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## STANDARDS AND CONDUCT COMMITTEE

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Meeting to be held in Room 6/7 Civic Hall on  
Monday, 14th March, 2022  
at 10.00 am

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### MEMBERSHIP

#### Councillors

D Cohen	Alwoodley
R Downes	Otley & Yeadon
B Gettings	Morley North
P Grahame	Crossgates & Whinmoor
P Harrand	Alwoodley
L Mulherin	Ardsley & Robin Hood
E Nash (Chair)	Hunslet & Riverside
A Scopes	Beeston & Holbeck
E Taylor	Chapel Allerton
J Taylor	Horsforth

#### Co-opted Parish Council Member

Councillor Debbie Potter – Shadwell Parish Councillor

#### Independent Person

Gordon Tollefson

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 15.2 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 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. To consider whether or not to accept the officers recommendation in respect of the above information.</li> <li>3. If so, to formally pass the following resolution:- <p style="margin-left: 40px;"><b>RESOLVED</b> – 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> </li> </ol>	

Item No	Ward	Item Not Open		Page No
3			<p><b>LATE ITEMS</b></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><b>DECLARATION OF INTERESTS</b></p> <p>To disclose or draw attention to any interests in accordance with Leeds City Council's 'Councillor Code of Conduct'.</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p><b>MINUTES OF PREVIOUS MEETING AND MATTERS ARISING</b></p> <p>To approve the minutes of the previous meeting held Friday 5th January 2021 as a correct record.</p>	7 - 10
7			<p><b>ANNUAL REPORT OF THE MONITORING OFFICER TO THE STANDARDS AND CONDUCT COMMITTEE</b></p> <p>To consider the annual report of the Monitoring Officer which summarises the work carried out by the Monitoring Officer and her staff to support the Committee throughout the year.</p>	11 - 22
8			<p><b>LOCAL GOVERNMENT ASSOCIATION MODEL COUNCILLOR CODE OF CONDUCT</b></p> <p>The report of the City Solicitor presents to Members further amendments which have been made to the Local Government Association's Model Councillor Code of Conduct for local councillors with a view to considering recommendations for adoption by the authority.</p>	23 - 44

Item No	Ward	Item Not Open		Page No
9			<p><b>ANNUAL REVIEW OF PROTOCOLS</b></p> <p>To consider the report of the City Solicitor which presents to Members the conclusions of the annual review of the Monitoring Officer Protocol and the review of the Member Officer Protocol contained with Part 5 of the Council's Constitution to ensure they remain fit for purpose in supporting high standards of governance and practice.</p>	45 - 62
10			<p><b>ANNUAL REPORT OF THE STANDARDS AND CONDUCT COMMITTEE</b></p> <p>The report of the City Solicitor presents to the committee an annual report of the Standards and Conduct Committee relating to matters within the committee's terms of reference.</p>	63 - 72
11			<p><b>THE INDEPENDENT PERSON</b></p> <p>To consider the report of the City Solicitor which seeks the Standards and Conduct Committee's views relating to the extension of the term of office of the existing Independent Person and a proposal to recruit a new Independent Person.</p> <p><b><u>Third Party Recording</u></b></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties – code of practice</p> <ul style="list-style-type: none"> <li>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</li> <li>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</li> </ul>	73 - 76

Item No	Ward	Item Not Open		Page No
2  a) b)				

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## STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 5TH FEBRUARY, 2021

**PRESENT:** Councillor E Nash in the Chair

Councillors N Dawson, B Gettings, P  
Grahame, M Harrison, D Potter and A  
Scopes

Independent Person – Gordon Tollefson

### **1 Appeals against refusal of inspection of documents**

There were no appeals.

### **2 Exempt Information - Possible exclusion of the press and public**

There were no exempt items.

### **3 Late items**

There were no late items.

### **4 Declaration of Disclosable Pecuniary and Other Interests**

There were no declarations of disclosable pecuniary or other interests.

### **5 Apologies for absence**

Councillor P Harrand submitted his apologies in advance of the meeting. No substitute Members were in attendance.

### **6 Minutes of the previous meeting and matters arising**

**RESOLVED** – That the minutes of the meeting held 6th March 2020 be approved as an accurate record.

#### Matters arising

Minute 7 – Members requested an update in relation to the issue raised regarding the inclusion of addresses on election ballot papers, and were advised that the removal of addresses remains a recommendation from the Committee on Standards in Public Life, however the Government have not yet responded to the report or changed their position. It was noted that updates will be provided to Members at the earliest opportunity should the position change.

Draft minutes to be approved at the next meeting

## **7 Annual Report of the Monitoring Officer to the Standards and Conduct Committee**

The City Solicitor submitted a report that presented the work carried out by the Monitoring Officer and her staff to support the committee throughout the year. The report also demonstrated the ways in which the Authority has fulfilled its statutory duty to promote and maintain high standards of conduct.

The following were in attendance:

- Catherine Witham, City Solicitor, Monitoring Officer
- Andy Hodson, Head of Democratic Services, Deputy Monitoring Officer
- Nicole Walker, Head of Legal Services, Deputy Monitoring Officer

The Head of Democratic Services introduced the report, highlighting the following:

- Training has continued to be delivered to Members throughout the pandemic by remote means, particularly to address specific issues arising from complaints received;
- Reminders for updating registers of interests have been circulated throughout the year, to ensure that all registers reflect Members current circumstances;
- Social media continues to be a primary source of complaints against Members. It was noted that although the number of complaints within the period appears to have increased significantly, the number of incidents of complaint are less than the previous year, due to multiple complaints in relation to a single incident;
- Following a request for further information at the previous meeting in regards to the number of informal complaints received, the report also provides detail of correspondence received that have not progressed to the formal complaints process;
- Members were advised that suggested amendments to the complaints procedure are set out in Appendix 2 to the report, which intend to provide further clarity and enable members of the public to assess whether their concern may be better suited to other mechanisms before proceeding with a complaint against compliance with the Members' Code of Conduct.

Members discussed a number of matters, including:

- In response to a query, Members were advised that dispensations are granted for a Members' term of office and are therefore triggered upon re-election;
- Members sought clarity on the process for complaints against co-opted Members of Council committees, and were advised that non-voting co-opted Members fall outside of the Localism Act and therefore any complaints would be considered in line with the Leeds City Council Employee Code of Conduct;



- Members sought clarity on the process for redirection of complaints to West Yorkshire Police in relation to disclosure of interests, and were advised that explicit formal consent is required from the complainant prior to a referral.

**RESOLVED** - That the contents of the report be noted.

## **8 Local Government Association Model Councillor Code of Conduct**

The City Solicitor submitted a report that presented the Local Government Association's Model Code of Conduct for local councillors to Members with a view to considering recommendations for adoption by the authority.

