

## Report of the City Solicitor

### Report to Full Council

Date 28<sup>th</sup> March 2018

**Subject: Annual Report of the Standards and Conduct Committee**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

- 1 The purpose of this report is to present to Full Council the annual report relating to matters within the Standards and Conduct Committee's remit. Council Procedure Rule 2.2 (f) stipulates that the annual report of the committee must be referred to full Council for consideration; this being to support the duty of the Authority to promote and maintain high standards of conducts by Members and co-opted Members of the Council.
- 2 The annual report summarises the work carried out by the Monitoring Officer and her staff to support the Committee throughout the year.

### Recommendations

- 3 Members are asked to consider and note the matters set out in this annual report.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to present to Full Council an annual report relating to matters within the Standards and Conduct Committee's remit. Council Procedure Rule 2.2 (f) stipulates that the annual report of the committee must be referred to full Council for consideration; this being to support the duty of the Authority to promote and maintain high standards of conducts by Members and co-opted Members of the Council and to receive assurances as to how the authority's duty is being discharged.

## **2 Annual Report**

- 2.1 The Standards and Conduct Committee annual report presents the work carried out by the Monitoring Officer and her staff to support the committee throughout the year. The report also demonstrates the ways in which the Authority has fulfilled its statutory duty to promote and maintain high standards of conduct.

## **3 Main issues**

- 3.1 The Standards and Conduct Committee has the following terms of reference:
- To promote and maintain high standards of conduct by members and co-opted members of the authority.
  - To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
  - To consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the Leeds area has failed to comply with the parish council's code of conduct.
  - Following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations on the form of action.
  - To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of employees of the authority.
- 3.2 The committee meets annually, or at other frequencies that circumstances require. Regular briefings have taken place between the Deputy Monitoring Officer and the Chair of the Committee and similarly with the council's appointed Independent Person.

## **Training**

- 3.3 Whilst there were no elections in May 2017 elected members have received regular correspondence in respect of the code of conduct, guidance in respect of Social Media and specific requirements for Members relating to the registration and declaration of interests.
- 3.4 In addition, as part of prescribed training for councillors who are members of Licensing and Plans Panels, briefings have been provided on the legal framework and concerning the avoidance of bias and predetermination.
- 3.5 In light of the anticipated large number of new Members following the all-out elections in May 2018, a detailed and a comprehensive two month induction programme has been planned by the Head of Civic and Member Support. The programme will consist of a variety of essential training sessions and has been established with the benefit of previous successful Member Inductions and has been agreed by the Member Development Working Group. The aim is to assist and support the new Members to settle within their new role as quickly as possible.
- 3.6 The Induction programme will include the following training workshops;
- General Data Protection Regulations and will cover Cyber awareness
  - Code of Conduct including Equality awareness
  - Learning the Ropes the conduct of Council meetings and Decision Making
  - Provision of Social Media guidance
- 3.7 In additional to the above training, all new Members will be given the opportunity to attend the Licensing and Planning prescribed training mentioned above irrespective of whether or not appointed to those roles.

## **Register of Interests**

- 3.8 The Localism Act 2011 places a duty on the Monitoring Officer of a relevant authority to establish and maintain a register of interest of members and co-opted members of the authority.
- 3.9 The Monitoring Officer has supported members of the authority (and of Parish and Town Councils) in meeting their obligations to notify any disclosable pecuniary interest within 28 days of either their election or of a change in the circumstances relating to such interests. These requirements have been met during the year with quarterly reminders being issued to elected members to review their registers of interests. Whilst some reminders have been general in nature others have provided focussed advice with reminders in the past year including; gifts and hospitality; the need to register spousal interests; interests arising from employment, office, trade, profession or vocation; and interests relating to consideration of the budget.

