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## STANDARDS AND CONDUCT COMMITTEE

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Meeting to be held in on  
Friday, 9th March, 2018 at 2.00 pm

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### MEMBERSHIP

#### Councillors

J Jarosz	C Townsley	P Harrand	R Gettings
E Nash (Chair)			
B Selby			
A Sobel			

#### Non-Voting Co-opted Parish/Town Clerk Member

Councillor M Hughes  
Councillor D Potter

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# A G E N D A

Item No	Ward/Equal Opportunities	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>	

3

**LATE ITEMS**

To identify items which have been admitted to the agenda by the Chair for consideration.

(The special circumstances shall be specified in the minutes.)

4

**DECLARATION OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS**

To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 of the Members' Code of Conduct.

5

**APOLOGIES FOR ABSENCE**

To receive any apologies for absence from the meeting.

6

**MINUTES - 3 MARCH 2017**

To receive the minutes of the meeting held on 3rd March 2017.

1 - 2

7

**ANNUAL REPORT OF THE STANDARDS AND CONDUCT COMMITTEE**

To consider the report of the City Solicitor presenting to the committee an annual report relating to matters within the committee's terms of reference and ask Members to refer the report to full Council for consideration.

3 - 40

### **Third Party Recording**

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.

#### Use of Recordings by Third Parties – code of practice

- 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.
- 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.

## STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 3RD MARCH, 2017

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

Councillors B Gettings, P Harrand,  
J Jarosz, B Selby and A Sobel

**IN ATTENDANCE:** Councillor Hughes – Horsforth Town Council  
Mr Gordon Tollefson – Independent Person

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

There were no appeals against refusals of inspection of documents.

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

There were no resolutions to exclude the public.

**3 Late items**

There were no late items submitted for consideration – although two appendices inadvertently omitted from the agenda pack for Item 7 were circulated.

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

There were no declarations made.

**5 Apologies for absence**

Apologies for absence were received from Councillor Townsley.

**6 Minutes - 4th March 2016**

**RESOLVED** – That the minutes of the meeting held on 4<sup>th</sup> March 2016 be approved as a correct record.

**7 Annual Report of the Standards and Conduct Committee**

The Head of Governance and Scrutiny Support presented an annual report relating to matters within the committee's terms of reference and which provided assurances in respect of the arrangements in place for standards and conduct matters. By way of update Members were informed that since the agenda had been published a further complaint had been received in respect of a Leeds City Council member.

In reviewing the matters set out in the report, the following issues were discussed:

Draft minutes to be approved at a future meeting of the committee

- Quarterly reminders issued to Leeds City Council Members to review registers of interest and the intention for the next reminder to focus on gifts and hospitality – the Chair asked if this reminder facility could also be extended to Parish and Town Councillors (via Parish and Town Council clerks);
- Sensitive Interests and the annual review of these undertaken by the Monitoring Officer;
- The intention to seek renewal of existing dispensations for Leeds City Council Members – the committee were supportive of this;
- The outcome of the assessments made of complaints which had been submitted;
- That no complaints had been received in respect of Parish and Town Councillors;
- The new Social Media guidance provided to Leeds City Council Members – the committee were supportive of the guidance being reissued to all Councillors.
- The anticipated extension to Mr Tollefson’s term of office as Independent Person.

The committee noted that the annual report would be received by full Council in March in order for full Council to receive assurances as to how the authority’s duty to promote and maintain high standards of conduct (by Members and co-opted Members of the Council) is being discharged.

**RESOLVED** – The Committee resolved

- (a) To receive and note the assurances provided in respect of the Council’s arrangements for Standards and Conduct;
- (b) To note that the annual report on Standards and Conduct will be considered by full Council in March 2017;
- (c) To request that quarterly reminders to review Registers of Interest be also extended to Parish and Town Councillors;
- (d) That no amendments, to either the Members’ Code of Conduct or the procedures for considering complaints, are required at this time;
- (e) That the guidance to Members on the use of Social Media be reissued to all Members;
- (f) That a reminder be sent to all Members to check their register of interests on a three monthly basis.



## Report of the City Solicitor

### Report to Standards and Conduct Committee

**Date 9<sup>th</sup> March 2018**

### **Subject: Annual Report of the Standards and Conduct Committee**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Summary of main issues

- 1 The purpose of this report is to present to the committee an annual report relating to matters within the committee's terms of reference. Council Procedure Rule 2.2 (f) stipulates that the annual report of the committee must be referred to full Council for consideration; this being to support the duty of the Authority to promote and maintain high standards of conducts by Members and co-opted Members of the Council. The annual report summarises the work carried out by the Monitoring Officer and her staff to support the Committee throughout the year.

## Recommendations

- i) Members are asked to Consider:-
  - a. The matters set out in this annual report and resolve whether any additions to it are required prior to referral to full Council for consideration;
  - b. The proposed amendments for clarification proposed by the City Solicitor to the Members Code of Conduct and the Procedure for considering complaints;
  - c. Whether any amendments are necessary to the Members' Code of Conduct, or the guidance to Members on Social Media and;
- ii) Note the consultation being undertaken by the Committee on Standards in Public Life.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to present to the committee an annual report relating to matters within the committee's terms of reference. Council Procedure Rule 2.2 (f) stipulates that the annual report of the committee must be referred to full Council for consideration; this being to support the duty of the Authority to promote and maintain high standards of conducts by Members and co-opted Members of the Council.
- 1.2 Members are asked to refer the report to full Council for consideration so that full Council can receive assurances as to how the authority's duty to promote and maintain high standards of conduct (by Members and co-opted Members of the Council) is being discharged.

