



STANDARDS AND CONDUCT COMMITTEE

Meeting to be held in on
Wednesday, 19th June, 2013
at 1.30 pm

MEMBERSHIP

Councillors

B Atha
J Harper
E Nash (Chair)
B Selby

C Campbell

P Harrand

B Gettings

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15 of the Access to Information Procedure Rules (in the event of an appeal the press and public will be excluded).</p> <p>(*In accordance with Procedure Rule 15, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <ol style="list-style-type: none"> 1. To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report. 2. To consider whether or not to accept the officers recommendation in respect of the above information. 3. If so, to formally pass the following resolution:- <p style="margin-left: 40px;">RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p> 	

Item No	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p>MINUTES OF THE PREVIOUS MEETING</p> <p>To approve the minutes of the Standards and Conduct Committee meeting held on 5th April 2013.</p>	1 - 4
7			<p>STANDARDS AND CONDUCT COMMITTEE ARRANGEMENTS FOR 2013/14</p> <p>To receive a report of the City Solicitor outlining the Committees' terms of reference, proposing terms of reference for the Consideration Sub-Committee, and a work programme for the remainder of the municipal year.</p>	5 - 14
8			<p>UPDATE ON RECENT STANDARDS ISSUES</p> <p>To receive a report of the City Solicitor outlining recent standards issues that have arisen since the previous meeting, including any complaints received and dispensations granted.</p>	15 - 20

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Agenda Item 6

STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 5TH APRIL, 2013

PRESENT: Councillor E Nash in the Chair

Councillors B Gettings, J Harper,
P Harrand and B Selby

30 Appeals against refusal of inspection of documents

There were no appeals against refusal of inspection of documents in accordance with Procedure Rule 19 of the Access to Information Procedure Rules.

31 Exempt Information - Possible exclusion of the press and public

There were no resolutions to exclude the press and public.

32 Late items

There were no late items submitted to the agenda by the Chair for consideration.

33 Declaration of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests.

34 Apologies for absence

Apologies for absence were received from Councillor Colin Campbell and Councillor Kamila Maqsood.

35 Minutes of the previous meeting

The minutes of the meeting held on Friday 11th January 2013 were approved as a correct record.

36 Councillors acting for developers - Recent national press coverage

The City Solicitor submitted a report drawing the Committee's attention to recent national publicity regarding the alleged practice of Councillors acting for developers for a fee. The Committee received assurances that no such allegations had been made against Leeds City Councillors, and that no Leeds City Councillors currently provide planning consultancy services within the Leeds City Council area according to their register of interests.

Members of the Standards and Conduct Committee discussed what action, if any, could be taken against former Councillors who used knowledge they had

Draft minutes to be approved at the meeting
to be held on Wednesday, 19th June, 2013

gained whilst they were a Member as part of a consultancy service. The City Solicitor advised that, depending upon the circumstances, a former Councillor may well remain obligated not to disclose any confidential information they received in their capacity as a Councillor under civil law, and if they broke a duty of confidence, the Council may be able to take legal action against them.

RESOLVED - Members of the Standards and Conduct Committee resolved to note the report, and to request that officers remind Members of their on-going duty of confidence as part of the training provided to Members.

37 Annual Report of the Monitoring Officer

The City Solicitor (and Monitoring Officer) submitted a report regarding whether the arrangements set out in the Monitoring Officer Protocol have been complied with, and including any proposals for amendment to the Protocol itself. The City Solicitor assured the Committee that she had complied with her legal duties through the year, and had no issues to report.

Members of the Standards and Conduct Committee asked whether budgetary savings had been made as a result of the reduction in the number of complaints made against Leeds City Councillors and Parish and Town Councillors in the Leeds area. The Deputy Monitoring Officer clarified that the budget previously allocated for external standards investigations has now been removed.

Members also discussed the issue of dispensations and whether dual-hatted Members of certain authorities need to declare a disclosable pecuniary interest in meetings. The Monitoring Officer and Deputy Monitoring Officer clarified that according to the latest correspondence received from Mr Brandon Lewis MP, Members would need to declare positions in other authorities in relation to which they receive a taxable income and that discussions were on-going with the other West Yorkshire Authorities to ensure that consistent advice was being provided. In the meantime the Monitoring Officer suggested that the safest course of action would be for Members to both register offices from which they received payment that is taxable, and also to seek a dispensation to enable participation in matters relating to those interests.

RESOLVED – Members of the Standards and Conduct Committee noted the assurances and performance information provided in the report, and approved the proposed amendments to the Monitoring Officer Protocol.

38 Annual Report of the Standards and Conduct Committee

The City Solicitor presented an annual report of the Standards and Conduct Committee for approval and referral to full Council.