The following were in attendance:

- Catherine Witham, City Solicitor
- Andy Hodson, Head of Democratic Service
- Nicole Walker, Head of Legal Services

The Head of Democratic Services introduced the report, and sought Members views in relation to adopting the Model Code at Appendix 1 in whole and/or with local amendments.

Members expressed concern in relation to the proposed broadening of the requirements concerning disclosure of interests in circumstances where a matter arises at a meeting affects the financial interest or well-being of a friend, relative or close associate. Members felt that if left unqualified, that this would place an unreasonable and unfair obligation on Members which goes beyond the legal requirements of the Localism Act 2011. Members acknowledged that a qualification on the declaration requirements by, for example, insertion of the word 'known', would provide greater certainty and comfort to Members.

**RESOLVED –**

- a) That adoption of the Local Government Association Model Code of Conduct be recommended to General Purposes Committee with effect from the Annual Council Meeting, subject to an amendment in relation to the declaration requirements relating to family, friends and close associates;
- b) That Members concerns in relation to the above clause be communicated to the Local Government Association.

## **9 Draft Annual Report of the Standards and Conduct Committee to Full Council**

The City Solicitor submitted a report presenting to the committee an annual report relating to matters within the committee's terms of reference, requesting that Members refer the report to full Council for consideration.

The following were in attendance:

Draft minutes to be approved at the next meeting

- Catherine Witham, City Solicitor
- Andy Hodson, Head of Democratic Services
- Nicole Walker, Head of Legal Services

The Head of Democratic Services introduced the report, noting the requirement for the Committee to report annually to full Council.

**RESOLVED –**

- a) That the draft Annual Report to Full Council at Appendix 1 be approved;
- b) That the Annual Report at Appendix 1 be referred to full Council for consideration.

## Annual Report of the Monitoring Officer to the Standards and Conduct Committee

Date: 14<sup>th</sup> March 2022

Report of: City Solicitor

Report to: Standards and Conduct Committee

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### What is this report about?

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.

### Recommendations

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

### Why is the report being put forward?

- 1 The report from the Monitoring Officer is attached at Appendix 1 and provides assurances in respect of work undertaken to;
  - Ensure registers of interests and dispensations were correctly administered.
  - Deal with any sensitive interests.
  - Assess and respond to complaints.
  - Support Parish and Town Councils.

### What impact will this report have?

#### Wards affected:

Have ward members been consulted?  Yes  No

- 2 The Council's ethical framework for elected members is a key component of the Council's Values of being open, honest and trusted and treating people fairly.
- 3 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 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.

- 5 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.
- 6 In managing risks to Members' personal safety, the Monitoring Officer has, on application from Members, granted permissions on requests for Members' Personal addresses to be withheld from the Public Register of Interests.

### **What consultation and engagement has taken place?**

- 7 In relation to complaints against Councillors, in all cases referred to in the Monitoring Officer's report: -
  - a) The subject member was informed of the complaint and invited to provide information to assist in the assessment of it.
  - b) The Independent Person is consulted and invited to comment in advance of all Assessments being completed.
  - c) the Complainant is contacted, and an explanation provided as to the outcome of their complaint.

### **What are the resource implications?**

- 8 There are no resource implications arising from this report the Monitoring Officer advises that she is satisfied with both the capacity and resilience of resources available.

### **What are the legal implications?**

- 9 The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority.

### **What are the key risks and how are they being managed?**

- 10 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.

### **Does this report support the council's three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 11 Having a well-functioning ethical framework helps maintain confidence in the governance arrangements of the authority and thereby of the Council's objectives.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 12 This a factual report detailing the operation of the ethical framework in place at Leeds City Council.

**How will success be measured?**

- 13 The Monitoring Officer has ensured that arrangements are in place for the registration and declaration of Interests and gifts and hospitality. The Monitoring Officer as also supported the Council in its duty to adopt and keep under review a Code of Conduct.
- 14 All elected Members have complied with the statutory requirements relating to the registration and declaration of interests, use of dispensations and there have been no identified failures under the Council's procedures in respect of adherence to the Councillor Code of Conduct.

**What is the timetable for implementation?**

- 15 Other than statutory requirements on relating to the registration of interests there are no required timescales for implementation.

**Appendices**

- 16 Appendix 1 Annual Report of the Monitoring Officer

**Background papers**

- 17 None.

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**ANNUAL REPORT OF THE MONITORING OFFICER**

- 1 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.
- 2 This report covers the period from the last report to the committee in February 2021 to date and provides assurances in respect of work undertaken to;
  - Ensure registers of interests and dispensations were correctly administered.
  - Deal with any sensitive interests.
  - Assess and respond to complaints.
  - Support Parish and Town Councils.

**Training & Advice**

- 3 The Committee on Standards in Public Life has stressed that Training for Members should not be simply compliance focused but should also set out the rationale for high standards in public life and be scenario based so that councillors can engage with concrete examples and see the relevance of standards to different areas of activity in which they might be involved.
- 4 Following the adoption of the new Councillor Code of Conduct a series of on-line classroom led training sessions were provided to enable all Members to acquaint themselves with the new Code provisions and how they will impact on Members' roles. These were well attended by Members from all Political Groups and those unable to attend were signposted to on-line resources to support their learning.
- 5 Following the local elections in May 2021 the Monitoring Officer also arranged training for all newly elected Members.
- 6 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
- 7 Advice and training have been provided to Members on request on a 1:1 basis in relation to specific issues that have emerged during the year, including: -
  - Registration and declaration of interests and gifts and hospitality.
  - Bias and Predetermination.
  - Conflicts of Interests.
  - Social Media.

## **Register of Interests**

- 8 The Localism Act 2011 places a duty on the Monitoring Officer of a relevant authority to establish and maintain a register of interests of Members and co-opted Members of the authority.
- 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 a change in the circumstance relating to such interests.
- 10 In addition, regular reminders have been issued to elected Members to review their register 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 the provisions for Sensitive Interests.

## **Sensitive Interests**

- 11 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 Interests. 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 is 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 because of those interests appearing on the Members' public register.
- 12 Considering concerns raised by a large number of Elected Members about instances of harassment, intimidation and vulnerability, which were particularly intensified following the tragic death of Sir David Amess, the Monitoring Officer took the step of withholding<sup>1</sup> details of Members' home addresses from the publicly accessible register of interest. This approach was mirrored by authorities regionally and nationally.
- 13 The actions taken by the Monitoring Officer in Leeds in relation to Sensitive Interests mirrors a recommendation recently made by the Committee on Standards in Public Life and is also an approach adopted by authorities regionally and nationally.
- 14 Members will recall that the report from the Committee on Standards in Public Life (CSPL), into Local Government Standards arrangements (published in January 2019) made a recommendation to Government to clarify that a councillor does not need to register their home address on an authority's register of interests. As was reported last year, no progress has been made by Government in relation to this.