## Sensitive Interests

- 3.10 Section 32 (2) of the Localism Act 2011 allows for interests which are considered to be sensitive to be withheld from a Member's Register of Interest. The decision as to whether to withhold such an interest from the public register is made by the Monitoring Officer. Permission to withhold an interest may only be granted in cases where disclosure of the details of an interest could lead to a member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation – it is particularly relevant that that threat or potential threat would be substantially contributed to as a result of those interests appearing on the members' public register.
- 3.11 In essence, a Member needs to clearly demonstrate that, either they or those connected to them have either suffered violence or intimidation or there is a reasonable ground for them to suppose that that may be the case if the interests are publicly available. The Member needs to provide supporting evidence for that reasonable belief and it is against that evidence that the Monitoring Officer agrees or not to the interest being withheld.
- 3.12 Eleven permissions to withhold interests are in place (having been granted by the Monitoring Officer) in respect of the 435 elected Leeds City Council and Parish and Town Council Members across the Leeds Metropolitan District, an increase of three on the previous year. Five of these relate to Leeds City Councillors, an increase of two from last year. In the main permission has been granted for withholding details of home addresses or other land or property interest with the rationale for the permission being due to the existing or previous employment of the councillor or their partner (e.g. retired police or prison officer) or due to vandalism to properties.
- 3.13 The actions taken by the Monitoring Officer in Leeds in relation to Sensitive Interests mirrors a recommendation recently made (December 2017) by the Committee on Standards in Public Life. The Committee, in their report *'Intimidation in Public Life – A review by the Committee on Standards in Public Life'*, recommend that all Monitoring Officers *'Should ensure members required to declare pecuniary interest are aware of the sensitive interest provisions of the Localism Act 2011.'*
- 3.14 The Monitoring Officer intends to further highlight the provisions to all new and returning members after the 2018 all-out elections and also review the granted permissions currently in place in June 2018.

## Dispensations

- 3.15 As previously reported, in 2014 the Standards and Conduct Committee considered local prohibitions on councillors' involvement in decision making where they have a Disclosable Pecuniary Interest (DPI). In particular the circumstances where a member of the public has rights to attend and make representations – for example in relation to a personal planning application. The committee concluded that this limitation placed an unjust discrimination upon councillors.

- 3.16 During the period covered by this report a dispensation has been renewed to allow members (when they have a DPI) to make representations at a meeting where members of the public have the same entitlement – however those members must not otherwise be involved in the decision making of the decision making body. There have been no issues arising from this dispensation during the year.
- 3.17 The other active dispensation permits members to take part and vote in matters relating to:
- Any office held within Leeds City Council for which they receive a taxable income; and
  - Any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income,
- 3.18 A renewal of this dispensation (for all members) was agreed by the Chief Executive in May 2017.
- 3.19 Members will again be approached in respect of both dispensations following the all-out elections in May 2018.

### **Reviewing the Members' Code of Conduct and the arrangements for dealing with complaints**

- 3.20 A minor amendment for clarification has been made to the Members' Code of Conduct during the year to clarify that hospitality provided by the council in relation to events that Members are invited in their official capacity need not be recorded by Members in their register of interests.
- 3.21 The Monitoring Officer has also made amendments to the procedure for handling complaints for the purposes of clarification only<sup>1</sup>. The first amendment relates to the Stage three part of the complaints process in order to clarify that the Monitoring Officer's role at any Hearing is to advise the committee. Further amendments have given effect to a decision of the courts<sup>2</sup> clarifying that it is the relevant authority which is authorised to act if a breach of the code is found to have taken place. The final amendment made is to clarify the Council's and Members' responsibilities for data protection.
- 3.22 In addition the Committee on Standards in Public Life have commenced a review of the Local Authority standards arrangements. The consultation is due to close in May 2018. In due course the Standards and Conduct Committee will consider the conclusions of both the review and the government's response to it (see also paragraphs 3.38-3.40).

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<sup>1</sup> The Monitoring Officer is permitted to make amendments for the purposes of clarification only without recourse to General Purposes Committee and Full Council.

