnymede, the Standards and Audit Committee discharges these roles, together with oversight of the authority's audit and related activities.
- 2.3 The Standards and Audit Committee is made up of two independent Members (in this context, non-Councillors who have been appointed to the Committee) and five elected Councillors. One important role of the Committee is to conduct hearings when allegations of misconduct are made in relation to elected Councillors. It is a legal requirement that Independent Members participate in such hearings. The Committee is inquorate unless at least one independent Member is present, and one of the independent Members must chair.
3. Report
- 3.1 Section 53 Local Government Act 2000 requires local authorities to establish what are termed as Standards Committees. The purpose of these committees is to undertake the various functions set out in paragraphs 2.1 and 2.2 above. Standards Committees are composed of elected Councillors and what are termed independent Members.
- 3.2 The manner in which independent Members are to be appointed and restrictions on the classes of people who may be independent Members are contained in the Standards Committee (England) Regulations 2008 (the 2008 Regulations). In summary the 2008 Regulations state that any person appointed as an independent Member must have responded to an advert placed by the authority and appointed by a majority of the authority. Normally independent Members will only hold such a position on one local authority.
- 3.3 A number of local authorities in Surrey have identified that on occasions problems may be experienced in finding enough independent Members to participate in meetings convened by their Standards Committee to consider complaints against elected Councillors. The reason for this is that sometimes more than one hearing may have to be convened to consider a matter. If an independent Member has sat on the first meeting they may be barred from sitting on a subsequent meeting. There are also occasions when holiday commitments may present problems in securing a sufficient number of independent Members to sit on meetings.
- 3.4 Officers of Surrey local authorities are suggesting a procedure to address this issue. Regulation 5 of the 2008 Regulations provides that an independent Member of one local authority may be appointed as an independent Member of another authority either for a fixed period of time or in relation to a specific allegation. A draft agreement to cover the operation of such a scheme has been circulated and is attached at Appendix 'E'. This agreement will set out how an approach is to be made, what information is to be provided to the independent Member who has been approached and the provision of expenses.
- 3.5 This arrangement is purely voluntary and the individual independent Members will have to agree to act in such situations. Both Runnymede's present independent Members have agreed to the idea in principle, but by entering into this agreement the Council does not bind them to act whenever approached. If an independent Member agrees to act in such circumstances they will be provided with any relevant training in respect of local arrangements by the appointing authority and they will be an independent Member of the appointing authority. There will be no legal impact on the parent local authority.
- 3.6 Any local authority which takes advantage of this arrangement will have to ensure that it has in place the necessary provisions to appoint independent Members on a temporary basis. The Council presently has a provision in its Constitution which allows it to enter into lawful arrangements for the appointment of temporary independent Members. It is suggested that a

procedure be put in place to allow an appropriate Officer to make such temporary appointments to avoid having to convene a meeting of the Full Council.

4. Council Policy

4.1 There is no specific Council Policy which is of relevance to this report.

5. Financial Implications

5.1 If the independent Members agree to participate in this arrangement there will be no cost to the Council if such independent Members act for other local authorities. In such circumstances any costs will be borne by the appointing authority. Should the Council take advantage of this arrangement to appoint independent Members from elsewhere, it will have to cover the expenses of any such temporary independent Members in the same way it currently covers the expenses of its existing independent Members.

6. Legal Implications

6.1 The relevant legal issues are dealt with in the body of the report.

OFFICERS' RECOMMENDATION that –

i) the Council enter into an agreement substantially in the form as attached at Appendix 'E', to regulate the appointment of temporary Independent Members; and

(TO RECOMMEND)

ii) the Director of Administration and Leisure draft a procedure to allow such temporary appointments to be made without having to hold a meeting of full Council and submit it to Council for approval with the recommendation at (i) above.

(TO RESOLVE)

Background Papers

None.

13. LOCAL GOVERNMENT OMBUDSMAN INVESTIGATIONS (DAL)

(Ref: Minutes of the Standards and Audit Committee, June 2010, page 49, para 67)

The following matters have progressed with the Commissioner for Local Administration since the last meeting of this Committee.