## **2 Annual Report**

- 2.1 The Standards and Conduct Committee draft annual report presents the work carried out by the Monitoring Officer and her staff to support the committee throughout the year. The report also demonstrates the ways in which the Authority has fulfilled its statutory duty to promote and maintain high standards of conduct.

## **3 Main issues**

- 3.1 The Standards and Conduct Committee has the following terms of reference:
- To promote and maintain high standards of conduct by members and co-opted members of the authority.
  - To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
  - To consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the Leeds area has failed to comply with the parish council's code of conduct.
  - Following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations on the form of action.
  - To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of employees of the authority.
- 3.2 The committee meets annually, or at other frequencies that circumstances required. Regular briefings have taken place with the Chair of the Committee and with the council's appointed Independent Member.



## **Training**

- 3.3 Whilst there were no elections in May 2017 elected members have received regular correspondence in respect of the code of conduct, guidance in respect of Social Media and specific requirements relating to the registration and declaration of interests.
- 3.4 In addition, as part of prescribed training for councillors who are members of Plans Panels, briefings have been provided on the legal framework concerning the avoidance of bias and predetermination.
- 3.5 In light of the anticipated large number of new Members following the all-out elections in May, a detailed and a comprehensive two month induction programme has been planned that will consist of a variety of key essential training sessions.
- 3.6 These skills have been identified from previous successful Member Inductions and agreed by the Member Development Working Group. The aim is to assist and support the new Members to settle within their new role as quickly as possible.
- 3.7 The Induction programme will include the following training workshops;
- GDPR covering Cyber awareness
  - Code of Conduct including Equality awareness
  - Learning the Ropes the conduct of Council meetings and Decision Making
  - Social Media policies, processes and support
- 3.8 In addition to the above training, all new Members will be given the opportunity to attend the Licensing and Planning prescribed training mentioned above irrespective of whether or not appointed to those roles.
- 3.9 To complement the above programme, there is also a plan for training for Group Office staff around supporting Members in their decision making role. This is intended to ensure staff are best placed to support new Members with queries and assist them in the completion their Registers of Interest after the elections.

## **Register of Interests**

- 3.10 The Localism Act 2011 places a duty on the Monitoring Officer of a relevant authority to establish and maintain a register of interest of members and co-opted members of the authority.
- 3.11 The Monitoring Officer has supported members of the authority (and of Parish and Town Councils) in meeting their obligations to notify any disclosable pecuniary interest within 28 days of either their election or of a change in the circumstances relating to such interests. These requirements have been met during the year with quarterly reminders being issued to elected members to review their registers of interests.

## Sensitive Interests

- 3.12 Section 32 (2) of the Localism Act 2011 allows for interests which are considered to be sensitive to be withheld from a Member's Register of Interest. The decision as to whether to withhold such an interest from the public register is made by the Monitoring Officer. Permission to withhold an interest may only be granted in cases where disclosure of the details of an interest could lead to a member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation – it is particularly relevant that that threat or potential threat would be substantially contributed to as a result of those interests appearing on the members' public register.
- 3.13 In essence, a Member needs to clearly demonstrate that, either they or those connected to them have either suffered violence or intimidation or there is a reasonable ground for them to suppose that that may be the case if the interests are publicly available. The Member needs to provide supporting evidence for that reasonable belief and it is against that evidence that the Monitoring Officer agrees or not to the interest being withheld.
- 3.14 Eleven permissions to withhold interests are in place (having been granted by the Monitoring Officer) in respect of the 435 elected Leeds City Council and Parish and Town Council Members across the Leeds Metropolitan District, and increase in three on the previous year. Five of these relate to Leeds City Councillors, an increase of two from last year. In the main permission has been granted for withholding details of home addresses or other land or property interest with the rationale for the permission being due to the existing or previous employment of the councillor or their partner (e.g. retired police or prison officer) or due to vandalism to properties.
- 3.15 However during 2017 there has been a small increase in permissions granted in response to a threat of violence against Members or their families from a member of the public – in this circumstance the matter was referred to the Police.
- 3.16 The actions taken by the Monitoring Officer in Leeds in relation to Sensitive Interests mirrors a recommendation recently made (December 2017) by the Committee on Standards in Public Life. The Committee, in their report *'Intimidation in Public Life – A review by the Committee on Standards in Public Life'*, recommend that all Monitoring Officers *'Should ensure members required to declare pecuniary interest are aware of the sensitive interest provisions of the Localism Act 2011.'*
- 3.17 The Monitoring Officer intends to further highlight the provisions to all new and returning members after the 2018 all-out elections and also review the granted permissions currently in place in June 2018.

## Dispensations

- 3.18 If a councillor wishes to apply for a dispensation to allow them to take part in a meeting with a disclosable pecuniary interest they must submit a written application to the Monitoring Officer.
- 3.19 Applications are then decided by the Head of Paid Service. However, in deciding whether to grant a dispensation the Head of Paid Service must consult with the Chair of the Standards and Conduct Committee.

