

Report of the City Solicitor

Report to Standards and Conduct Committee

Date 9th 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 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. The annual report summarises the work carried out by the Monitoring Officer and her staff to support the Committee throughout the year.

Recommendations

- i) Members are asked to Consider:-
 - a. 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;
 - b. The proposed amendments for clarification proposed by the City Solicitor to the Members Code of Conduct and the Procedure for considering complaints;
 - c. Whether any amendments are necessary to the Members' Code of Conduct, or the guidance to Members on Social Media and;
- ii) Note the consultation being undertaken by the Committee on Standards in Public Life.

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 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 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.
- 3.5 In light of the anticipated large number of new Members following the all-out elections in May, a detailed and a comprehensive two month induction programme has been planned that will consist of a variety of key essential training sessions.
- 3.6 These skills have been identified from previous successful Member Inductions and 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.
- 3.7 The Induction programme will include the following training workshops;
- GDPR covering Cyber awareness
 - Code of Conduct including Equality awareness
 - Learning the Ropes the conduct of Council meetings and Decision Making
 - Social Media policies, processes and support
- 3.8 In addition 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.
- 3.9 To complement the above programme, there is also a plan for training for Group Office staff around supporting Members in their decision making role. This is intended to ensure staff are best placed to support new Members with queries and assist them in the completion their Registers of Interest after the elections.

Register of Interests

- 3.10 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.
- 3.11 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

- 3.12 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.
- 3.13 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.
- 3.14 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, and increase in 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.
- 3.15 However during 2017 there has been a small increase in permissions granted in response to a threat of violence against Members or their families from a member of the public – in this circumstance the matter was referred to the Police.
- 3.16 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.'*
- 3.17 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

- 3.18 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.
- 3.19 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.

3.20 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. .

3.21 During the period of covered by this report this dispensation has been renewed until May 2021 for 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. 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,

3.22 A renewal of this dispensations was agreed by the Chief Executive in May 2017.

3.23 All elected members will be approached in respect of both these dispensations in May 2018.

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

3.24 No amendments have been made to the Members' Code of Conduct or the Procedure for Consideration of Complaints during the year. Both documents are attached to this report as Appendix 1 and Appendix 2 respectively.

3.25 The Monitoring Officer seeks Members views to the Members' Code of Conduct, concerning hospitality provided by the council to which members are invited in their official capacity; and amendments to the procedure for handling complaints to both make clear the council's responsibilities under the General Data Protection Regulations and clarify the Monitoring Officer's role at any Stage three Hearing is to advise the committee.

3.26 The proposed amendments are detailed by way of tracked changes contained in Appendix 1 and 2 and are for the purposes of clarification only¹.

3.27 In addition Members are asked to consider what if any recommendations to make to General Purposes Committee and full Council in respect of any other arrangements currently in place.

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

The Committee on Standards in Public Life

- 3.28 In addition to the publication *'Intimidation in Public Life – A review by the Committee on Standards in Public Life'* referred to in paragraph 3.11 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
- 3.29 The Chair of this 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. 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 review commenced via a consultation launched in early 2018 which is to conclude in May 2018. The consultation document is attached for Member's consideration at Appendix 3. In addition each group leader's attention has been drawn to the consultation. Lord Brew's committee intend to publish findings and recommendations by the end of 2018.
- 3.30 In addition the Committee on Standards in Public life, recognising the rapidly changing and developing nature of social and political communication and media in recent years, has undertaken to look for opportunities to work collaboratively with partners to assess how these developments are shaping public life. The committee feel that by engaging with others in this area will enable an understanding of how the changing nature of communications may influence social relations, and consider how this may influence how the Seven Principles are upheld across public life.

Complaint handling

- 3.31 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.
- 3.32 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.
- 3.33 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

- 3.34 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.
- 3.35 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 the same as received last year but lower than the 11 complaints in the preceding two years.
- 3.36 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
1	Concern regarding Member involvement in a planning enforcement matter.	No further action – No information provided to substantiate the complaint
2	Inappropriate engagement of local member in a planning matter	No further action – No information provided to substantiate the complaint
3	Various matters relating to engagement with a local community group	One aspect of the complaint invalid under Paragraph 6(l) (complaint contained trivial allegations or appeared to be simply malicious, politically motivated or tit for tat. Other aspects - NO further action – No information provided to substantiate the complaint
4	Failure to respond to correspondence. Failure to provide accounting information relating to a community organisation.	No Further Action – No information provided to substantiate the complaint and alleged activities related to private life. NB complainant also made complaint to the LGO (see paragraph 3.39 below)
5	On-line correspondence	No further action – No information to substantiate the Complaint

Complaint	Nature of Complaint	Outcome
6	Email containing inappropriate language/	No further action – email not related to councillor duties and sent by a third party not subject member
7	Posting of private name and address details without the complainant's consent.	Passed to Stage 2 –resolved by the Member by way of apology and undertakings agreed to.
8	Alleged sharing of private and personal details without the complainants consent.	NO further action – no information to substantiate the complaint.
9	Social Media tweet alleged to be incompatible with role.	No further action. Paragraph 6 (j) of the attached - complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action. When assessed clear that the Councillor had subsequently apologised for posting and made specific apology to the complainant.

- 3.37 Two elected members have been the subject of two separate complaints and in one instance the complaints were from the same individual. Four of the complaints received have related to social media use.
- 3.38 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 been since been re- circulated to all Members. By way of this report two further minor amendments to the guidance are proposed to the guidance, these are set out by way of tracked changes in Appendix 4.
- 3.39 In one instance a complainant, dissatisfied with the finding at Stage one (No Further Action due to lack of information to substantiate the complaint) referred their complaint about the Council's decision to the Local Government Ombudsman. The Ombudsman's conclusion was '*Closed after initial enquiries - no further action*'.
- 3.40 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

3.41 The Deputy Monitoring Officer has received no complaints relating to Parish or Town Councillors in the Leeds area. This is the same as last year and compares with three complaints the year before, and zero and 2 in the other preceding years.

Supporting Members of Parish and Town Councils

3.42 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.

3.43 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.

3.44 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.

3.45 Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.

3.46 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.

3.47 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.

3.48 The co-opted parish members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.

Independent Person

- 3.49 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.
- 3.50 Mr Tollefson has quarterly briefing meetings with the Deputy Monitoring Officer and during the year has provided support to Members to help resolve issues.
- 3.51 The Independent Person's term of office was extended by Full Council to July 2022. By way of this report Committee are invited to extend their thanks to Mr Tollefson for his continued service as Independent Person.

Consultation on Disqualification Criteria for Councillors

- 3.52 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 this committee the chair 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 the relevant Committees and from other 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.

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:-

- a. 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;
- b. The proposed amendments for clarification proposed by the City Solicitor to the Members Code of Conduct and the Procedure for considering complaints;
- c. Whether any amendments are necessary to the Members' Code of Conduct, or the guidance to Members on Social Media and;

5.2 Note the consultation being undertaken by the Committee on Standards in Public Life.

6 Background documents²

6.1 None.

² 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.