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STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 3rd MARCH 2017

SUPPLEMENTARY INFORMATION

**Agenda Item 7 – Annual Report of the Standards and Conduct Committee –
Additional appendices**

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PROCEDURE FOR CONSIDERING COMPLAINTS ALLEGING A FAILURE TO COMPLY WITH A MEMBERS' CODE OF CONDUCT WITHIN THE AREA OF LEEDS METROPOLITAN DISTRICT COUNCIL

Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' should be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

Stage 1 - Initial assessment by the Monitoring Officer

4. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the correct complaints form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not.
6. The following types of complaint will not be considered as 'valid complaints' under this procedure:
 - a. Complaints which are submitted anonymously^{1 2};
 - b. Complaints which do not identify a subject Member;
 - c. Complaints which relate to a Member's personal or private life;
 - d. Complaints concerning a failure to respond to a request from a constituent or other individual;

¹ Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

² Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

- e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;
 - f. Complaints which relate to a decision of an employee or a Committee;
 - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
 - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
 - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
 - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
 - k. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests'³;
 - l. Complaints which do not relate to the Members' Code of Conduct.
7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint. If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.
 8. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
 9. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

Stage 2 - Informal resolution

10. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to seek to resolve the issue in accordance with this procedure. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors.
11. At the same time the Monitoring Officer will refer the matter to the subject Member and the relevant Group Whip⁴ for their consideration. In this

³ Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

⁴ If the subject Member is the Group Whip, the complaint will be copied to his or her Group Leader. In

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

correspondence the Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days), and will provide the subject Member with the contact details for the Independent Person⁵.

12. Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;
- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

13. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer. It may also be advisable to seek advice from the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

14. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.

15. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.

16. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

17. Where it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision, and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).

the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

⁵ See Annex 1 for a summary of the role of the Independent Person.

18. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

Stage 3 – Standards and Conduct Committee

19. The Monitoring Officer will prepare a report for consideration by the Standards and Conduct Committee. This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.

20. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee⁶)⁷ to be convened to consider the Monitoring Officer's report of the complaint. Wherever possible the meeting will take place within 28 days of the Monitoring Officer's report being finalised.

21. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.

22. The following people will also be invited to attend the Committee meeting:

- a. The complainant;
- b. The subject Member;
- c. The Group Whip (if relevant); and
- d. The Independent Person.

23. The Monitoring Officer will also attend the meeting in order to present their report.

24. After initial consideration of the Monitoring Officer's report, the Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):

- a. The complainant; and
- b. The subject Member.

25. The Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.

⁶ Such Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.

⁷ References to the Committee in rules 21 to 36 below shall be read as references to the Sub-Committee if such sub-committee has been appointed and is convened to hear the complaint.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

26. Before reaching a final decision on the complaint, the Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.
27. If the Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Committee should consider whether the information will be readily available to the Monitoring Officer.
28. Once the Committee is satisfied with the information before it, it must decide the following issues:
 - a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
 - b. Whether further action is warranted; and
 - c. What form of action might be appropriate.
29. If the complaint relates to a Parish or Town Councillor the Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate.
30. In all other cases, if the Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.
31. If the Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
32. The recommendations available to the Committee are limited to:
 - a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee;
 - b. Formal censure by a motion of full Council; or
 - c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

33. The Committee may make a recommendation in relation to one or more of the above sanctions to full Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Committee meeting.
34. The Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.
35. Within five working days of the meeting the Chair of the Committee will write to the complainant and the subject Member explaining the final decision of the Committee and detailing any recommendations made.
36. There will be no right of appeal against a decision of the Committee.

ANNEX 1 - ROLE OF THE 'INDEPENDENT PERSON'

Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.

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MEMBERS' CODE OF CONDUCT

This Code applies to elected Members and voting co-opted Members of Leeds City Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives¹.

Part One - Standards of Conduct

You must have regard to, and act in accordance with, the following standards of conduct²:

1. **Selflessness**
You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.³
2. **Honesty and Integrity**
You should not place yourself in situations where your honesty and integrity may be questioned; you should not behave improperly and should avoid the appearance of such behaviour.⁴
3. **Objectivity**
You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.
4. **Accountability**
You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

¹ When engaging in political activities such as canvassing for re-election Members are not acting in their official capacity, and for the purposes of this Code of Conduct, such political activities are considered part of a Member's private and personal life.