3.20 As previously reported, in 2014 the Standards and Conduct Committee considered local prohibitions on councillor's involvement in decision making where they have a Disclosable Pecuniary Interest (DPI). In particular the circumstances where a member of the public has rights to attend and make representations – for example in relation to a personal planning application. The committee concluded that this limitation placed an unjust discrimination upon councillors. The committee agreed that, subject to certain constraints, and the receipt of an application, that the Head of Paid Service be advised of the committee's support for such restrictions to be set aside by way of a dispensation. .

3.21 During the period of covered by this report this dispensation has been renewed until May 2021 for all elected members who have requested it to allow those members (when they have a DPI) to make representations at a meeting where members of the public have the same entitlement – however those members must not otherwise be involved in the decision making of the decision making body. There have been no issues arising from this dispensation during the year. The other active dispensation, granted in May 2013 (for a period of 4 years), permits members to take part and vote in matters relating to:

- Any office held within Leeds City Council for which they receive a taxable income; and
- Any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income,

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

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

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

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

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

3.26 The proposed amendments are detailed by way of tracked changes contained in Appendix 1 and 2 and are for the purposes of clarification only<sup>1</sup>.

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

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

## The Committee on Standards in Public Life

- 3.28 In addition to the publication *'Intimidation in Public Life – A review by the Committee on Standards in Public Life'* referred to in paragraph 3.11 the Committee on Standards in Public Life also issued, in July 2017, a publication *'Setting the Standard'* which contained the committee's work programme for 2017/18
- 3.29 The Chair of this committee attended a roundtable event hosted by Lord Brew, the Chair of the Committee on Standards in Public Life, where an announcement was made that a review of the local authority standards arrangements would be undertaken in 2018. Lord Brew's committee maintains a longstanding interest in local government standards, and regularly receives correspondence from members of the public expressing views about this issue. The review commenced via a consultation launched in early 2018 which is to conclude in May 2018. The consultation document is attached for Member's consideration at Appendix 3. In addition each group leader's attention has been drawn to the consultation. Lord Brew's committee intend to publish findings and recommendations by the end of 2018.
- 3.30 In addition the Committee on Standards in Public life, recognising the rapidly changing and developing nature of social and political communication and media in recent years, has undertaken to look for opportunities to work collaboratively with partners to assess how these developments are shaping public life. The committee feel that by engaging with others in this area will enable an understanding of how the changing nature of communications may influence social relations, and consider how this may influence how the Seven Principles are upheld across public life.

### **Complaint handling**

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

### Complaints relating to Leeds City Councillors

- 3.34 In order to be considered under the formal complaints process complaints must be submitted in writing, must provide information to substantiate the claims made, and should outline what form of resolution the complainant is seeking.
- 3.35 Acting under delegated powers from the Monitoring Officer, since last reporting to committee, the Deputy Monitoring Officer has received 9 complaints about Leeds City Councillors. This is the same as received last year but lower than the 11 complaints in the preceding two years.
- 3.36 The Deputy Monitoring Officer considered each complaint and made a decision as to whether it will be treated as a valid complaint or not, and also, in appropriate cases offering complainants the opportunity to provide further information to substantiate their complaint and enable an assessment to be undertaken.

### **Complaints Summary**

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

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

- 3.37 Two elected members have been the subject of two separate complaints and in one instance the complaints were from the same individual. Four of the complaints received have related to social media use.
- 3.38 There is a wide recognition that there are potential issues which the use of social media raises. To help support and facilitate Members in the use of Social Media advice and guidance was prepared by the Monitoring Officer in 2016 and has been since been re- circulated to all Members. By way of this report two further minor amendments to the guidance are proposed to the guidance, these are set out by way of tracked changes in Appendix 4.
- 3.39 In one instance a complainant, dissatisfied with the finding at Stage one (No Further Action due to lack of information to substantiate the complaint) referred their complaint about the Council's decision to the Local Government Ombudsman. The Ombudsman's conclusion was '*Closed after initial enquiries - no further action*'.
- 3.40 As Members will recall, complaints alleging a failure to register a disclosable pecuniary interest are matters for consideration by the West Yorkshire Police as the Localism Act 2011 has made such failures a criminal offence. No such complaints have been received this year.

## Complaints relating to Parish and Town Councillors in Leeds

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

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

3.42 Parish and Town Councils now have greater responsibility under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:

- promoting and maintaining high standards of conduct by its own Members;
- formally adopting a Code of Conduct that is consistent with the requirements of the Localism Act and publicising that adoption;
- completing a register of disclosable pecuniary interests and ensuring that information about this register is available on the Parish or Town Council's own website (if it has one);
- putting in place arrangements for Members to apply for and be granted a dispensation; and
- Ensuring that arrangements are in place for the Parish or Town Council to consider any complaints referred to it by Leeds City Council and to decide on any appropriate action against the subject Member.

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

3.44 Leeds City Council also has a responsibility to collate the registers of interest completed by Parish and Town Councillors in Leeds and to publish these on the Council's website. The Deputy Monitoring Officer has provided written guidance for Members on how to complete the document and has advised Parish and Town Council Clerks were necessary.