Members of the Standards and Conduct Committee commented that aspects of the new standards regime had been addressed during the municipal year, particularly the implementation of the new Code of Conduct for Members

ahead of many other authorities and the introduction of a more proportionate complaints handling procedure. Members of the Committee asked to place on record their thanks to officers who had supported the transition to the new arrangements.

RESOLVED – Members of the Standards and Conduct Committee noted the contents of the annual report and the intention to refer the report to full Council.

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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 19th June 2013

Subject: Standards and Conduct Committee arrangements for 2013/14

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<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 establish the arrangements for the Standards and Conduct Committee during the 2013/14 municipal year.
2. At the Annual Council Meeting on Monday 20th May 2013 full Council decided to reappoint the Standards and Conduct Committee with the terms of reference as set out in Appendix 1 to this report.
3. The Standards and Conduct Committee must now establish a Consideration Sub-Committee to consider any complaints against Members which progress of Stage 3 of the complaints process.

Recommendations

4. Members of the Standards and Conduct Committee are asked to:
 - Note the terms of reference for the Committee as agreed by full Council set out in Appendix 1 to this report;
 - Establish the Consideration Sub-Committee with the terms of reference as set out in Appendix 2 to this report; and
 - Agree the future meeting dates and work programme for the 2013/14 municipal year as set out in Appendix 3 to this report.

1 Purpose of this report

- 1.1 The purpose of this report is to establish the arrangements for the Standards and Conduct Committee during the 2013/14 municipal year.

2 Background information

- 2.1 At each Annual Council Meeting full Council establishes the Council Committees for the municipal year, and decides the size and terms of reference for those Committees. In turn, each Committee must establish its own sub-committee and approve its terms of reference prior to the sub-committee meeting for the first time.
- 2.2 As set out in the Council Procedure Rules in relation to Standards and Conduct Committee, the Council shall appoint substitute members via nominations from group Whips. Each Whip shall nominate one substitute for each member that sits on the Committee. A nominated member shall be entitled to attend meetings in place of a regular member, subject to the substitute member having received appropriate training.

3 Main issues

Terms of Reference

- 3.1 Full Council has approved terms of reference for the Standards and Conduct Committee as set out as Appendix 1 to this report. The terms of reference were approved at the Annual Council Meeting on 20th May 2013 and have not been amended since the last municipal year.

Consideration Sub-Committee

- 3.2 As Members will recall if a complaint against a Member progresses to Stage 3 of the complaints process, then the matter will be dealt with by a Sub-Committee of the Standards and Conduct Committee.
- 3.3 This 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.
- 3.4 If the complaint relates to a Parish or Town Councillor, the co-opted Parish Members will be invited to attend the Sub-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. At the Annual Meeting full Council appointed Councillor Paul Cook (Morley Town Council) to the Committee in this capacity. As Members may recall Councillor Mrs Pat Walker retired from her position as a Pool-in-Wharfedale Parish Councillor in January 2013 so is no longer eligible to undertake the position of a co-opted Parish Member. There are no current plans to replace Mrs Walker.

- 3.5 As was agreed in 2012, it is proposed that no membership is set for the Sub-Committee and the membership for each Sub-Committee meeting will be based on availability and compliance with the rules set out above.
- 3.6 The proposed terms of reference for the Sub-Committee are set out at Appendix 2 to this report, and have not been amended since they were approved in June 2012. The powers of the Sub-Committee differ depending on whether the complaint relates to a Leeds City Councillor or a Parish or Town Councillor. This is because it will be up to the Parish or Town Council to decide whether to impose a sanction on the subject Member, and therefore the Sub-Committee can only reach a finding about whether there has been a breach.
- 3.7 The Sub-Committee also has no authority to deal with complaints about a failure to comply with the rules regarding disclosable pecuniary interests, as such matters are dealt with by the Police as potential criminal offences.

Substitute arrangements

- 3.8 Council Procedure Rules provide that one substitute member shall be nominated by Group Whips for each member that sits on the Committee, with that nominated member being entitled to attend meetings in place of a regular member having received appropriate training.
- 3.9 All Group Whips have been approached for their nominees and these will be confirmed at the Committee meeting.

Future meetings of the Committee

- 3.10 It is proposed that the Standards and Conduct Committee meets a further two times during the 2013/14 municipal year in November and again in March.
- 3.11 The proposed dates for these meetings and the items to be discussed are set out in the draft work programme attached as Appendix 3 to this report.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Chair of the Standards and Conduct Committee has been consulted on the proposed dates for the remaining meetings in the 2013/14 and the proposed agenda items for these meetings.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity or cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 The arrangements set out in this report are in accordance with the rules set out in the Council Procedure Rules and the Procedure for Considering Complaints Alleging a Failure to Comply with a Members' Code of Conduct within the area of

Leeds Metropolitan District Council, both of which are contained in Part 4 of the Council's Constitution.