<sup>2</sup> Taylor v Honiton Town Council [2016] EWHC 3307 (Admin)

### **Complaint handling<sup>3</sup>**

- 3.23 As part of their regular briefings (with the Deputy Monitoring Officer) the Chair and the Independent Person have been apprised with a summary of the complaints that have been received together with an outline of how those complaints have been assessed and concluded.
- 3.24 So far, all but one of the complaints have been resolved either before or at Stage 1 of the complaints procedure. One complaint has been resolved at Stage 2 to the complainant's satisfaction. There have been no formal findings of a failure by Leeds City Councillors or Parish and Town Councillors in Leeds to comply with the relevant Code of Conduct.

#### Complaints relating to Leeds City Councillors

- 3.25 In order to be considered under the formal complaints process, complaints must be submitted in writing, must provide information to substantiate the claims made, and should outline what form of resolution the complainant is seeking.
- 3.26 Acting under delegated powers from the Monitoring Officer, since last reporting to committee, the Deputy Monitoring Officer has received 10 complaints about Leeds City Councillors. This is the same as received last year but lower than the 11 complaints in the preceding two years.
- 3.27 Three elected members have been the subject of two separate complaints and in two instances the complaints were from the same individual.
- 3.28 Four of the complaints received have related to social media use. There is a wide recognition that there are potential issues which the use of social media raises. To help support and facilitate Members in the use of Social Media advice and guidance was prepared by the Monitoring Officer in 2016 and has since recently, following consultation with the Standards and Conduct Committee, been updated and re-circulated to all Members.
- 3.29 As Members will recall, complaints alleging a failure to register a disclosable pecuniary interest are matters for consideration by the West Yorkshire Police as the Localism Act 2011 has made such failures a criminal offence. No such complaints have been received this year.

#### Complaints relating to Parish and Town Councillors in Leeds

- 3.30 The Deputy Monitoring Officer has received one complaints relating to Parish or Town Councillors in the Leeds area. This one more than last year and compares with three complaints the year before, and zero and 2 in the other preceding years. The complaint was not substantiated No Further Action was taken.

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<sup>3</sup> Since receipt of the annual report by the Standards and Conduct Committee two further complaints were received – one relating to a City Council and one related to a Parish and Town Councillor. Both are reflected in this report.

## **Supporting Members of Parish and Town Councils**

- 3.31 Parish and Town Councils responsibilities under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:
- promoting and maintaining high standards of conduct by its own Members;
  - formally adopting a Code of Conduct that is consistent with the requirements of the Localism Act and publicising that adoption;
  - completing a register of disclosable pecuniary interests and ensuring that information about this register is available on the Parish or Town Council's own website (if it has one);
  - putting in place arrangements for Members to apply for and be granted a dispensation; and
  - Ensuring that arrangements are in place for the Parish or Town Council to consider any complaints referred to it by Leeds City Council and to decide on any appropriate action against the subject Member.
- 3.32 Under the previous standards and conduct legislation many of these responsibilities were carried out by the Standards Committee on behalf of Parish and Town Councils. Leeds City Council does though retain responsibility for receiving and considering complaints made against parish and town councillors.
- 3.33 Leeds City Council has a responsibility to collate the registers of interest completed by Parish and Town Councillors in Leeds and to publish these on the Council's website. The Deputy Monitoring Officer has provided written guidance for Members on how to complete the document and has advised Parish and Town Council Clerks where necessary.
- 3.34 Two parish members remain co-opted to the committee - Councillor Debbie Potter (from Shadwell Parish Council and Councillor Martin Hughes (from Horsforth Town Council) and form a pool of parish and town council members that the authority can call upon as needed. The co-opted parish members are invited to attend Standards and Conduct Committee meetings.

## **Independent Person**

- 3.35 The Standards and Conduct Committee has supported the Independent Person (Mr Tollefson) in his role by inviting him to attend meetings of the committee as an observer, and ensuring that he has undertaken training on the Members' Code of Conduct. Mr Tollefson has quarterly briefing meetings with the Deputy Monitoring Officer and during the year has provided support to Members to help resolve issues.
- 3.36 The Independent Person's term of office was extended by Full Council to July 2022.