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

3.46 Under Stage 3 of the complaints procedure the Standards and Conduct Committee have made specific arrangements for complaints against parish and town councillors. Although such complaints would still be decided by the Consideration Sub-Committee, a co-opted parish member would also be invited to attend the sub-committee meeting.

3.47 A parish member is not entitled to vote at the meeting, but would be entitled to speak at the discretion of the Chair. Two parish members remain co-opted to the committee - Councillor Debbie Potter (from Shadwell Parish Council and Councillor Martin Hughes (from Horsforth Town Council) and form a pool of parish and town council members that the authority can call upon as needed.

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

## **Independent Person**

- 3.49 The Standards and Conduct Committee has supported the Independent Person (Mr Tollefson) in his role by inviting him to attend meetings of the committee as an observer, and ensuring that he has undertaken training on the Members' Code of Conduct.
- 3.50 Mr Tollefson has quarterly briefing meetings with the Deputy Monitoring Officer and during the year has provided support to Members to help resolve issues.
- 3.51 The Independent Person's term of office was extended by Full Council to July 2022. By way of this report Committee are invited to extend their thanks to Mr Tollefson for his continued service as Independent Person.

## **Consultation on Disqualification Criteria for Councillors**

- 3.52 During the autumn 2017 period the Government consulted on proposed changes to the disqualification criteria for local authority members. Following consultation from all political groups and members of this committee the chair submitted a response on behalf of Leeds City Council broadly supporting the proposals put forward save that the disqualification criteria should not operate so as to inhibit engagement with peaceful protest, by risking disqualification of those engaged in lawful protest who become swept up in events or actions not of their making.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 In providing an oversight of local codes and protocols and the Members' Code of Conduct the Committee have considered comments and feedback from the relevant Committees and from other Leeds City Councillors.
- 4.1.2 In relation to complaints against Councillors, in all cases mentioned in this report the complainant has been contacted and an explanation has been provided as to why the complaint is not being progressed. The subject Member has also been informed of the complaint and the response to the complainant, for information only. During the year, in addition to previous advice, a further explicit instruction has been introduced to remind Members to not share the details of complaints/complainants as this is unlikely to be in accordance with Members responsibilities as data practioners under the Data Protection Act.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

### **4.3 Council policies and City Priorities**

- 4.3.1 Principle 3 of the Code of Corporate Governance states that the Council will put in place a Code of Conduct and keep it under review.
- 4.3.2 According to the Localism Act 2011 the Council has a duty to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority. This report outlines how the Standards and Conduct Committee has carried out this duty on behalf of the Council.



#### **4.4 Resources and value for money**

4.4.1 There are no resource implications arising from this report.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The Standards and Conduct Committee's terms of reference are taken from the Chapter 7 of the Localism Act 2011.

4.5.2 There are no implications for access to information or call in arising from this report.

#### **4.6 Risk Management**

4.6.1 The arrangements described within this report provide assurance that the authority, parish and town councils, individual councillors and the Monitoring Officer are complying with the requirements set out in the Localism Act 2011. The work undertaken by the Monitoring Officer and her staff, and by this committee, ensures that these arrangements remain up to date and fit for purpose and that the risk of breaching the statutory requirements is minimised.

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

### **5 Recommendations**

5.1 Members are asked to Consider:-

- a. The matters set out in this annual report and resolve whether any additions to it are required prior to referral to full Council for consideration;
- b. The proposed amendments for clarification proposed by the City Solicitor to the Members Code of Conduct and the Procedure for considering complaints;
- c. Whether any amendments are necessary to the Members' Code of Conduct, or the guidance to Members on Social Media and;

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

### **6 Background documents<sup>2</sup>**

6.1 None.

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<sup>2</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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**MEMBERS' CODE OF CONDUCT**

This Code applies to elected Members and voting co-opted Members of Leeds City Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives<sup>1</sup>.

**Part One - Standards of Conduct**

You must have regard to, and act in accordance with, the following standards of conduct<sup>2</sup>:

**1. Selflessness**

You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.<sup>3</sup>

**2. Honesty and Integrity**

You should not place yourself in situations where your honesty and integrity may be questioned; you should not behave improperly and should avoid the appearance of such behaviour.<sup>4</sup>

**3. Objectivity**

You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.

**4. Accountability**

You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

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<sup>1</sup> When engaging in political activities such as canvassing for re-election Members are not acting in their official capacity, and for the purposes of this Code of Conduct, such political activities are considered part of a Member's private and personal life.

<sup>2</sup> And in accordance with any supplementary guidance or protocols agreed by the authority from time to time.

<sup>3</sup> This does not mean that Members are under any obligation to support or become involved in all requests for assistance from their constituents.

<sup>4</sup> Where you are present at a formal meeting of the authority and identify any relevant and significant interest which is not a disclosable pecuniary interest and which relates to the business being conducted, you may declare the interest to the meeting, if you consider it is in the public interest to do so. You may also choose not to participate in the business as a result, although you are not obliged to do so.

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

**5. Openness**

You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

**6. Leadership**

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees<sup>5</sup>.