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<sup>1</sup> Subject to Members having the option of having these details reinstated at their request



## **Dispensations**

- 15 If a councillor wishes to apply for a dispensation to allow them to take part in a meeting considering a matter in which they have a disclosable pecuniary interest, they must submit a written application to the Monitoring Officer.
- 16 Applications are then decided by the Head of Paid Service. However, in deciding whether to grant a dispensation the Head of Paid Service must have regard to s.33(2) Localism Act 2011 and, (as per arrangements established in Leeds), consult with the Chair of the Standards and Conduct Committee.
- 17 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 limitation upon councillors.
- 18 Considering 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.
- 19 The dispensation allows 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 process.
- 20 The other active dispensation, granted to all Members, permits Members to take part and vote in matters relating to:
  - Any office held within Leeds City Council for which they receive 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.
- 21 Subject to any legislative or policy change, and in consultation with the Chair of this Committee, the Head of Paid Service will be invited to grant dispensations in similar terms following each local election, for a period reflecting the term of office of successful candidates.
- 22 During the year one additional dispensation was granted to an elected Member relating to an interest arising from that Member's role as a Council appointed trustee of a local charity.

## **Complaint Handling**

- 23 Leeds City Council has 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 complaint 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.

- 24 If a complaint was to reach Stage 3 of the complaint 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.
- 25 As part of their regular briefings (with the Deputy Monitoring Officers) 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.
- 26 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.
- 27 Each complaint is assessed by either the Monitoring Officer (or one of her Deputies), in consultation with the Independent Person; it is the Monitoring Officer (or her nominated Deputy) that makes a decision as to whether it will be treated as a valid complaint or not. Where information is lacking, complainants are also offered the opportunity to provide further information to substantiate their complaint to enable an objective assessment to be undertaken.

#### **Complaints relating to Leeds City Councillors.**

- 28 Last year, at the time the committee met, Members were advised that 41 complaints (relating to eight separate issues) had been received in respect of Leeds City Council Members. Two additional complaints were received between the committee meeting in February and the end of May 2021, both were dismissed.
- 29 During the Municipal Year there have been 9 complaints made against Leeds City Councillors.

#### Leeds City Council Member Complaints Summary

Complaint Ref	Nature of Complaint	Assessment Outcome
1	Concerns relating to a verbal exchange	Repeated complaint from previous year that had already been assessed  Outcome - complaint invalid under paragraph 6(i) & paragraph 6(j) of the complaints procedure.
2	Concerns relating to bullying	Outcome complaint invalid under paragraph 6(l) of the complaints procedure
3	Concerns relating to failure to respond to a request for clarification of consultation responses.	Outcome Invalid Paragraphs 6d and 6l, no further action

Complaint Ref	Nature of Complaint	Assessment Outcome
4	Concerns relating to failure of councillors to respond to request for a response.	Outcome Invalid Paragraphs (d) and (l), no further action.
5	Concerns relating to inaccurate and derogatory references made to the complainant to a third party.	Outcome - valid complaint - Member accepted finding and has given an undertaking to have further training. No further action under Paragraph 6 (J)
6	Concerns relating to content of correspondence	Outcome - invalid under paragraph 6(i) no further action
7	Various concerns relating to honesty of Councillor in statements made.	Awaiting Assessment
8	Concern relating to casework not being to the satisfaction of the constituent	Outcome – invalid complaint – No further action Paragraph 6(l)
9	Concern about the use of resources and inappropriate language	Outcome – invalid complaint – No further action Paragraph 6(l)

- 31 There are no trends or issues of concern raised from the complaints which require intervention from the committee.
- 32 As Members will recall, complaints alleging a failure to register a disclosable pecuniary interest are matters for consideration by the West Yorkshire Police as per the Localism Act 2011 has made such a failure a criminal offence.
- 33 Paragraph 6 (k) of the complaints procedure references this stating that complaints which relate to an alleged failure to comply with the rules regarding ‘Disclosable Pecuniary Interests’ are invalid –this clause is further referenced by way of footnote stating that “Such complaints will be redirected to the West Yorkshire Police, subject to the complainant’s agreement.
- 34 No formal complaints of this nature have been received this year that have required referral to the Police.

## Complaints relating to Parish and Town Councillors in Leeds

- 35 Last year at the time of this annual report, the Monitoring Officer reported having received seven complaints relating to Parish or Town Councillors in the Leeds area. No further complaints were received between the committee meeting and the end of the Municipal Year.
- 36 At the time of this report, in the 2021/22 Municipal Year, the Monitoring Officer has received **8** complaints relating to Parish or Town Councillors in the Leeds area.
- 37 This is summarised in the table below.

### Parish and Town Council Member Complaints Summary

38

Complaint Ref	Nature of Complaint	Assessment Outcome
a	Concerns relation to social media post, correspondence, and Licensing Visit	Outcome Invalid under paragraph 6(c), paragraph 6(h), paragraph 6(i), and paragraph 6(l) of the complaints procedure
b	Alleged bullying	Outcome invalid no further action under Paragraph 6(l).
c	General conduct which breaches code	Outcome – invalid complaint. No further action Paragraph 6(l)
d	Alleged bullying and intimidation	Outcome – invalid complaint, No further action Paragraph 6(l)
e	Registration and declaration of interests	Outcome - Invalid under Paragraph 6 l, no further action will be taken
f	Concerns around discriminatory language used in correspondence	Outcome – invalid complaint – No further action Paragraph 6(l)
g	Alleged bullying	Awaiting assessment outcome.
h	Concerns around discriminatory language used in correspondence	Outcome – invalid complaint – No further action Paragraph 6(l)

- 39 All but one of these complaints related to Members of the same Parish Council - with 6 of these being complaints made by parish councillors about fellow parish councillors..

- 40 In addition to the formal complaints received, assessed and reported on above - in the year to date 5 informal contacts (General Inquiries) were made through the [councillorconduct@leeds.gov.uk](mailto:councillorconduct@leeds.gov.uk) email address (14 last year).
- 41 Each enquiry was responded to by providing a complaint form and details of the Code of Conduct Complaints process. Three did not result in a formal complaint being made, one was resolved through other informal mechanisms by a Group Whip and one was withdrawn by the complainant prior to Assessment being undertaken.

### **Monitoring Officer Observations and Recommendations on the Operation of the Complaints Process**

- 42 Members will recall that last year an additional step was included at Stage 1 of the complaint procedure whereby the provisional outcome of assessment is shared with the Independent Person for his view in advance of that Assessment being concluded and communicated to the Complainant and subject Member.
- 43 That process has worked extremely well during the last year and as added further rigour and independence to the complaints process. The Monitoring Officer would like to place on record her thanks to Mr Tollefson for his diligence and expertise in undertaking this role.
- 44 It remains important that the focus of the complaints process is on matters that are serious, such as corruption, bullying and misuse of power in public office. Following changes made to the procedure last year and consideration of the procedure in practice, no further amendments are recommended this year by the Monitoring Officer.