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 terms of reference for the Standards and Conduct Committee and the proposed terms of reference for the Consideration Sub-Committee reflect the functions set out in the relevant sections of the Localism Act 2011.

4.6 Risk Management

4.6.1 There is a risk that if the Consideration Sub-Committee is not established as soon as possible following the Annual Council Meeting, this may cause a delay if a complaint does progress to Stage 3 of the complaints process.

5 Conclusions

5.1 Full Council has established the Standards and Conduct Committee at the Annual Council Meeting on Monday 20th May with the terms of reference as set out in Appendix 1 to this report. The Standards and Conduct Committee must now establish the Consideration Sub-Committee with the terms of reference set out in Appendix 2 to this report.

6 Recommendations

6.1 Members of the Standards and Conduct Committee are asked to:

- Note the terms of reference for the Committee as agreed by full Council set out in Appendix 1 to this report;
- Establish the Consideration Sub-Committee with the terms of reference as set out in Appendix 2 to this report; and
- Agree the future meeting dates and work programme for the 2013/14 municipal year as set out in Appendix 3 to this report.

7 Background documents¹

7.1 None.

¹ 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.

Standards and Conduct Committee

The Standards and Conduct Committee is authorised to discharge the following functions:

1. To promote and maintain high standards of conduct by members and co-opted members of the authority¹.
2. 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.
3. 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 conduct².
4. 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 recommendations³ on the form of action⁴.
5. 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 authority⁵.

¹ In accordance with Section 27 of the Localism Act 2011.

² In accordance with Section 28(6), (7) and (9) of the Localism Act 2011.

³ Including to full Council, the Leader, the Chief Executive, or the relevant Group Whip.

⁴ In accordance with Section 28(11) of the Localism Act 2011.

⁵ It is not the function of the Committee to determine or become involved in individual employee conduct or disciplinary cases.

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Standards and Conduct Committee – Consideration Sub-Committee

The Consideration Sub-Committee of the Standards and Conduct Committee is authorised to discharge the following functions:

1. 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 conduct¹.
2. 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 recommendations² on the form of action³.

¹ In accordance with Section 28(6), (7) and (9) of the Localism Act 2011.

² Including to full Council, the Leader, the Chief Executive, or the relevant Group Whip.

³ In accordance with Section 28(11) of the Localism Act 2011.

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STANDARDS AND CONDUCT COMMITTEE
PROPOSED WORK PROGRAMME 2013/14

Title of report	Description	Responsible officer
MEETING DATE: FRIDAY 29TH NOVEMBER 2013 – 1:30PM		
Interim report on standards issues	To receive a report outlining any standards issues that have arisen during the 2013/14 municipal year, including an update on the position of Parish and Town Councils regarding the Register of Interests and their adoption of the Code of Conduct.	Andy Hodson, Head of Governance Services
MEETING DATE: FRIDAY 7TH MARCH 2014 – 1:30PM		
Standards and Conduct Committee Annual Report	To receive a draft of the Standards and Conduct Committee Annual Report prior to the report being considered by full Council.	Andy Hodson, Head of Governance Services

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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 19th June 2013

Subject: Update on recent standards issues

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<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 make the Standards and Conduct Committee aware of any recent standards issues that have arisen since the last meeting on 5th April 2013, including any complaints that have been received and any dispensations granted.
2. At its first meeting the Standards and Conduct Committee resolved that the Committee should receive a breakdown of the number of complaints received in relation to the Members' Code of Conduct at each meeting.

Recommendations

3. Members of the Standards and Conduct Committee are asked to note the information in this report and to consider whether any further action needs to be taken in terms of the advice received from the Department for Communities and Local Government.

1 Purpose of this report

- 1.1 The purpose of this report is to make the Standards and Conduct Committee aware of any recent standards issues that have arisen since the last meeting on 5th April 2013, including any complaints that have been received and any dispensations granted.

2 Background information

- 2.1 At its first meeting the Standards and Conduct Committee resolved that the Committee should receive a breakdown of the number of complaints received in relation to the Members' Code of Conduct at each meeting.

3 Main issues

Complaints received since the 5th April 2013

- 3.1 Only one complaint against a Leeds City Councillor has been received since the last report to the Standards and Conduct Committee. This complaint was resolved at Stage One of the complaints process, because it was clear from the information provided that the Councillor concerned was not acting in their official capacity at the time of the alleged incident. The allegation was made by a member of the public and related to an incident of anti-social behaviour on the complainant's property.
- 3.2 The complainant was dissatisfied with the Council's response to this incident and contacted another Ward Councillor who referred her to the Monitoring Officer. The Monitoring Officer reviewed the case and the response of the Deputy Monitoring and reached the same conclusion. The Monitoring Officer therefore responded to the complainant advising her that the issue could not be dealt with by the Council.
- 3.3 No complaints have been received regarding Parish or Town Councillors in the Leeds area since the last report.