**Part Two – Registration and disclosure of interests**

**Registration of Interests**

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time<sup>6</sup>.
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
10. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described in Appendix 1, and either:
  - (a) it is an interest of yourself, or
  - (b) it is an interest of -
    - (i) your spouse or civil partner,
    - (ii) a person with whom you are living as husband and wife, or
    - (iii) a person with whom you are living as if you are civil partners, and you are aware that that other person has the interest.
11. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50<sup>7</sup> which you receive in your role as a

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<sup>5</sup> Members may express themselves robustly in representing their, or their constituents' views, although where a Member engages in a sustained or systematic challenge of an employee which is unfounded or in any other way unreasonable, such conduct would fall within the scope of this code. However an unintentional remark, made in isolation, is unlikely to amount to a failure to comply with the code of conduct.

<sup>6</sup> The Monitoring Officer must enter these interests into the Register of Interests, which will be made available for public inspection and published on the Council's website.

Leeds City Councillor<sup>8</sup>. You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.<sup>9</sup>

### Sensitive interests

12. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection<sup>10 11</sup>.

### Disclosure of disclosable pecuniary interests at meetings

13. The following provisions apply if you are present at a meeting of the authority or of any committee<sup>12</sup>, sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
14. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
15. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
16. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
17. You may not:
- (a) participate, or participate further, in any discussion of the matter at the meeting,
  - (b) participate in any vote, or further vote, taken on the matter at the meeting, or

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<sup>7</sup> This financial limit will be maintained in line with the definition of a donation to be declared by election candidates during local authority elections in England and Wales (as set out in Schedule 2A of the Representation of the People Act 1983).

<sup>8</sup> This does not apply to events or hospitality given by the Council and does not include civic gifts or hospitality received by the Lord Mayor of Leeds whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Lord Mayor's office.

<sup>9</sup> These details will be removed from the register by the Monitoring Officer two calendar years after they were received.

<sup>10</sup> Instead the Register of Interests may state that the Member has an interest the detail of which are withheld under section 32(2) of the Localism Act 2011

<sup>11</sup> If the Member is required to disclose such an interest in a meeting, the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

<sup>12</sup> This includes the Executive Board and any committee of the executive.

(c) remain in the room during the discussion or vote on the matter (subject to paragraph 18 below).

18. If you are not a member of the relevant committee, sub-committee, joint committee or joint sub-committee, and are present at the meeting in another capacity, you may remain in the room to observe the proceedings but must not participate in the discussion on the matter, even as a member of the public.
19. In certain circumstances you may be granted a dispensation to permit you to take part in the business of the authority, even if you have a disclosable pecuniary interest relating to that business. Such dispensations are granted by the Head of Paid Service following a written request to the Monitoring Officer.

### **Allegations of a Failure to Comply with Code of Conduct**

20. All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

## APPENDIX 1 - DEFINITION OF A 'DISCLOSABLE PECUNIARY INTEREST'<sup>13</sup>

**Employment, office, trade, profession or vocation** - Any employment, office, trade, profession or vocation carried on for profit or gain.

**Sponsorship** - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period<sup>14</sup> in respect of any expenses incurred by you in carrying out your duties as a Member, or towards your 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.

**Contracts** - Any contract which is made between the relevant person<sup>15</sup> (or a body in which the relevant person has a beneficial interest<sup>16</sup>) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

**Land** - Any beneficial interest in land<sup>17</sup> which is within the area of the relevant authority.

**Licences** - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

**Corporate tenancies** - Any tenancy where (to your knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

**Securities** - Any beneficial interest in securities<sup>18</sup> of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either –

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<sup>13</sup> As defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

<sup>14</sup> "Relevant period" means the period of 12 months ending with the day on which the Member completes their notification.

<sup>15</sup> "Relevant person" refers to the Member and their spouse or civil partner, or a person with whom the Member is living as husband or wife, or a person with whom the Member is living as if they were civil partners, so long as the Member is aware that that other person has the interest.

<sup>16</sup> This means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. The definition of "director" includes a member of a committee of management of an industrial and provident society.

<sup>17</sup> "Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

<sup>18</sup> "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.

- (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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



**PROCEDURE FOR CONSIDERING COMPLAINTS ALLEGING A FAILURE TO COMPLY WITH A MEMBERS' CODE OF CONDUCT WITHIN THE AREA OF LEEDS METROPOLITAN DISTRICT COUNCIL**

**Introduction**

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' should be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

**Stage 1 - Initial assessment by the Monitoring Officer**

4. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the correct complaints form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not.
6. The following types of complaint will not be considered as 'valid complaints' under this procedure:
  - a. Complaints which are submitted anonymously<sup>1 2</sup>;
  - b. Complaints which do not identify a subject Member;
  - c. Complaints which relate to a Member's personal or private life;
  - d. Complaints concerning a failure to respond to a request from a constituent or other individual;

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<sup>1</sup> Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

<sup>2</sup> Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

*Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct*

- e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;
  - f. Complaints which relate to a decision of an employee or a Committee;
  - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
  - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
  - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
  - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
  - k. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests'<sup>3</sup>;
  - l. Complaints which do not relate to the Members' Code of Conduct.
7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint<sup>4</sup>. If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.
  8. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
  9. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

## **Stage 2 - Informal resolution**

10. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to seek to resolve the issue in accordance with this procedure. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors.