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

- 45 Parish and Town Councils have responsibilities under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:-
- promoting and maintaining high standards of conduct by their 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.
- 46 Under the previous standards and conduct legislation many of these responsibilities were carried out by the Monitoring Officer/Standards Committee on behalf of parish and town councils.

- 47 Leeds City Council 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.
- 48 As set out earlier, Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.
- 49 Under Stage 3 of the complaint 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 subcommittee meeting.
- 50 A parish Member is not entitled to vote at the meeting but would be entitled to speak at the discretion of the Chair. One parish Member remains co-opted to the committee - Councillor Debbie Potter (from Shadwell Parish Council). Co-opted parish Members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.

#### **Independent Person**

- 51 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 Councillors' Code of Conduct.
- 52 Following the amendment to the procedure rules, Mr Tollefson is routinely consulted on draft complaint assessments. He also has regular briefing meetings with one of the Deputy Monitoring Officers and during the year has provided support to Members to help resolve issues. By way of this report, the Committee are invited to extend thanks to Mr Tollefson for his continued service as Independent Person this year.

#### **Progressing the Recommendations from the Committee on Standards in Public Life.**

- 53 Since the publication of the report, the Department for Levelling Up, Housing and Communities has been engaging with a small number of local authority Monitoring Officers (Leeds included) to formulate the steps necessary to implement the Committee on Standards in Public Life (CSPL) recommendations. However, the formal response from government is still awaited.

Catherine Witham  
Monitoring Officer  
March 2022

## Local Government Association Model Councillor Code of Conduct

Date: 14<sup>th</sup> March 2022

Report of: City Solicitor

Report to: Standards and Conduct Committee

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### What is this report about?

#### Including how it contributes to the city's and council's ambitions

- This report presents to Members further amendments which have been made to the Local Government Association's Model Councillor Code of Conduct for local councillors with a view to considering recommendations for adoption by the authority (LGA (Local Government Association) Model Code).
- The LGA Model Code was adopted<sup>1</sup> by Full Council in March 2021. The new Councillor Code of Conduct took effect on 20 May 2021.
- The Council became aware of amendments to the LGA Model Code after the Full Council decision in March 2021. The amendments add further clarification to the LGA Model Code.
- In addition, at the request of the Leader, the adopted Councillors Code of Conduct has been further reviewed to consider any unintended consequences that have arisen because of it.
- The Councillor Code of Conduct provides a framework compatible with the Council's Values of being open, honest, and trusted and treating people fairly.

### Recommendations

The Standards and Conduct Committee is asked to:

- a) Consider the proposed further LGA amendments to the adopted Councillor Code of Conduct as set out in Appendix 1 to this report; and
- b) Consider the proposed additional amendments to the adopted Councillor Code of Conduct as set out in Paragraphs 7 and 11 of Appendix 1; and
- c) Recommend to General Purposes Committee that Full Council adopt the amendments to the Councillor Code of Conduct.

<sup>1</sup> Subject to the addition of the word "known" in paragraph 7 of Appendix B

## Why is the proposal being put forward?

- 1 At its meeting on 5 February 2021 Standards and Conduct Committee considered that there was considerable benefit to the Council from adopting in full the LGA's Model Code so the Council could play its part in achieving consistency across the Country in this important area.
- 2 The Committee resolved to recommend to General Purposes Committee that the adoption of the LGA Model Code of Conduct be adopted by Full Council with effect from the Annual Council Meeting, subject to an amendment in relation to paragraphs 7 of Appendix B relating to the declaration requirements relating to family, friends, and close associates.
- 3 General Purposes Committee duly recommended the same to Full Council and in March 2021 Full Council adopted the LGA Model Code subject to the minor amendments described above.
- 4 Following the decision of Full Council in March 2021, the LGA made further amendments to its Model Code, meaning the Council's Code of Conduct no longer fully reflects the LGA Model Code.
- 5 The reason for the LGA amendments falls into three categories, (i) those required to insert missing text (ii) those required to add clarity to executive arrangements section and (iii) those required to reflect the guidance relating to Other Registrable Interests (ORIs).
- 6 In addition, at the request of the Leader, the Code has been further reviewed to consider any unintended consequences that have arisen because of it. That review has led to additional proposed amendments in relation to Appendix B of the Code (see paragraphs 7 and 11 of Appendix 1) relating to the disapplication of the requirement to disclose both ORIs and Non-Registerable interests where that interest is one which relates to any body of which a Councillor is a member or is in a position of general control or management and to which they were nominated or appointed by the Council.
- 7 For ease of reference, the recommended amendments have been inserted into the adopted Code of Conduct as tracked changes and are attached as Appendix 1 to this report.

## What impact will this proposal have?

### Wards affected:

Have ward members been consulted?       Yes       No

- 8 Officers have considered the impact these amendments will have on the Councillor Code of Conduct and are of the view they will positively enhance the clarity of the Code, specifically in respect of declaration of interests.
- 9 The proposed amendments also disapply the need to disclose either an ORI or a Non-Registerable interest where that interest is one which relates to any body of which a Councillor is a member or is in a position of general control or management and to which they are nominated or appointed by the Authority.

## What consultation and engagement has taken place?

- 10 The LGA consulted widely within the local government sector and with other stakeholders and many of the further amendments made to the LGA Model Code were in response to stakeholder feedback.
- 11 Group Leaders have been consulted on the amendments set out in paragraph 6 above and are supportive of the proposals.



### **What are the resource implications?**

12 There are no specific implications arising from this report.

### **What are the legal implications?**

13 The amendments to the LGA Model Code are compliant with the requirement of the Localism Act 2011 and adoption of the amendments would be compliant with the duties placed on the Council.

### **What are the key risks and how are they being managed?**

14 There are no specific risk implications arising from this report. If the amendments are not adopted, the Code of Conduct would remain fit for purpose, however, the recommended amendments will provide greater clarity and reduce the risk of potential confusion around declarations of interests.

### **Does this proposal support the council's three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

15 N/A

### **Options, timescales and measuring success**

#### **What other options were considered?**

16 Not adopting the further amendments to the LGA Model Code is an option, however, for the reasons described above, this would mean the Code would no longer fully reflect the LGA Model Code.

17 The option not to disapply disclosure requirements specified in paragraph 6 above, would result in unintended consequences of the Code for some Members who are appointed to such outside bodies as it may lead to circumstances where they are restricted from speaking on a matter.

#### **How will success be measured?**

18 Success will be measured by the adoption by Full Council of further LGA amendments into the Council's Code of Conduct.

