

**Report of the City Solicitor**

**Report to Standards and Conduct Committee**

**Date: 3<sup>rd</sup> March 2017**

**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 the committee an annual report relating to matters within the committee's terms of reference. 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;
  - The matters set out in this annual report and resolve whether any additions to it are required prior to referral to full Council for consideration, and;
  - Whether any amendments, to either the Members' Code of Conduct or the procedures for considering complaints, are required.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to present to the committee an annual report relating to matters within the committee's terms of reference. 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.
- 1.2 Members are asked to refer the report to full Council for consideration so that full Council can receive assurances as to how the authority's duty to promote and maintain high standards of conduct (by Members and co-opted Members of the Council) is being discharged.

## **2 Annual Report**

- 2.1 The Standards and Conduct Committee draft 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 required. Regular briefings have taken place with the chair of the committee and with the council's appointed Independent Member.

## **Training**

- 3.3 All newly elected members have received training in respect of the code of conduct and the specific requirements relating to the registration and declaration of interests.
- 3.4 In addition, as part of prescribed training for councillors who are members of Plans Panels, briefings have been provided on the legal framework concerning the avoidance of bias and predetermination.

## **Register of Interests**

- 3.5 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.
- 3.6 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.

## **Sensitive Interests**

- 3.7 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.
- 3.8 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.
- 3.9 Eight permissions to withhold interests have 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 – three of these relate to Leeds City Councillors. 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. The Monitoring Officer reviews these permissions on an annual basis and completed the review for 2016 in September.

## **Dispensations**

- 3.10 If a councillor wishes to apply for a dispensation to allow them to take part in a meeting with a disclosable pecuniary interest they must submit a written application to the Monitoring Officer.
- 3.11 Applications are then decided by the Head of Paid Service. However, in deciding whether to grant a dispensation the Head of Paid Service must consult with the Chair of the Standards and Conduct Committee.
- 3.12 As previously reported, in 2014 the Standards and Conduct Committee considered local prohibitions on councillor's 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. The committee agreed that, subject to certain constraints, and the receipt of an application, that the Head of Paid Service be advised of the committee's support for such restrictions to be set aside by way of a dispensation. This dispensation has been granted until the end of October 2017.
- 3.13 During the year the Head of Paid Service has granted dispensations to all elected members who have requested it to allow those 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.
- 3.14 The other active dispensation, granted in May 2013 (for a period of 4 years), 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,
- 3.15 A renewal of both these dispensations (for all members) will be sought from the Chief Executive before May 2017.

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

- 3.16 No amendments have been made to the Members' Code of Conduct or the Procedure for Consideration of Complaints during the year and no amendments are proposed by officers. Both documents are attached to this report as Appendix 1 and Appendix 2 respectively. Members are asked to consider what if any recommendations to make to General Purposes Committee in respect of the arrangements currently in place.

## **Complaint handling**

- 3.17 Leeds City Council has a responsibility for making arrangements to receive and consider complaints against Leeds City Council members and parish and town councillors in Leeds. At Stage 2 of the complaints procedure the Chair of the Standards and Conduct Committee must be consulted by the Monitoring Officer in deciding whether the matters raised by the complainant have been appropriately addressed by the subject Member. If a complaint was to reach Stage 3 of the complaints procedure the Consideration Sub-Committee of the Standards and Conduct Committee would need to meet to consider the complaint and decide whether the Code of Conduct had been breached and what action to recommend.
- 3.18 As part of their regular briefings (with the Deputy Monitoring Officer) the Chair and the Independent Person have been appraised with a summary of the complaints that have been received together with an outline of how those complaints have been assessed and concluded.
- 3.19 So far, all complaints have been resolved either before or at Stage 1 of the complaints procedure. There have been no 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

- 3.20 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.
- 3.21 Acting under delegated powers from the Monitoring Officer, since last reporting to committee, the Deputy Monitoring Officer has received 9 complaints about Leeds City Councillors. This is higher than the 4 complaints received last year but lower than the 11 complaints in the preceding two years.
- 3.22 The Deputy Monitoring Officer considered each complaint and made a decision as to whether it will be treated as a valid complaint or not, and also, in appropriate cases offering complainants the opportunity to provide further information to substantiate their complaint and enable an assessment to be undertaken.