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<sup>3</sup> Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

<sup>4</sup> Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

11. At the same time the Monitoring Officer will refer the matter to the subject Member<sup>5</sup> and the relevant Group Whip<sup>6</sup> for their consideration. In this correspondence the Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days), and will provide the subject Member with the contact details for the Independent Person<sup>7</sup>.
12. Types of informal resolution might include:
  - a. An explanation by the subject Member of the circumstances surrounding the complaint;
  - b. An apology from the subject Member;
  - c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
  - d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
  - e. Any other action capable of resolving the complaint.
13. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer. It may also be advisable to seek advice from the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.
14. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.
15. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.
16. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

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<sup>5</sup> Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

<sup>6</sup> If the subject Member is the Group Whip, the complaint will be copied to his or her Group Leader. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

<sup>7</sup> See Annex 1 for a summary of the role of the Independent Person.

17. Where it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision, and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).
18. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

### **Stage 3 – Standards and Conduct Committee**

19. The Monitoring Officer will ~~prepare~~ commission a report for consideration by the Standards and Conduct Committee. This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.
20. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee<sup>8</sup>)<sup>9</sup> to be convened to consider the Monitoring Officer's commissioned report of the complaint. Wherever possible the meeting will take place within 28 days of the Monitoring Officer's report being finalised.
21. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.
22. The following people will also be invited to attend the Committee meeting:
  - a. The complainant;
  - b. The subject Member;
  - c. The Group Whip (if relevant); and
  - d. The Independent Person.

23. The Monitoring Officer will ~~also~~ attend the meeting in order to present their report ~~advise the committee~~.

**24. At the beginning of the meeting the Committee will be asked to consider whether the complaint should be considered in private in accordance with the provisions**

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<sup>8</sup> Such Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.

<sup>9</sup> References to the Committee in rules 21 to 36 below shall be read as references to the Sub-Committee if such sub-committee has been appointed and is convened to hear the complaint.

*Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct*

of Rule 10 of the Access to Information Procedure Rules relating to exempt information. If the meeting is to be held in private the press and public will be excluded<sup>10</sup>.

~~24-25.~~ After initial consideration of the Monitoring Officer's commissioned report, the Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):

- a. The complainant; and
- b. The subject Member.

~~25-26.~~ The Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.

~~26-27.~~ Before reaching a final decision on the complaint, the Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.

~~27-28.~~ If the Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Committee should consider whether the information will be readily available to the Monitoring Officer.

~~28-29.~~ Once the Committee is satisfied with the information before it, it must decide the following issues:

- a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
- b. Whether further action is warranted; and
- c. What form of action might be appropriate.

~~29. If the complaint relates to a Parish or Town Councillor the Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate.~~

~~30. In all other cases, if~~ the Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such

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<sup>10</sup> The Committee may invite people to remain in the meeting if it is considered that they could provide information relevant to the complaint.

*Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct*

recommendations may include proposed changes to internal procedures and practices or training for Members in general.

31. If the Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
32. The recommendations available to the Committee include<sup>11</sup> but are not~~are~~ limited to:
  - a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee;
  - b. Formal censure by a motion of full Council; or
  - c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.
33. The Committee may make a recommendation in relation to one or more of the above sanctions to full Council or, if appropriate, the Town or Parish Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Committee meeting.
34. The Committee may also make general recommendations to the authority<sup>12</sup> with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.
35. Within five working days of the meeting the Chair of the Committee will write to the complainant and the subject Member explaining the final decision of the Committee and detailing any recommendations made.
36. There will be no right of appeal against a decision of the Committee.

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<sup>11</sup> The committee may not decide to disqualify or suspend the subject Member as a Councillor.

<sup>12</sup> Which shall be Leeds City Council and / or the Town or Parish Council concerned as appropriate

## **ANNEX 1 - ROLE OF THE 'INDEPENDENT PERSON'**

### Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.

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### **Review of Local Government Ethical Standards: Stakeholder Consultation**

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

#### **Terms of reference**

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
  - a. Maintaining codes of conduct for local councillors;
  - b. Investigating alleged breaches fairly and with due process;
  - c. Enforcing codes and imposing sanctions for misconduct;
  - d. Declaring interests and managing conflicts of interest; and
  - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

## Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

### *Codes of conduct*

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

### *Investigations and decisions on allegations*

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
  - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
  - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
  - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

### *Sanctions*

- f. Are existing sanctions for councillor misconduct sufficient?
  - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
  - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

### *Declaring interests and conflicts of interest*

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
  - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
  - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

### *Whistleblowing*

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

### *Improving standards*

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

### *Intimidation of local councillors*

- k. What is the nature, scale, and extent of intimidation towards local councillors?
  - i. What measures could be put in place to prevent and address this intimidation?

## **Who can respond?**

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

## **How to make a submission**

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: [public@public-standards.gov.uk](mailto:public@public-standards.gov.uk)
2. Via post to:

Review of Local Government Ethical Standards  
Committee on Standards in Public Life  
GC:07  
1 Horse Guards Road  
London  
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email ([public@public-standards.gov.uk](mailto:public@public-standards.gov.uk)) or phone (0207 271 2948).

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**LEEDS CITY COUNCIL  
SOCIAL MEDIA GUIDANCE NOTE FOR MEMBERS**

**Purpose of this Guidance Note**

Members' increasing use of social media is welcomed; however there is a wide recognition that there are potential issues which the use of social media raises. To help support and facilitate Members in the use of Social Media this advice and guidance document has been produced. This guidance provides a summary of the main issues for Members to consider, some 'Do's and Don'ts' and further more detailed information about the Legal Framework and examples of how social media activity might fall within and the scope of the Members' Code of Conduct.