#### **What is the timetable for implementation?**

19 It is proposed that General Purposes Committee will consider the recommendations of this committee at their next meeting and, subject to agreement - a resolution will be considered by the Annual Council Meeting.

### **Appendices**

20 Appendix 1 – Adopted Councillor Code of Conduct including recommended amendments.

### **Background papers**

21 None

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# Councillor Code of Conduct<sup>1</sup>

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<sup>1</sup> Adapted from the LGA Model Councillor Code of Conduct and effective from 20<sup>th</sup> May 2021

## Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority; or
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.

The Standards and Conduct Committee encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty;
- I act lawfully;
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community;
- I do not improperly seek to confer an advantage, or disadvantage, on any person;
- I avoid conflicts of interest;
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council;
- you are claiming to act as a councillor and/or as a representative of your council;
- you are giving the impression that you are acting as a councillor and/or as a representative of your council;
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings;
- at online or telephone meetings;
- in written communication;
- in verbal communication;
- in non-verbal communication; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

## Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### General Conduct

#### 1. *Respect*

##### As a councillor:

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

**4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

**4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**



Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. *Disrepute***

### **As a councillor:**

#### **5.1 I do not bring my role or local authority into disrepute.**

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

**6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

**7.1 I do not misuse council resources.**

**7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support;
- stationery;
- equipment such as phones, and computers;
- transport;
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

**As a councillor:**

**9.1 I register and declare my interests.**

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality As a councillor:**

**10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B

### Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). ~~Disclosable Pecuniary Interests means issues relating to money and finances.~~  
Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below" .
4. "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### ~~Declaring interests~~ Non Participation in case of disclosable pecuniary interest

5. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
6. Where you have a disclosable pecuniary interest on a matter to be considered or which is being considered by you as an Executive Board member in exercise of your executive function, you must notify the

Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

5.

7. Paragraph 8 below does not apply where your interest is one which relates to any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.

8. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests, (as set out in Table 2) you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise you must not take part in any discussion or vote on the matter and you must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.

### 6. Disclosure of Non-Registerable Interests

7.9. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a known financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise you must not take part in any discussion or vote on the matter and you must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

8.10. Where a matter arises at a meeting which *affects* –

- a. your own financial interest or well-being;
- b. a known financial interest or well-being of a friend, relative, close associate; or
- c. a financial interest or wellbeing of a body included in those you need to disclose under Other Registrable Interests as set out in Table 2;

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest, the following test should be applied.

11. Paragraph 12 below does not apply where your interest is one which relates to any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.

9.12. Where the matter (referred to in paragraph 10 above) affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you must declare the interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise you must not take part in any discussion or vote on the matter and you must not remain in the room unless you have been granted a dispensation. If it is a “sensitive interest” you do not have to declare the nature of that interest.

~~13. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or which is being considered by you as an Executive Board member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.~~

~~10.~~



**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. <del>[Any unpaid directorship.]</del>
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

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

## Table 2: Other Registerable Interests

### You must register as an Other Registerable Interest:

#### Details of:

a) ~~a)~~ any unpaid directorship;

b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority;

~~— of which you are in general control or management and to which you are nominated or appointed by your authority~~

cb) any body of which you are a member or in a position of ~~in~~ general control or management which is

(i) exercising functions of a public nature

(ii) directed to charitable purposes or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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## Annual Review of Protocols

Date: 14<sup>th</sup> March 2022

Report of: City Solicitor

Report to: Standards and Conduct Committee

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### What is this report about?

#### Including how it contributes to the city's and council's ambitions

- This report presents to Members the conclusions of the annual review of the Monitoring Officer Protocol and the review of the Member Officer Protocol ("the Protocols").
- The Protocols, which are contained within Part 5 of the Council's Constitution have been reviewed to ensure they remain fit for purpose in supporting high standards of governance and practice.

### Recommendations

The Standards and Conduct Committee is asked to:

- a) Consider and approve the proposed minor amendments to the Protocols as set out in Appendices 1 and 2 attached to this report;
- b) Advise whether any further changes are considered necessary.

### Why is the proposal being put forward?

- 1 The Monitoring Officer Protocol is required to be reviewed regularly to ensure it remains fit for purpose. The last review was completed and approved in October 2020.
- 2 The Member Officer Protocol has not been formally reviewed since October 2014. To ensure it continues to adequately support Member and Officer relationships in light of the newly adopted Members Code of Conduct a high level review has been undertaken.
- 3 It is the role of the Standards and Conduct Committee to formally approve any amendments to the Protocols.
- 4 The review of each Protocol has concluded that only minor (updating) amendments to each are required to reflect current circumstances, such as the change to the remit and title of the Local Government Ombudsman to the Local Government and Social Care Ombudsman.

- 5 For ease of reference, the recommended amendments have been inserted into the current Protocols as tracked changes and are attached as Appendix 1 and 2 to this report.

**What impact will this proposal have?**

**Wards affected:**

Have ward members been consulted?       Yes       No

- 6 Officers have considered the impact these amendments will have on the Protocols and are of the view they will positively enhance their clarity.

**What consultation and engagement has taken place?**

- 7 Due to the minor nature of the proposed amendments no consultation with Members has been undertaken prior to this report being prepared.

**What are the resource implications?**

- 8 There are no specific implications arising from this report.

**What are the legal implications?**

- 9 If the proposed amendments to the Protocols are approved, they will be incorporated into Part 5 of the Council’s constitution.

**What are the key risks and how are they being managed?**

- 10 There are no specific risk implications arising from this report. If the amendments are not adopted, the Protocols would remain fit for purpose, however, the recommended amendments will provide greater clarity.

**Does this proposal support the council’s three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 11 The proposal indirectly supports the council’s three Key Pillars by maintaining good governance.

**Options, timescales and measuring success**

**What other options were considered?**

- 12 Not adopting the further amendments to the Protocols is an option, however, for the reasons described above, this option is not recommended.

**How will success be measured?**

- 13 Success will be measured by the approval of the Protocols.

**What is the timetable for implementation?**

- 14 If approved, the Protocols will be amended from the date of the decision.