Matter	Date Notified	Outcome
Alleged inadequate handling of planning breaches at Padd Farm, Hurst Lane, Egham	5 September 2007 and 14 August 2010	Following the Council's success at the appeals against the Enforcement Notices, and a further complaint from residents, the Ombudsman is now examining the question of whether the Council's perceived delay in serving Enforcement Notices following the decision to do so in 2005 has caused injustice to residents. In conjunction with this, he is also investigating whether the Council has been at fault in the way it has handled matters since his previous decision in 2008 in relation to Padd Farm, and unauthorised uses in Hurst Lane. No outcome yet available.

Matter	Date Notified	Outcome
Complaint about grant of planning permission for social housing at 77 Woodham Lane and alleged pre-judgment of application (this is a different complaint from the one regarding Compulsory Purchase of the verge and principle of the development noted at the last meeting, and is lodged by a different individual)	15 July 2010	Not pursued - no evidence of fault in the way that the Planning Application was reported or determined.

(FOR INFORMATION)

Background Papers:

Relevant papers on Director of Administration and Leisure's Ombudsman file series 61.21 (exempt).

14. FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS IN ENGLAND) – RECENT CASES (DAL)

(Ref: Minutes of Standards and Audit Committee, June 2010, page 49, para. 68)

The following recent cases may be of interest to Members:

Bramley Parish Council

The Chairman of the Parish Council of Bramley was found to have allowed a vote on a proposed change to the Council's Standing Orders, whilst concealing the true nature of legal advice that had been received, which was that the proposed change to Standing Orders was ultra vires.

The proposed change was to reduce the period of automatic disqualification from Office for non-attendance of a Council meeting from six months to three.

The Deputy Monitoring Officer advised that this was not legal because the six months is set by legislation but the Chairman was vague about the advice he'd been given at the meeting, suggested there was scope to reduce the attendance period and allowed the vote.

The Chairman, when it all came to light, e-mailed the Deputy Monitoring Officer, insulting him and questioning his integrity. He then contacted the press who published part of the said e-mail.

The Chairman claimed that the investigation was a sham and involved unethical Masonic Lodge intervention for political ends. He declined an invitation to the Hearing on his conduct and then claimed that he had not been given the opportunity to present his case.

He contested the Minutes of the meeting at which the aforementioned vote was allowed, accusing the Deputy Monitoring Officer of (amongst other things) 'ineptitude' in sending a response with 'no vestige of sanity'. He felt that the Deputy Monitoring Officer had a 'total lack of intellectual ability' and had betrayed the people.

He continued his correspondence and circulated it widely, some of which was published in the local press.

He refused to retract or apologise and was suspended for 6 months.

This case shows that Members should reliably note the advice they receive and relate it fully and objectively when a matter is considered.

Wigan Council

A Member of Wigan Council was suspended for 6 – 12 months, made to apologise and undergo training with an external provider following his treatment of an Officer with whom he disagreed on a matter of Council Policy.

The suspension could be reduced if he also underwent conciliation with the Officer concerned.

The Member was accused of intimidating an Officer because of a decision they made as a result of a change in policy to which the Member objected.

The Officer later failed to notify the Member in advance of a site meeting, for which she apologised. However, the Member then issued a press release in which he named the Officer in question and linked her behaviour (and that of the local Police) with being akin to that of a Totalitarian state and he also cast aspersions on her competence.

The Member then refused to work with the Officer, accusing her of having broken the Member/Officer Protocol. He said that if there were future meetings he would 'make mischief' if she attended.

Matters were made worse at a subsequent meeting attended by both in which the Officer was perceived by the appellant and another Member of being overly friendly towards a third Member. The Officer explained that she was so relieved at not having to speak directly to the Member with whom she was in dispute that she gravitated towards the friendly Councillor. Unfortunately, he thought that it was possible to perceive her behaviour as flirtatious.