Revised interpretation of the disclosable pecuniary interests regulations

- 3.4 As Members of the Committee will be aware, all elected Members are obliged to notify the Monitoring Officer of their disclosable pecuniary interests so that they can be entered into the Register of Interests. One of the categories of disclosable pecuniary interests is:

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

- 3.5 In the past, officers have advised that this will not include any positions for which a Member receives an allowance under the Members' Allowances Scheme or otherwise, on the basis that allowances are designed to ensure that Members are reimbursed for costs properly incurred in the performance of their duties, and therefore would not constitute 'profit or gain'.

- 3.6 However, during April the Monitoring Officer became aware of a letter written by Mr Brandon Lewis MP (Parliamentary under Secretary of State for the Department of Communities and Local Government) to Mr Desmond Swayne MP on 4th January 2013, which sets out an alternative interpretation.
- 3.7 Although the letter states that it is not the practice for the Department to give legal advice or opinion, Mr Lewis states that generally he would remark that:
- “a member being in receipt of taxable members’ allowances may be considered to give rise to a disclosable pecuniary interest under the subject of ‘Employment, office, trade or vocation’ set out in the regulations. Whether a Councillor who wishes to participate in the discussion or voting on an item of council business related to the other authority of which he is a member needs to apply for a dispensation will depend on what is to be discussed, but if a councillor is concerned because they have registered their membership of the other authority as a disclosable pecuniary interest, they may wish to apply for a dispensation, and have one granted, to put the matter beyond doubt.”
- 3.8 He further suggests that councils could consider granting “‘standing dispensations’ for the whole of the member’s term of office for certain recurring items of council business where it is foreseen that one of the grounds for granting a dispensation set out in the Act will be met. This could apply in the case of a dual-hatted member who has specialist knowledge of a matter which would be relevant to a discussion or decision and where that member does not stand to make a personal financial gain by being granted a dispensation.”
- 3.9 As a result of this letter the Monitoring Officer issued advice to all Members on 17th April 2013 that the safest course of action would be for all Members to include the following positions in their register of interests:
- Their position as a Leeds City Councillor for which they receive a basic allowance, and any other positions held within Leeds City Council for which they receive a Special Responsibility Allowance; and
 - Any positions held in outside bodies to which they have been appointed by the Council for which they receive a taxable allowance.
- 3.10 The Deputy Monitoring Officer took steps to add these interests to each Members’ register on their behalf, unless they contacted Governance Services to request that these interests are not added. Furthermore, each register entry has been revised following the appointments to outside bodies made at the Annual Meeting on 20th May 2013.
- 3.11 Furthermore, the Monitoring Officer recommended that each Member applied for a dispensation to allow them to take part (including voting) in any decision relating to one of these positions. 98 Members signed the application form to apply for a dispensation by 10th May 2013, and the Chief Executive granted the dispensation on 13th May 2013 which lasts for a period of four years. Unless the interpretation of the Regulations changes all new Members will be invited to apply for a dispensation in relation to this issue after joining the Council.

- 3.12 Members have also been invited to notify Governance Services of any other positions they hold for which they receive a taxable income, so that these can also be entered into the register of interests. However, the dispensation will not enable Members to take part in decisions affecting these positions, only those to which the Member has been appointed by the Council.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Before granting a dispensation the Chief Executive must consult the Chair of the Standards and Conduct Committee. On this occasion the Chair was supportive of a dispensation being granted.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity or cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 The Standards and Conduct Committee's terms of reference set out that the Committee is responsible for promoting and maintaining high standards of conduct within the Council. Considering information about the number and type of complaints received assists the Committee in achieving this.

4.4 Resources and value for money

- 4.4.1 There are no implications for resources or value for money.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The legal implications are set out in the main body of this report.

4.6 Risk Management

- 4.6.1 The risks of a Member accidentally breaching the requirements of the Localism Act have been mitigated by sharing the revised guidance with all Members, updating the register of interests on Members' behalf, and also by arranging for all Members to be granted a dispensation allowing them to take part in the discussion and vote on any matters relating to their disclosable pecuniary interest.

5 Conclusions

- 5.1 This report sets out the number of complaints received since the last report to the Standards and Conduct Committee, and any recent standards issues that have arisen.

6 Recommendations

- 6.1 Members of the Standards and Conduct Committee are asked to note the information in this report and to consider whether any further action needs to be

taken in terms of the advice received from the Department for Communities and Local Government.

7 Background documents¹

7.1 None.

¹ 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.

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