## **Appendices**

15 Appendix 1 – Monitoring Officer Protocol including recommended amendments

16 Appendix 2 – Member Officer Protocol including recommended amendments

## **Background papers**

17 None

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## MONITORING OFFICER PROTOCOL

### 1.0 INTRODUCTION TO STATUTORY RESPONSIBILITIES

- 1.1 The Monitoring Officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged.
- 1.2 The role of the Monitoring Officer rests with the City Solicitor.
- 1.3 A summary list of the Monitoring Officer's responsibilities appears in the Annex attached. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and officers:-
- (a) complying with the law;
  - (b) complying with any relevant Codes of Conduct or codes or protocols issued from time to time;
  - (c) making lawful and proportionate decisions; and
  - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

### 2.0 WORKING ARRANGEMENTS

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
- 2.2.1 Resources
- (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
  - (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
  - (c) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions;

## Monitoring Officer Protocol

- (d) appoint a deputy(~~ies~~) and keep ~~them~~ ~~him/her~~ briefed on any relevant issues that ~~theys/he~~ may be required to deal with in the absence of the Monitoring Officer;

### 2.2.2 Access to information/meetings

- (a) be alerted by Members and officers to any issue(s) that may become of concern to the authority, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice, (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend (including the right to be heard) any meeting of the authority (including meetings at which officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- (d) be a member of the Corporate Leadership Team and will have advance notice of those meetings, agenda and reports and the right to attend and speak;
- (e) in carrying out any investigation(s), have ~~unqualified~~ access to any information held by the Council and to any officer who can assist in the discharge of his/her functions;

### 2.2.3 Relationships

- (a) ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (c) have a close working relationship of respect and trust with the Lord Mayor, and the chairs of the Executive Board, Standards and Conduct Committee, Scrutiny Boards, Community Committees and other Committees with a view to ensuring the effective and efficient discharge of Council business;
- (d) develop effective working liaison and relationship with the Council's External Auditors, the Local Government ~~and Social Care~~ Ombudsman (LGSCO) and

## *Monitoring Officer Protocol*

the Independent Housing Ombudsman (IHO)(including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);

- (e) in consultation, as necessary, with the Leader and the Executive Board, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (f) make arrangements to ensure effective communication between his/her office and clerks to parish councils on Monitoring Officer and Standards and Conduct Committee issues;

### 2.2.4 Ombudsman Complaints

- (a) prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 in relation to complaints which have been the subject of investigation by the Local Government and Social Care Ombudsman and which have revealed maladministration whether or not that maladministration has caused injustice;
- (b) prepare reports to Members where considered necessary to bring to their attention issues of importance arising out of complaints made to the Local Government and Social Care Ombudsman whether or not investigated or maladministration found;

### 2.2.5 Standards Matters

- (a) refer relevant matters to the Standards and Conduct Committee in accordance with the 'Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct within the area of Leeds Metropolitan District Council';
- (b) make arrangements for, prepare reports for, and advise meetings of the Consideration Sub-Committee of the Standards and Conduct Committee;
- (c) give informal advice to Members in relation to informal resolution of a complaint;
- (d) be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues;
- (e) establish, maintain<sup>1</sup> and publish<sup>2</sup> the statutory register of Members' interests<sup>3</sup>;

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<sup>1</sup> The arrangements for maintaining and updating the register will be reported to the Standards and Conduct Committee annually as part of the report required under paragraph 5.0 of this Protocol.

<sup>2</sup> Published on the Council's website [www.leeds.gov.uk](http://www.leeds.gov.uk).

<sup>3</sup> In relation to Leeds City Councillors, voting co-opted Members of Leeds City Council, and Members of Parish and Town Councils in the Leeds area.

- (f) to receive written requests for dispensations from Members and Co-opted Members of Leeds City Council, and to refer such requests to the Head of Paid Service;

#### 2.2.6 Constitution

- (a) review and monitor the Constitution in accordance with the arrangements set out in Article 15.1 of the Constitution and consult with the Section 151 Officer and Head of Paid Service before taking any report to the relevant Committee to approve amendments to the Constitution.

### **3.0 MEMBER AND OFFICER RESPONSIBILITIES**

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

### **4.0 ADVICE**

The Monitoring Officer is also available for Members and officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Council Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc).

### **5.0 MONITORING THE PROTOCOL**

Annually, the Monitoring Officer will report to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

### **6.0 SANCTIONS FOR BREACH OF PROTOCOL**

Complaints of a breach of this Protocol by an Officer will be referred to the relevant Director and/or the Chief Executive for appropriate action to be considered, including disciplinary investigation.

## SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish, maintain and publish registers of Members' interests <sup>4</sup> .	Section 29 Localism Act 2011
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Proper officer for the receipt of dispensations.	Section 33 Localism Act 2011
9	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
10	Advise on vires issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance

<sup>4</sup> In relation to Leeds City Council and Parish and Town Councils in the Leeds area.

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## A PROTOCOL FOR MEMBER/OFFICER RELATIONS

### 1.0 INTRODUCTION AND PRINCIPLES

- 1.1 The objectives of this Protocol are to guide Members<sup>1</sup> and officers of the Council<sup>2</sup> in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of Conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Standards and Conduct Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Details of the resources provided to members and officer will be provided subsequently in a separate document.
- 1.7 Given the variety and complexity of relations between Members and officers of the Council, this Protocol does not seek to be comprehensive. It is ~~intended~~ ~~hoped~~, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

### 2.0 THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

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<sup>1</sup> Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

<sup>2</sup> Unless the context indicates otherwise, references to the term Council include the executive, overview and scrutiny committees, and other committees and sub-committees

## *Protocol on Member/Officer Relations*

- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Executive, Scrutiny Boards, Community Committees or other committees and sub-committees of the Council.
- 2.7 Members serving on Scrutiny Boards monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision and special Scrutiny functions in the areas relating to Flood Risk Management, Crime and Disorder and Health.
- 2.8 Members serving on Community Committees work to promote and improve the economic, social and environmental well-being of the Committee's area and make decisions in relation to Local Services. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.
- 2.9 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 2.10 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12 Members are not authorised to instruct officers other than:
  - through the formal decision-making process;



- to request the provision of consumable resources provided by the Council for Members' use<sup>4</sup>.
- 2.13 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.14 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.
- 2.15 Members must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
- 2.16 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and relevant guidance.

### **3.0 THE ROLE OF OFFICERS**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

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<sup>4</sup> See paragraph 5 of this Protocol.

- 3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

#### **4.0 THE RELATIONSHIP AND BREACHES OF THE PROTOCOL**

- 4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of the Council.
- 4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor XX/Lord Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion

and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - never make a criticism in public, and
  - take up the concern with the officer privately.
- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Robust challenge is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Board except in relation to Council functions. A Scrutiny Board may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision notifications, and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Member, s/he should raise the matter with his/her Director<sup>5</sup>, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, will after consultation with the complainant

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<sup>5</sup> "Director" is defined by footnote 1 to Article 12 of the Constitution.

*Protocol on Member/Officer Relations*

take appropriate action either by approaching the individual Member and/or group whip or by referring the matter to the Monitoring Officer.

**5.0 BREACHES OF THE PROTOCOL**

~~5.1—In relation to Members, failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.~~

~~5.2—Allegations of breaches by officers will be referred to the employee's Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.~~

**56.0 MONITORING AND INTERPRETATION**

56.1 The Monitoring Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this protocol.

56.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.