It was accepted that the Member might not have intended to bully the Officer, but the outcome was the same, and he never apologised or sought to make amends.

The Tribunal felt that although it was acceptable to criticise an Officer, the manner of its manifestation had resulted in her feeling bullied.

This case shows that although Members have a right to make representations if they feel they are not being treated equitably; they need to do so in such a way that cannot be interpreted as bullying. The Officer concerned had apologised, but also needed to be aware that ward issues are very sensitive.

Campbell Park Parish Council

In a similar case the Tribunal was unable to distinguish between disagreement between an Officer and a Member, and a personal attack on the Officer.

The Officer had made a presentation, after which the Member had accused the Officer of telling lies. She also threatened the Officer, in the presence of another, but claimed that 'she wasn't daft enough to do it in a full audience'.

The Member claimed that her actions were in self defence and that she was in pain at the time.

The Standards Committee considered that if the Member was aware that her personality tended towards angry outbursts (as she admitted in her defence) it was her duty not to give way to them.

The Member was suspended for six months and she then made what the Standards Committee considered to be an empty gesture of apology to the Officer in her appeal to the First Tier Tribunal.

The appeal was dismissed.

This case shows that a robust approach is not always wrong but that Members need to maintain professionalism in their dealings with Officers.

Bolton Council

A Member wrote an allegedly sarcastic e-mail to a resident in response to an e-mail they had sent to a number of people including the Member in question. The resident's e-mail had thanked an Officer in the Council for their resolution of a problem with refuse collection but had alluded to the lack of interest which local Councillors had allegedly shown as set out below:

"Dear Ann,

A big thanks to you, Donna Ball, Councillor Morris and all your team from the residents here at Caldbeck Drive and the surrounding areas.

I know that you and your office are very busy sorting out all these problems with the new domestic waste systems and we are all very grateful for your quick response to our problem.

I must say though that all the residents were quite disgusted that we didn't even get a reply from ANY of our local councillors. I just hope that they were not hoping for our support at the next local elections.

Once again thank you for all your efforts.

Regards,

Rob Tyler."

The Member had responded:

"Mr Tyler

I am pleased to note you have already had a very prompt and satisfactory response to your original email which as is clear from the date was sent on Saturday. As I have been visiting my daughter in Birmingham this is the first opportunity I have had to respond to emails since Friday. Unlike the Leader of the Council I don't have the luxury of a Secretary to field them for me; I have to do my own.

As a former Conservative Candidate you are free to slag off me and other members of the Council as you wish. However do not take this email as an apology it is not, but please share its contents with Caldbeck Dr, In fact I'll email residents I have addresses for myself. In your haste to criticise you have actually emphasised what a good response you have had especially since enmeshed in your lactatious ego trip you forgot to say where the problem was. I would have known there could only be one R Tyler writing an email such as yours. Indeed had you contacted me when your bins were first missed you might have got the whole thing sorted out even quicker!

Yours truly, Cllr. L J Williamson

The Standards Committee had suspended the Member and he appealed to the First Tier Tribunal. The resident happened to be an opposing party candidate and the Tribunal had found that it had therefore been politically motivated and that although the Member had shown irritation they had not overstepped the mark. Therefore, there was no breach of the Code and the suspension was overturned.

This case shows the temptation to 'score points' on both sides and that the Tribunal is willing to allow a degree of latitude for robust political knockabout.

(FOR INFORMATION)

Background papers

Published cases on the website of the First-Tier Tribunal's (Adjudication Panel for England) website at www.adjudicationpanel.tribunals.gov.uk.

15. EXCLUSION OF PRESS AND PUBLIC

OFFICERS' RECOMMENDATION that –

the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in paragraphs 1, 3 and 7 of Part 1 of Schedule 12A of the Act.

(TO RESOLVE)

Part II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a)	<u>Exempt Items</u>	Paras.
	Exempt Appendix 'A' to item 5: Internal Audit – Recommendations Progress Report	1, 3 and 7
b)	<u>Confidential Items</u>	
	(No items to be considered under this heading).	