## Complaints Summary

Complaint	Nature of Complaint	Outcome
<p>1</p> <p>April 2016</p> <p>Source: Member of the Public</p>	<p>Concerns relating to how the subject member dealt with a casework complaint relating to data protection and housing options.</p> <p>One subject member.</p>	<p><b>Dismissed at Stage 1</b> - Invalid under paragraph 6 (h) &amp; (d)</p> <p>The complaint made reference to the matter being relating to discussions in 2014.</p> <p>Paragraph 6(h) states that those complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now – are to be assessed as invalid. This was the provisional assessment of this aspect of the complaint with an opportunity for the complainant to provide further information to substantiate the complaint – No further information has been received.</p> <p>A further aspect of the complaint alleged that the subject member did not responded to the complainant - Paragraph 6(d) stipulates that complaints concerning a failure to respond to a request from a constituent or other individual are invalid - in addition the Members' Code of Conduct makes clear that Members are not under any obligation to support or become involved in all requests for assistance from their constituents.</p>
<p>2 &amp; 3</p> <p>May 2016</p> <p>Source: Member of the Public</p>	<p>Two separate complaints relating to the same incident – the sharing of a post on Personal Social Media Site which contained an offensive word.</p> <p>One complaint related to a single subject member and another related to the same single subject member and another.</p>	<p><b>Dismissed at Stage 1</b> - Invalid under paragraph 6 (c) – complaints which relate to a Member's personal and private life.</p> <p>However a subject member did write to the complainant and apologised for the inadvertent sharing of the post.</p>
<p>4</p> <p>May 2016</p> <p>Source: Member of the Public</p>	<p>Email correspondence in the opinion of the complainant demonstrated lack of courtesy &amp; professionalism</p> <p>One subject member</p>	<p><b>Dismissed at Stage 1</b>- invalid under Paragraph 6 (l) - having considered the exchanges between the complainant and the subject member the assessment reached was that the Member honestly sought to provide a reply to the points from their own experience and understanding; how these were expressed did not amount to a potential failure on his part to comply with the Code of Conduct</p>

Complaint	Nature of Complaint	Outcome
<p>5</p> <p>June 2016</p> <p>Source: Member of the Public</p>	<p>Post on social media which directed criticism which the complainant found to be unnecessary</p> <p>One subject member</p>	<p><b>Dismissed at Stage 1</b> Invalid under Paragraph 6 (c) matters which do not fall within the jurisdiction of the Members' Code of Conduct.</p> <p>The Members' Code of Conduct 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 lives including when engaging in political activities.</p> <p>Councillors often utilise Social Media when undertaking their representative role and posts related to this type of engagement with constituents will be subject to the provisions of the Code of Conduct.</p> <p>However whilst the post from subject member was made using the prefix 'Councillor' this did not, of itself, mean that at the time of making the post the subject member was conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in his official capacity.</p> <p>The assessment at Stage 1 was that the subject member was not undertaking their official duties when the post was made. The post was directly related to the outcome of the elections and was the personal view of the subject member – the judgement was that these matters are related to political activities and as such under Paragraph 6 (c) not fall within the jurisdiction of the Members' Code of Conduct</p>
<p>6</p> <p>October 2016</p> <p>Source: Member of the Public</p>	<p>Lack of clarity concerning the complaint</p> <p>Six subject members</p>	<p><b>No Further Action</b> - A request for further details and information to substantiate the complaint was made to the complainant.</p> <p>This has not been forthcoming from the complainant. The complainant chose to refer how the complaint had been handled to the Local Government Ombudsman. The Ombudsman has subsequently confirmed to the complainant that, to progress the matter further, information will need to be provided to the council to enable an assessment to take place. To date, despite requests, the complainant has not done this.</p>

