

**Report of the City Solicitor**

**Report to Standards and Conduct Committee**

**Date 8<sup>th</sup> March 2019**

**Subject: Annual Report of the Monitoring Officer to 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**

This annual report to the Standards and Conduct Committee summarises the work carried out by the Monitoring Officer and her staff to support the Committee throughout the year.

The report provides assurances in respect of work undertaken to:

- Train newly elected members;
- Ensure registers of interests and dispensations were correctly administered – particularly after the all-out elections;
- Deal with any sensitive interests;
- Assess and respond to complaints;
- Support Parish and Town Councils;

**Recommendations**

Members are asked to consider the matters set out in this report.

## **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 an 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 Annual Report**

- 2.1 This 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 out elections took place in May 2018 with 27 new members being newly elected. All Members received induction training on the requirements of the Code of Conduct and the specific requirements relating to the registration and declaration of interests. Members were also provided with the Monitoring Officer's guidance on Social Media.

- 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 addition the Induction programme included the following training workshops;
- GDPR covering Cyber awareness
  - Learning the Ropes the conduct of Council meetings and Decision Making
- 3.6 In addition to the above training, all new Members have been given the opportunity to attend the Licensing and Planning prescribed training mentioned above irrespective of whether appointed to those roles.
- 3.7 Discussions have taken place with the Chair of the Member Development Working Group in relation to the forthcoming Induction process for Members and the likely need for refresher training on the provisions of the ethical framework considered that are likely to change in the new municipal year.

### **Register of Interests**

- 3.8 The Localism Act 2011 places a duty on the Monitoring Officer of a relevant authority to establish and maintain a register of interest of members and co-opted members of the authority.
- 3.9 The Monitoring Officer has supported members of the authority (and of Parish and Town Councils) in meeting their obligations to notify any disclosable pecuniary interest within 28 days of either their election or of a change in the circumstances relating to such interests.
- 3.10 These requirements have been met during the year with all new Members completing their Register of Interests prior to the Annual Council meeting and consequently well within the 28 day timeframe required by Statute.
- 3.11 In addition regular reminders have been issued to elected members to review their registers of interests. Whilst some reminders have been general in nature others have provided focussed advice with reminders in the past year including; gifts and hospitality; the need to register spousal interests; interests arising from employment, office, trade, profession or vocation; dual hatted interests; and interests relating to consideration of the budget.

### **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 Twelve (11 in 2017/18) permissions to withhold interests are in place (having been granted by the Monitoring Officer) in respect of the 435 elected Leeds City Council and Parish and Town Council Members across the Leeds Metropolitan District, an increase of three on the previous year. Seven (5 in 2018/19) 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), threats of violence made against the Councillor or due to vandalism to properties.
- 3.15 Again this year, as last, 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.
- 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 has highlighted the Section 32 provisions to all new and returning members after the 2018 all-out elections and has also reviewed the previously granted permissions to ensure they remain necessary.
- 3.18 Members may wish to note that the report from the Committee on Standards in Public Life, referenced elsewhere on this agenda, makes recommendations to Government to clarify that a councillor does not need to register their home address on an authority's register of interests.

### **Dispensations**

- 3.19 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.
- 3.20 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.

- 3.21 No alterations have been made to the Standards and Conduct Committee's conclusions regarding local prohibitions on councillor's involvement in decision making where they have a Disclosable Pecuniary Interest (DPI). Members will recall that 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's view was that this limitation placed an unjust discrimination upon councillors.
- 3.22 In light of this, and recognising the committee's views on this matter, subject to certain constraints, and the receipt of an application, the Head of Paid Service has continued to set aside these restrictions by way of the granting of a dispensation to newly elected members (Members will recall from last year's report that this dispensation was renewed until May 2021 for all elected members)
- 3.23 The dispensation allow members (when they have a DPI) to make representations at a meeting where members of the public have the same entitlement – however those members must not otherwise be involved in the decision making of the decision making body. There have been no issues arising from this dispensation during the year.
- 3.24 The other active dispensation, granted in May 2017 (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,
- 3.25 Again newly elected members were be approached in respect this dispensations on elected in May 2018.

### **Complaint handling**

- 3.26 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.
- 3.27 So far all complaints this year have been resolved either before or at Stage 1 of the complaints procedure. 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.
- 3.28 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 (anonymised) complaints that have been received together with an outline of how those complaints have been assessed and concluded.

### Complaints relating to Leeds City Councillors

- 3.29 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.
- 3.30 Since last reporting to committee, the Monitoring Officer has received 6 complaints about Leeds City Councillors. This is the less than those reported in this report last year (9 complaints were reported to Committee in March 2018 – however by the end of the Municipal year 13 complaints had been received).
- 3.31 Each complaint was assessed by either the Monitoring Officer or her deputy with a decision as to whether it was 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	Issues relating to Councillor's role as former employer of complainant	Invalid under paragraph 6 (c) – and paragraph 6 (j) – <b>No Further Action</b>
2	Matters relating to complainant's planning application	Invalid Paragraph 6 (l) and Paragraph 6 (e) – <b>No Further Action</b>
3	Matters relating to complainant's planning application	Invalid Paragraph 6 (l) – <b>No Further Action</b>
4	Complaint relating to Social Media post	Complainant wished to remain anonymous. This was not possible due to requirements of natural justice.  View sought from complainant to proceed with details revealed to subject member.  No further contact from the complainant – <b>No Further Action</b>
5	Unspecified code of conduct complaint	Invalid under paragraph 6 (l) and Paragraph 6 (d). <b>No Further Action</b>
6	Issues relating to Councillor's role as former employer of complainant	Invalid under paragraph 6 (c) –and paragraph 6 (i) <b>No Further Action</b>

- 3.32 There have been no trends in relation to the complaints received, although complaints 1 and 6 were submitted by the same individual; complaints 2 and 3 were also submitted by the same individual.
- 3.33 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

- 3.34 At the time of this report the Monitoring Officer has received two complaints relating to Parish or Town Councillors in the Leeds area. Both these complaints were in relation to the same Councillor and related to the management of Parish Council business and engagement with a Community Group. Both were assessed as invalid under Paragraph 6 (I).
- 3.35 Last year, at the time the committee met, Members were advised that no complaints had been received in respect of Parish and Town Council Members. However at the end of the Municipal year in 2017/18 6 complaints had been received. Four of these related to the same Parish Councillor and concerned a local planning matter – all were assessed as invalid.

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

- 3.36 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.
- 3.37 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.
- 3.38 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. In May 2019 all-out elections take place for parish and town councillors across the Leeds district. Arrangements are in place to provide guidance to parish and town council clerks in respect of these duties.
- 3.39 As set out earlier Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.

- 3.40 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.
- 3.41 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.
- 3.42 The co-opted parish members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.

### **Independent Person**

- 3.43 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.
- 3.44 Mr Tollefson has quarterly briefing meetings with the Deputy Monitoring Officer and during the year has provided support to Members to help resolve issues. By way of this report Committee are invited to extend their thanks to Mr Tollefson for his continued service as Independent Person this year.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 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. As introduced last year an 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 practitioners 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 best council plan**

- 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 Conclusions**

5.1 The Monitoring Officer is satisfied that the authority continues to meet its statutory obligations for Standards and Conduct and confirms, by way of this report, that she has adequate resources to fulfil her statutory duties.

### **6 Recommendations**

6.1 Members are asked to consider the matters set out in this report.

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

7.1 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.