² And in accordance with any supplementary guidance or protocols agreed by the authority from time to time.

³ This does not mean that Members are under any obligation to support or become involved in all requests for assistance from their constituents.

⁴ Where you are present at a formal meeting of the authority and identify any relevant and significant interest which is not a disclosable pecuniary interest and which relates to the business being conducted, you may declare the interest to the meeting, if you consider it is in the public interest to do so. You may also choose not to participate in the business as a result, although you are not obliged to do so.

Members' Code of Conduct

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

5. Openness

You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

6. Leadership

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees⁵.

Part Two – Registration and disclosure of interests

Registration of Interests

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time⁶.
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
10. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described in Appendix 1, and either:
 - (a) it is an interest of yourself, or
 - (b) it is an interest of -
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you are civil partners, and you are aware that that other person has the interest.
11. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50⁷ which you receive in your role as a

⁵ Members may express themselves robustly in representing their, or their constituents' views, although where a Member engages in a sustained or systematic challenge of an employee which is unfounded or in any other way unreasonable, such conduct would fall within the scope of this code. However an unintentional remark, made in isolation, is unlikely to amount to a failure to comply with the code of conduct.

⁶ The Monitoring Officer must enter these interests into the Register of Interests, which will be made available for public inspection and published on the Council's website.

⁷ This financial limit will be maintained in line with the definition of a donation to be declared by election candidates during local authority elections in England and Wales (as set out in Schedule 2A of the Representation of the People Act 1983).

Leeds City Councillor⁸. You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.⁹

Sensitive interests

12. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection^{10 11}.

Disclosure of disclosable pecuniary interests at meetings

13. The following provisions apply if you are present at a meeting of the authority or of any committee¹², sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
14. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
15. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
16. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
17. You may not:
 - (a) participate, or participate further, in any discussion of the matter at the meeting,
 - (b) participate in any vote, or further vote, taken on the matter at the meeting, or
 - (c) remain in the room during the discussion or vote on the matter (subject to paragraph 18 below).

⁸ This does not include civic gifts or hospitality received by the Lord Mayor of Leeds whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Lord Mayor's office.

⁹ These details will be removed from the register two calendar years after they were added by the Monitoring Officer.

¹⁰ Instead the Register of Interests may state that the Member has an interest the detail of which are withheld under section 32(2) of the Localism Act 2011

¹¹ If the Member is required to disclose such an interest in a meeting, the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

¹² This includes the Executive Board and any committee of the executive.

Members' Code of Conduct

18. If you are not a member of the relevant committee, sub-committee, joint committee or joint sub-committee, and are present at the meeting in another capacity, you may remain in the room to observe the proceedings but must not participate in the discussion on the matter, even as a member of the public.
19. In certain circumstances you may be granted a dispensation to permit you to take part in the business of the authority, even if you have a disclosable pecuniary interest relating to that business. Such dispensations are granted by the Head of Paid Service following a written request to the Monitoring Officer.

Allegations of a Failure to Comply with Code of Conduct

20. All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

APPENDIX 1 - DEFINITION OF A 'DISCLOSABLE PECUNIARY INTEREST'¹³

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period¹⁴ in respect of any expenses incurred by you in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person¹⁵ (or a body in which the relevant person has a beneficial interest¹⁶) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land¹⁷ 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 - Any tenancy where (to your knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities¹⁸ of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either –

¹³ As defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

¹⁴ "Relevant period" means the period of 12 months ending with the day on which the Member completes their notification.

¹⁵ "Relevant person" refers to the Member and their spouse or civil partner, or a person with whom the Member is living as husband or wife, or a person with whom the Member is living as if they were civil partners, so long as the Member is aware that that other person has the interest.

¹⁶ This means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. The definition of "director" includes a member of a committee of management of an industrial and provident society.

¹⁷ "Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

¹⁸ "Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Members' Code of Conduct

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (ii) if the share capital of that body is of 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.