## **The Committee on Standards in Public Life**

- 3.37 In addition to the publication *'Intimidation in Public Life – A review by the Committee on Standards in Public Life'* referred to in paragraph 3.16 the Committee on Standards in Public Life also issued, in July 2017, a publication *'Setting the Standard'* which contained the committee's work programme for 2017/18
- 3.38 Councillor Nash, the Chair of the Standards and Conduct Committee attended a roundtable event hosted by Lord Brew, the Chair of the Committee on Standards in Public Life, where an announcement was made that a review of the local authority standards arrangements would be undertaken in 2018.
- 3.39 Lord Brew's Committee maintains a longstanding interest in local government standards, and regularly receives correspondence from members of the public expressing views about this issue. The committee is committed to undertake a review of local government standards based around a consultation that will be launched in early 2018. Based on the submissions to this review and meetings with key stakeholders, the committee intend to publish findings and recommendations in 2018.
- 3.40 Following consideration of the consultation document by the Standards and Conduct Committee, the Chair, on the committee's behalf has written to Lord Brew to;
- encourage his committee to ensure local government is directly represented on his committee when they are undertaking the analysis of responses to their consultation on Local Government Ethical Standards;
  - ask his committee to consider recommending the removal of the requirement for local elected members to be required to publically register their home address;
  - ask his committee to consider a parallel requirement for local government to that contained in the Ministerial Code to prohibit former Councillors with direct knowledge and insight of decisions within a local authority from lobbying the authority of which they were a member for a period of two years.

## **Consultation on Disqualification Criteria for Councillors**

- 3.41 During the autumn 2017 period the Government consulted on proposed changes to the disqualification criteria for local authority members. Following consultation from all political groups and members of the Standards and Conduct Committee the Chair of the Standards and Conduct Committee submitted a response on behalf of Leeds City Council broadly supporting the proposals put forward save that the disqualification criteria should not operate so as to inhibit engagement with peaceful protest, by risking disqualification of those engaged in lawful protest who become swept up in events or actions not of their making.



## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 In providing an oversight of local codes and protocols and the Members' Code of Conduct the Committee have considered comments and feedback from Leeds City Councillors.

4.1.2 In relation to complaints against Councillors, in all cases mentioned in this report the complainant has been contacted and an explanation has been provided as to why the complaint is not being progressed. The subject Member has also been informed of the complaint and the response to the complainant, for information only. During the year, in addition to previous advice, a further explicit instruction has been introduced to remind Members to not share the details of complaints/complainants as this is unlikely to be in accordance with Members responsibilities as data practioners under the Data Protection Act. This has also been further embedded by incorporation into the procedure rules for handling complaints.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

### **4.3 Council policies and City Priorities**

4.3.1 Principle 3 of the Code of Corporate Governance states that the Council will put in place a Code of Conduct and keep it under review. According to the Localism Act 2011 the Council has a duty to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority. This report outlines how the Standards and Conduct Committee has carried out this duty on behalf of the Council.

### **4.4 Resources and value for money**

4.4.1 There are no resource implications arising from this report.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The Standards and Conduct Committee's terms of reference are taken from the Chapter 7 of the Localism Act 2011.

4.5.2 There are no implications for access to information or call in arising from this report.

### **4.6 Risk Management**

4.6.1 The arrangements described within this report provide assurance that the authority, parish and town councils, individual councillors and the Monitoring Officer are complying with the requirements set out in the Localism Act 2011. The work undertaken by the Monitoring Officer and her staff, and by the Standards and Conduct Committee, ensures that these arrangements remain up to date and fit for purpose and that the risk of breaching the statutory requirements is minimised.

## **5 Recommendations**

5.1 Members are asked to consider and note the matters set out in this annual report.

## **6 Background documents<sup>4</sup>**

6.1 None.

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<sup>4</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.