**Summary**

It is not a requirement for members to have a Facebook or Twitter account or use other forms of social media. However, If you are already using or planning to use social media in connection with your work as a Councillor, or are already using such media in your private capacity, these guidelines will be relevant to you.

Any form of communication is capable of being misunderstood. While the use of social media should not be any more susceptible to this problem than any other form of communication, the immediacy of social media seems to, on occasions, magnify misunderstandings.

By the nature of such media "misfiring", or being misunderstood (particularly with regard to something that is perceived as being more controversial than it was intended to be), it is likely to lead to rapid and wide broadcasting of that apparently "controversial" or misunderstood matter.

There are no special, additional legal or ethical burdens relating to the use of social media. **The same rules apply that govern the rest of your behaviour as a councillor** – it is though important that you consider your social media activity within this context.

The best use of social media is conversational in tone, however publishing information on social media is still publishing. What you've said in published material web is written down and it is permanent. Most pitfalls will be avoided if your online content is accurate, respectful, informative, balanced and objective. On the two pages that follow some do's and don'ts have been listed to help assist Members avoid some of these.

This doesn't mean that members cannot, in the appropriate context, communicate politically. This is expected of an elected representative, but you should be careful not to say anything that you wouldn't be comfortable repeating or justifying, for example, at a public meeting.

**Conclusion**

The Council encourages Members' use of new technology, including

social media. This guidance is intended to help Members use social media in a way that avoids legal and reputational risk, both for Members individually and for the Council.

### Avoiding the pitfalls - Some Do's and Don'ts

#### Do:

1. Set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog. However if you post an inappropriate comments within a 'restricted group' and it is subsequently seen by a third party, you remain responsible for that content irrespective of the privacy settings you have set.
2. Keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views.
3. Be aware that the higher your profile as an elected member, the more likely it is you will be seen as acting in your official capacity when you blog or network.
4. Be clear about the capacity in which you are publishing material. Consider keeping your personal and elected member profile on social networking sites separate and maintain appropriate professional boundaries.
5. Ensure you use council facilities appropriately; if you use a council provided blog site, social networking area or Council owned ICT equipment, any posts you make are more likely to be viewed as made in your official capacity.
6. Be aware that you will be seen as acting in your official capacity if you publish information that you could only have accessed by being an elected member.
7. Feel able to make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine comments on policy are less likely to be viewed as disrespect. An unjustified personal and generic attack on a section of the public is unlikely to be regarded as a political view and be protected by freedom of speech.
8. Do not publish make, or publish links to content which is derogatory, discriminatory or in any way offensive.
9. Minimise security risks by using strong passwords for social media accounts and change them regularly. Protect your devices with a pin to restrict access and prevent misuse. Be mindful that some social media sites are sometimes used to distribute malicious software or code.
10. Show respect and consideration for others. Comments, including those presenting a differing opinion, are a distinct part of social media and it is okay to agree to disagree, it is 'social' media after all. The use of blocking and muting should always be seen as a last resort.
11. Prior to posting consider, as far as possible, the full facts of an issue and any likely impact of a post on an individual's personal wellbeing.
12. In the event it is highlighted to you that a social media post that you have made is in some way inappropriate, immediately remove the post and consider making a subsequent on or off line apology.
13. And finally, Pause before publishing.

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## Don't

1. Blog in haste, particularly in circumstances where your judgement might be impaired; for example if you have consumed alcohol.
2. Make unguarded statements which could lead to potential liability or post comments that you would not be prepared to make on paper or face to face.
3. Use council facilities for personal or political blogs
4. Use social media in any way to attack, insult, abuse, defame or otherwise make negative, offensive or discriminatory comments about members of council, members of Parliament (or their family or friends), council staff, service users, other professionals, other organisations, or the council.
5. Publish confidential information that you may have learned or had access to as part of your role as an elected member. This includes personal information about service users, their families or friends or others e.g. contractors, council staff as well as City Council related information. If a service user has used social media to ask you to sort out a problem they are having with a Council service, make sure you respond to them privately unless you are absolutely sure they are happy to communicate about their issue on social media.
6. Represent your personal views, or those of any political party or interest group you belong to, as being those of the council, on any social medium or publish or share a member of the public's political views without their express consent.
7. Browse, download, upload or distribute any material that could be considered inappropriate, offensive, defamatory, illegal or discriminatory

## Further Information

The Monitoring Officer and officers from the Communications Team, Democratic Services, and Legal Services are happy to help Members by providing additional advice and guidance as appropriate. If Members are contacted via social media by journalists looking for a Leeds City Council position on any issue the enquiry should be referred to the communications team who will be able to assist.

Training is also available via Member Development for individual Members or Groups on the use of social media and Social Media training forms part of the Members' induction programme.

## Other Useful Sources of Information

A Guide for new councillors 2015/16 - Local Government Association  
Social Media – A Guide for Councillors – Welsh Local Government Association August 2013  
Communications Act 2003  
Malicious Communications Act 1988  
Public Order Act 1986

## Issued by

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City Solicitor and Monitoring Officer

September-March 2016-2017

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## Further Guidance

### The Legal Framework in Brief

**Libel** – Political speech has a high level of protection under the right to freedom of expression. However, if you publish an untrue statement about a person which has caused or is likely to cause serious harm to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against the Council, or possibly against you personally if you were not acting in your capacity as a Member.

**Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Copyright material does not have to be marked ©, so for example just because a photo appears on a website without the photo or the website being marked © this does not mean the photo can be freely used. Therefore don't publish anything you are unsure about, or obtain prior permission in writing from the copyright owner. Again, a successful claim for breach of copyright would be likely to lead to an award of damages against the Council or possibly against you personally if you were not acting in your capacity as a Member.

**Data Protection/Confidentiality** – All the usual data protection rules apply, and please remember that you are registered as a "data controller" in your own right for your constituency matters, so you could be personally liable if you break these rules when you are communicating about local matters with your constituents. More detailed guidance for Members about data protection is available, but please remember that nearly every communication, message, blog etc. will be the author's "personal data", and the expression of a political opinion will be the author's "sensitive personal data". Therefore, you need to be very careful that you've got the author's express consent before you publish or disseminate this data, and you must not use this data for another purpose, or keep this data in your accounts for longer than necessary for the original purpose. Please remember as well, that individuals can make a subject access request to you for copies of their personal data which you hold in your social media accounts. Information which is an individual's personal data may also be confidential information, and again if you used this information in a way which was detrimental to the individual, they may be able to sue you or the Council for damages.

### What if you find yourself the target of the use of social media by others?

On occasions you may find that others post inappropriate comments about you or communicate inappropriately with you through the use of social media.

If as a result of such communications you are fearful for your safety or the safety of others then you should immediately contact the Police as you would in any other circumstance where you feel you or others might be in danger.

If the communications are not necessarily threatening but are unwelcome and for example could potentially amount to harassment then there are practical steps you can take:

- ICT can be contacted to advise on and where appropriate take practical steps to assist you to block certain communications.

- Legal Services can be contacted to provide advice on whether there is sufficient evidence to take civil proceedings – for example for an injunction under the Protection from Harassment Act 1997. Evidence of the impact of the communications would need to be given in such circumstances.

Sometimes communications are potentially defamatory. Defamation includes false statements made by an individual which injure reputation – either through the spoken word (slander) or written word (Libel). It should be noted that the council is prohibited from funding legal proceedings which an officer or Member might want to take against someone for defamation although, depending on the circumstances, the Council may be able to support the obtaining of initial limited advice.

### **Social Media and the Members' Code of Conduct**

Aspects of the Members' Code of Conduct will apply to your online activity in the same way as they do to any other written or verbal communication you may engage in.

Whilst the code of conduct strictly only applies when you are performing the duties of your elected position or where you are representing the council, the key to whether your online activity is subject to the Code is whether you are, or appear to be, acting in your capacity as a councillor rather than as a private individual or in your purely political capacity (e.g. in relation to election activities where the code does not apply).

There are obvious tensions and potential consequences of this in that Councillor in these circumstances may have "blurred identities". This can happen where you have a social media account where you comment both as a councillor and as an individual. Although you may be clear in your mind that you are acting in a private capacity it may be less clear to others. This can also mean that your views can be taken as being those of your organisation or party (rather than you personally) when this may not be the case.

Where a Member's activities on social media are outside the parameters of their elected duties, any issues of concern may be a matter for a Political Party/Political Group to consider and resolve or might be dealt with through separate legal processes.

One way of avoiding blurring of the lines between your personal and councillor life, and avoiding some of the potential problems related to the Code of Conduct, may be to consider keeping your online accounts as a councillor separate from those where you communicate in a personal capacity.

This is a decision for each member and some Members may find the convenience of having one account outweighs the advantages of separate accounts – the remaining basic position though is that the same standards of behaviour and conduct should apply online as would be expected offline.

The Council's Communications team can help you with more specific advice if needed.

## **Examples of how social media activity might fall within and the scope of the Members' Code of Conduct**

### Honesty and Integrity

Be aware that by publishing information that you could only have accessed through your role as a councillor is likely to indicate that you are acting in your official capacity. One of the council's most important values is to conduct its business with openness. The inseparable, complementary "other side of the coin" to the council being open in its dealings is for councillors and employees to be clear about what is confidential and make sure it stays confidential.

### Objectivity

When you act as a member of a decision making committee (particularly planning or licensing decisions) whilst you are permitted to have a predisposed view, you should not give the impression that you have a closed mind. So do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and were genuinely persuadable to a different view. If you weren't, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.

### Accountability

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute. This includes any social media post that may reveal confidential or exempt information which you only have access to as a result of your role as a councillor, or the sharing of information about an individual or an organisation without their express permission.

### Leadership

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others by not making offensive or derogatory comments about an individual including other Members of Council or by posting comments or images that are discriminatory or offensive or links to such content.

These examples are given for illustrative purposes.

## **The use of social media and mobile devices at meetings**

At meetings use mobile devices sparingly, discreetly and with common sense and consider the impression the use may give to others. There may be occasions when use of social media and mobile devices is entirely appropriate however this should not be excessive and continuous so as to give the impression of not being respectful or engaged in the proceedings or being fully engaged with the matters under discussion.