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## Annual Report of the Standards and Conduct Committee

Date: 14<sup>th</sup> March 2022

Report of: City Solicitor

Report to: Standards and Conduct Committee

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### What is this report about?

The purpose of this report is to present to the committee an annual report of the Standards and Conduct Committee relating to matters within the committee's terms of reference.

### Recommendations

- a) Members are requested to consider and approve the draft Annual Report (attached at Appendix 1) and determine whether any additional commentary is required.

### Why is the report being put forward?

- 1 Council Procedure Rule 2.2 (f) stipulates that an annual report of the committee must be referred to full Council for consideration.

### What impact will this report have?

**Wards affected:**

Have ward members been consulted?  Yes  No

- 2 The Council's ethical framework for elected members is a key component of the Council's Values of being open, honest and trusted and treating people fairly. The Standards and Conduct Committee reporting to Full Council annually supports the duty of the Authority to promote and maintain high standards of conducts by Members and co-opted Members of the Council.

### What consultation and engagement has taken place?

- 3 The purpose of the report being before the committee is to seek comments, amendments and subsequent approval of the Annual Report

### What are the resource implications?

- 4 There are no resource implications arising from this report.

### What are the legal implications?

- 5 The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority, reporting in this way to Full Council supports the discharge of that duty.

### **What are the key risks and how are they being managed?**

- 6 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.

### **Does this report support the council's three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 7 Having a well-functioning ethical framework helps maintain confidence in the governance arrangements of the authority and thereby of the Council's objectives.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 8 This a factual report detailing the operation of the ethical framework in place at Leeds City Council.

#### **How will success be measured?**

- 9 By considering reports from the Monitoring Officer the Standards and Conduct Committee ensure that the Council's Ethical Framework remains up-to-date and fit for purpose.

#### **What is the timetable for implementation?**

- 10 There are no required timescales for implementation.

### **Appendices**

- 11 Appendix 1 Draft Annual Report of the Standards and Conduct Committee

### **Background papers**

- 12 None.





**Draft**

**Annual Report to Full Council**

**Standards and Conduct  
Committee**

**2021/22**

## **1. INTRODUCTION**

This is the Annual Report to Full Council relating to matters within the Standards and Conduct Committee's Terms of Reference. Council Procedure Rule 2.2 (f) stipulates that an Annual Report of the Standards and Conduct 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. TERMS OF REFERENCE**

The Terms of Reference for the Standards and Conduct Committee are reviewed each year to ensure they represent current regulations.

The functions of the Standards and Conduct Committee are:

- 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. COMMITTEE INFORMATION**

### **Committee Membership**

Councillor Elizabeth Nash (Chair)

Councillor Dan Cohen

Councillor Ryk Downes

Councillor Bob Gettings JP

Councillor Pauleen Grahame

Councillor Peter Harrand

Councillor Lisa Mulherin

Councillor Andrew Scopes

Councillor Eileen Taylor

Councillor Jonathon Taylor

Councillor Debbie Potter - Parish and Town Council representative

Gordon Tollefson - Independent Person

## **4. Key Issues**

### **Progressing the Recommendations from the Committee on Standards in Public Life. (CSPL)**

Since the publication of the CSPL's report, the Department for Levelling Up, Housing and Communities (DLUHC) has been engaging with a small number of local authority Monitoring Officers (Leeds included) to formulate the steps necessary to implement the CSPL recommendations. However, given continued constraints on parliamentary time little progress has been made by DLUHC in responding to the CSPL recommendations.

### **Councillor Code of Conduct**

In response to one recommendation from CSPL, the Local Government Association (LGA) last year concluded a consultation exercise and approved a Model Councillor Code of Conduct for local government. Following cross party consultation full Council approved the adoption of a revised Councillor Code of Conduct for Leeds that is substantially based on the LGA model Code.

At the request of the Leader, the application of the new Code has been reviewed during the first year of operation. That review identified changes necessary to address in-year changes made by the LGA and in relation to the dis-application of some interest requirements where a Member is appointed by the authority to an Outside Body. Following the review, the committee has made recommendations to the General Purposes Committee for alterations to be made to the Code.

### **Protocol on Member Officer Relations and Monitoring Officer Protocol**

The committee have considered and reviewed both the Protocol on Member Officer Relations and Monitoring Officer Protocol.

### **Training and Advice**

The Committee on Standards in Public Life has stressed that Training for Members should not be simple compliance focused but should also set out the rationale for high standards in public life and should be scenario based so that Councillors can engage with concrete examples and see the relevance of standards to different areas of activity in which they might be involved.

Following the adoption of the new Councillor Code of Conduct a series of on-line classroom led training sessions were provided to enable all Members to acquaint themselves with the new Code provisions and how they will impact on Members' roles. These were well attended by Members from all Political Groups and those unable to attend were signposted to on-line resources to support their learning.

Following the local elections in May 2021 the Monitoring Officer also arranged training for all newly elected Members.

Advice and training have also been provided to Members on request on a 1:1 basis in relation to specific issues that have emerged during the year; including:

- Registration and declaration of interests.
- Bias and Predetermination.
- Conflicts of Interests.
- Use of social media.

## **Register of Interests**

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 a change in the circumstance relating to such interests.

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 the provisions for Sensitive Interests.

## **Sensitive Interests**

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 Interests. 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 is 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 because of those interests appearing on the members' public register.

In response to concerns raised by a large number of Elected Members about instances of harassment, intimidation and vulnerability, which were particularly intensified following the tragic death of Sir David Amess, the Monitoring Officer took the step of withholding<sup>1</sup> details of Members' home addresses from the register of interests accessible by the public. This approach was mirrored by authorities regionally and nationally.

The actions taken by the Monitoring Officer in Leeds in relation to Sensitive Interests mirrors a recommendation recently made by the Committee on Standards in Public Life and is also an approach adopted by authorities regionally and nationally.

Members will recall that the report from the Committee on Standards in Public Life (CSPL), into Local Government Standards arrangements (published in January 2019) made a recommendation to Government to clarify that a councillor does not need to register their home address on an authority's register of interests.

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<sup>1</sup> Subject to Members having the option of having these details reinstated at their request

## **Dispensations**

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.

In light of this 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.

The dispensation allows 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 process.

The other active dispensation, granted to all Members, 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.

Subject to any legislative or policy change, and in consultation with the Chair of this Committee, the Head of Paid Service will be invited to grant dispensations in similar terms following each local election, for a period reflecting the term of office of successful candidates.

Subject to any legislative or policy change, and in consultation with the Chair of this Committee the Chief Executive will be invited to grant dispensations in similar terms following each local election, for a period reflecting the term of office of successful candidates.

During the year one additional dispensation was granted to an elected member relating to an interest arising from that Member's role as a Council appointed trustee of a local charity.