Complaint	Nature of Complaint	Outcome
<p>7</p> <p>October 2016</p> <p>Source: Member of the Public</p>	<p>Concern that subject members sought to use political influence inappropriately.</p> <p>Two subject members</p>	<p><b>No Further Action</b></p> <p>The onus is on the complainant to provide sufficient evidence to substantiate the complaint that is made. The complainant did not provide any documentary evidence to substantiate the claims that were made and as such it was not possible to assess the complaint under the procedures.</p> <p>Further requests were made to the complainant to seek this information but no responses have been received and so no further action has been taken.</p>
<p>8</p> <p>June 2016</p> <p>Source: Member of the Public</p>	<p>Failure to attend a surgery which had been detailed on the Councillor's Web page.</p> <p>One subject member</p>	<p><b>Dismissed at Stage 1</b> - Invalid Paragraph 6 (d) of the complaints procedure complaints concerning a failure to respond to a request from a constituent or other individual will not be considered as a valid complaint.</p> <p>However apologies from the subject member for any inconvenience caused were conveyed to the complainant.</p> <p><b>No Further Action.</b></p>
<p>9</p> <p>February 2017</p> <p>Source: Member of the Public</p>	<p>Inappropriate request by a Member to refer a matter to Plans Panel</p> <p>That the subject Member had submitted the request on behalf of ward colleagues without those Members' agreement to do so.</p> <p>Alleged friendship of the subject member to a neighbour (and objector) to the application;</p>	<p><b>Dismissed at Stage 1</b> invalid under Paragraph 6 (l) as they do not relate to Members' Code of Conduct. The Leeds City Council Constitution permits ward members to request that applications are determined by Plans Panel rather than by officers under delegated authority.</p> <p>The complaint did not provide any documentary evidence to substantiate some elements of complaint. A further request has been made to the complainant to provide this information to enable an assessment to be.</p>

3.23 Two elected members have been the subject of two separate complaints and one incident generating two complaints relating to the same elected member. Three 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 September and circulated to all Members.



- 3.24 Members of the Standards and Conduct Committee were invited to comment on the guidance prior to it being circulated to all members. This guidance has been well received by Members and provides a summary of the main issues for Members to consider, some 'Do's and Don'ts' and further more detailed information about the Legal Framework and examples of how social media activity might fall within and the scope of the Members' Code of Conduct. West Yorkshire Monitoring Officers have also been provided with a copy of the guidance for information.
- 3.25 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

- 3.26 The Deputy Monitoring Officer has received no complaints relating to Parish or Town Councillors in the Leeds area. This compares with three complaints last year, and zero and 2 in the preceding two years.

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

- 3.27 Parish and Town Councils now have greater responsibility 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.
- 3.28 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.
- 3.29 Leeds City Council also 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 were necessary.

- 3.30 Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.
- 3.31 Under Stage 3 of the complaints procedure the Standards and Conduct Committee have made specific arrangements for complaints against parish and town councillors. Although such complaints would still be decided by the Consideration Sub-Committee, a co-opted parish member would also be invited to attend the sub-committee meeting.
- 3.32 A parish member is not entitled to vote at the meeting, but would be entitled to speak at the discretion of the Chair. 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.
- 3.33 The co-opted parish members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.

### **Independent Person**

- 3.34 The Standards and Conduct Committee has supported the Independent Person 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.
- 3.35 The Independent Person also has quarterly briefing meetings with the Deputy Monitoring Officer. The Independent Person's current term of office is until July 2017. Following consultation with Group Leaders and the Chair of the Standards Committee a report proposing an extension to Mr Tollefson's term of office, to July 2022 will be considered by General Purposes Committee on the 8<sup>th</sup> March with recommendations anticipated to be approved by full Council shortly thereafter.
- 3.36 By way of this report Committee are invited to extend their thanks to Mr Tollefson for his continued service as Independent Person.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.3 In providing an oversight of local codes and protocols and the Members' Code of Conduct the Committee have considered comments and feedback from the relevant Committees and from other Leeds City Councillors.
- 4.1.4 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.

### **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.

4.3.2 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 this committee, ensures that these arrangements remain up to date and fit for purpose and that the risk of breaching the statutory requirements is minimised.

4.6.2 In relation to complaints against councillors the Monitoring Officer has considered the information above and does not consider that there are any adverse trends in the types of complaints received, and as no potential breaches of the Members' Code of Conduct have been revealed, there are no issues to address through training.

## **5 Recommendations**

5.1 Members are asked to consider;

- The matters set out in this annual report and resolve whether any additions to it are required prior to referral to full Council for consideration, and;
- Whether any amendments, to either the Members' Code of Conduct or the procedures for considering complaints, are required.

## **6 Background documents<sup>1</sup>**

6.1 None.

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<sup>1</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.