## **Complaint handling**

To be considered under the Members Code of Conduct 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.

Each complaint is assessed by either the Monitoring Officer (or one of her Deputies), in consultation with the Independent Person; it is the Monitoring Officer (or her nominated Deputy) that decides whether it will be treated as a valid complaint or not. Where information is lacking, complainants are also offered the opportunity to provide further information to substantiate their complaint to enable an objective assessment to be undertaken.

### Complaints relating to Leeds City Councillors

Last year, at the time the Committee met, Members were advised that 41 complaints (relating to eight separate issues) had been received in respect of Leeds City Council Members. Two additional complaints were received between the committee meeting in February and the end of May 2021, both were dismissed.

From June this year (to date) there have been 9 complaints made against Leeds City Councillors, this is a marked reduced from last year.

There are no trends or issues of concern raised from the complaints which required intervention from the committee.

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 a failure a criminal offence. Paragraph 6 (k) of the complaints procedure references this stating that complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests' are invalid –this clause is further referenced by way of footnote stating that "Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

No formal complaints of this nature have been received this year that have required referral to the Police.

### Complaints relating to Parish and Town Councillors in Leeds

Last year at the time of this Annual report, the Monitoring Officer reported having received seven complaints relating to Parish or Town Councillors in the Leeds area. No further complaints were received between the committee meeting and the end of the Municipal year.

At the time of this report, in the 2021/22 Municipal Year, the Monitoring Officer has received 8 complaints relating to Parish or Town Councillors in the Leeds area. All but one of these complaints related to Members of the same Parish Council - with 6 of these being complaints made by parish councillors about fellow parish councillors.

### General Complaint Inquiries

In addition to the formal complaints received, in the year to date 5 informal contacts (General Inquiries) were made through the councillorconduct@leeds.gov.uk email address (14 last year).

Each enquiry was responded to by providing a complaint form and details of the Code of Conduct Complaints process. Three did not result in a formal complaint being made, one was resolved through other informal mechanisms by a Group Whip and one was withdrawn by the complainant prior to Assessment being undertaken.

### **Operation of the Complaints Process**

The provisional outcome of Assessment is shared with the Independent Person for his view in advance of that Assessment being concluded and communicated to the Complainant and Subject Member. That process has worked extremely well during the last year and as added further rigour and independence to the complaint process.

The Committee is grateful to Mr Tollefson for his advice, service and dedication through the year.

It remains important that the focus of the complaints process is on matters that are serious, such as corruption, bullying and misuse of power in public office. Following changes made to the procedure last year and consideration of the procedure in practice, no further amendments are recommended this year by the Monitoring Officer.

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

There are 32 Parish and Town Councils with 303 Councillors within the District of Leeds. Parish and Town Councils continue with the greater responsibilities under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:

- promoting and maintaining high standards of conduct by their 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.

Under the previous standards and conduct legislation many of these responsibilities were carried out by the Monitoring Officer/Standards Committee on behalf of Parish and Town Councils.

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.

### **Independent Person**

Following the amendment to the Procedure Rules, the Independent Person, Mr Tollefson, is routinely consulted on draft complaint assessments. He also has regular briefing meetings with one of the Deputy Monitoring Officers and during the year has provided support to Members to help resolve issues.

The Committee has been consulted on proposals to extend Mr Tollefson's term of Office and to also seek to recruit an additional Independent Person to work with Mr Tollefson.

### **Monitoring Officer**

The City Solicitor is appointed as the Council's Monitoring Officer. The Monitoring Officer is satisfied that the Authority continues to meet its statutory obligations for standards and conduct. The Monitoring Officer has confirmed that she has adequate resources to fulfil her statutory duties.

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## Independent Person

Date: 14<sup>th</sup> March 2022

Report of: City Solicitor

Report to: Standards and Conduct Committee

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### What is this report about?

Ahead of making recommendations to the General Purposes Committee, the purpose of this report is to seek the Standards and Conduct Committee's views relating to the extension of the term of office of the existing Independent Person and a proposal to recruit a new Independent Person.

### Recommendations

Members are asked to consider and recommend the following to General Purposes Committee.

- a) That Mr Tollefson's term of office being extended by two years to July 2024.
- b) That a recruitment process be progressed to appoint a new (additional) Independent Person via a cross party Member Panel (chaired by the Executive Member for Resources and with representation drawn from the Standards and Conduct Committee) - with that Working Group making recommendations to the General Purposes Committee for appointment on a new Independent Person by full Council.
- c) That during his extended term Mr Tollefson supports the induction of the new Independent Person.

### Why is the report being put forward?

- 1 Leeds has appointed one Independent Person, Mr Gordon Tollefson. His second term of office is due to expire in July 2022.

## What impact will this report have?

### Wards affected:

Have ward members been consulted?

Yes

No

- 2 The appointed Independent Person provides impartial advice to the authority and has quarterly briefing meetings with the Deputy Monitoring Officer(s) and is consulted on all complaints assessed under the Council's procedures.
- 3 By extending Mr Tollefson's term of office this will enable a newly appointed Independent Person to work alongside Mr Tollefson as part of their induction into the role.

## What consultation and engagement has taken place?

- 4 All Group Leaders have been consulted. The Leader of Council, Leader of the Opposition and the Leaders of the Green Group and the Morley Independent Group have all expressed their support for the proposals set out.
- 5 The Leader of the Garforth and Swillington Independent Group commented that he was supportive of proposals to recruit a new Independent Person.

## What are the resource implications?

- 6 There are no resource implications arising from this report.

## What are the legal implications?

- 7 A relevant authority **must appoint at least one** independent person—
  - whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and whose views may be sought
    - a) by the authority in relation to an allegation in circumstances not within paragraph 1),
    - b) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
    - c) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority

## What are the key risks and how are they being managed?

- 8 The role of Independent Person is prescribed in the Localism Act to has impartial advice to Members and the Monitoring Officer.
- 9 Having a well-functioning ethical framework, including objective independently minded Independent Persons helps maintain confidence in the Council's governance arrangements.

## Options, timescales and measuring success

### What other options were considered?

- 10 An option to not renew the current Independent Person's term of office has been considered but discounted. This being because Mr Tollefson is well versed in the arrangements adopted in Leeds, has the confidence of Members from all Political Groups and has committed to continue to support the Council's Standards arrangements including supporting transition and appointment to a new Independent Person.

### How will success be measured?

- 11 By considering reports from the Monitoring Officer the Standards and Conduct Committee ensure that the Council's Ethical Framework remains up-to-date and fit for purpose.

**What is the timetable for implementation?**

12 It is proposed that General Purposes Committee be asked to consider and determine these matters at their next meeting and certainly prior to Mr Tollefson's Term of Office ceasing in July 2022.

**Appendices**

13 None

**Background papers**

14 None.

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