

Report of the City Solicitor

Report to Standards and Conduct Committee

Date: 4th March 2016

Subject: Annual Report of the Standards and Conduct Committee

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|--|------------------------------|--|
| 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. In previous years the Committee has resolved to refer the annual report to full Council for consideration; this being because the Authority as a whole has the duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council.
- 2 The annual report summarises the work carried by the Monitoring Officer and her staff to support the Committee throughout the year.

Recommendations

- 3 Members are asked to consider;
 - The matters set out in this annual report and resolve whether or not to refer the report to full Council for consideration, and;
 - Whether any amendments, to either the Members' Code of Conduct or the procedures for considering complaints, are required.

1 Purpose of this report

- 1.1 The purpose of this report is to present to the committee an annual report relating to matters within the committee's terms of reference. In previous years the Committee has resolved to refer the annual report to full Council for consideration; this being because the Authority as a whole has the duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council. Members are asked to consider whether to refer the report to full Council for consideration so that full Council can receive assurances as to how the Authorities duty to promote and maintain high standards of conduct (by Members and co-opted Members of the Council) is being discharged.

2 Annual Report

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

3 Main issues

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

Training

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

Register of Interests

- 3.5 The Localism Act 2011 places a duty on the Monitoring Officer of a relevant authority to establish and maintain a register of interest of members and co-opted members of the authority. These requirements have been met during the year.
- 3.6 Similarly 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.

Dispensations

- 3.7 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.
- 3.8 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.
- 3.9 In 2014 the 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.
- 3.10 The Head of Paid Service has granted dispensations to all elected members who have requested it to allow those members (when they have a DPI) to make representations at a meeting where members of the public have the same entitlement – however those members must not otherwise be involved in the decision making of the decision making body. There have been no issues arising from this dispensation during the year.
- 3.11 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 bodies on which they receive a basic or special responsibility allowance. Other than granting existing dispensations to newly elected members, no further dispensations have been applied for or granted during 2015/16.

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

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

Complaint handling

- 3.13 Leeds City Council has a responsibility for making arrangements to receive and consider complaints against Leeds city councillors 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.
- 3.14 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 (whilst maintaining the anonymity of the subject member) together with an outline of how those complaints have been assessed and concluded.
- 3.15 So far, all complaints have been resolved either before or at Stage 1 of the complaints procedure meaning that there have been no findings of a failure by Leeds City Councillors or Parish and Town Councillors in Leeds to comply with the relevant Code of Conduct.

Complaints relating to Leeds City Councillors

- 3.16 Acting under delegated powers from the Monitoring Officer, the Deputy Monitoring Officer has received 3 complaints about Leeds City Councillors. This is the lower than the 11 complaints in the last two years. All of these complaints were submitted by members of the public. There are no specific trends in terms of the subject Members complained of in the nature of complaints made.
- 3.17 In order to be considered under the formal complaints process complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking.
- 3.18 The Deputy Monitoring Officer considered each complaint and made a decision as to whether it will be treated as a valid complaint or not.

Complaints Summary

| Complaint | Nature of Complaint | Outcome |
|-----------|---|--|
| 1 | Concerns relating to Members involvement in the designation of a property on the List of Derelict and Nuisance Building Programme. | Dismissed at Stage 1 , complaint did not relate to the Code of Conduct and provided no substantiated evidence to support the complaint. Members are routinely consulted on the matters referred to. |
| 2 | Allegation in relation to Councillor's role on the management committee of a local community body. Allegation that Councillor disclosed personal information by email. | Dismissed at Stage 1 – other action/investigation taking place. Complaint unsubstantiated – request for further information to be submitted made and no further information forthcoming. |
| 3 | Anonymous allegation that subject member exerted undue influence to the extent that a will was altered to the benefit of the subject member. | Dismissed at Stage 1 Anonymous complaint. (Also no substantiated evidence submitted & in any event public and private life). Complaint passed to Internal Audit under Whistleblowing policy and to Group Whip. |

- 3.19 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

- 3.20 The Deputy Monitoring Officer has received three complaints relating Parish or Town Councillors in the Leeds area. This compares with no complaints last year and 2 the year before. Two of three complaints came from members of the public with the other being submitted by a parish councillor about a fellow parish councillor.

Complaints Summary

| Complaint | Nature of Complaint | Outcome |
|-----------|--|--|
| 1 | <p>Allegation that subject member:</p> <ul style="list-style-type: none"> • Abused her position as a Town Councillor; • Threatened to have the complainant evicted from your home; • Indulged in hate complaints; • Slandered the complainant; • Discussed the complainant's personal circumstances with a neighbour. | <p>No information supplied to substantiate the complaints made - request made for information to be provided – no further information provided and complaint closed.</p> |
| 2 | <p>Allegation that subject member</p> <ul style="list-style-type: none"> • Acted in a lewd manner; • Was insulting and condescending, and • Behaved in an aggressive nature | <p>Dismissed at Stage 1 – allegations related to Councillors personal and private life and so Code of Conduct did not apply to those circumstances.</p> |
| 3 | <p>Allegation that the subject member:</p> <ul style="list-style-type: none"> • Made comments which were are inappropriate and disrespectful • More general failed in duties to comply with the principles of Objectivity Selflessness, Honesty and Integrity and Openness contained within the Code of Conduct. | <p>Dismissed at Stage 1</p> <p>No evidence provided to substantiate the allegations made provided. No derogatory or otherwise personally disrespectful comments towards the complainant evident and no suggestion of improper or dishonest conduct.</p> |

Supporting Members of Parish and Town Councils

- 3.21 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.
- 3.22 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.
- 3.23 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 where necessary.
- 3.24 Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.
- 3.25 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.
- 3.26 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. The co-opted parish members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.

Independent Person

- 3.27 The Standards and Conduct Committee have supported the Independent Person in his role by inviting him to attend meetings of the committee as an observer, and ensuring that he has undertaken training on the Members' Code of Conduct.
- 3.28 The Independent Person also has quarterly briefing meetings with the Deputy Monitoring Officer. The Independent Person's current term of office is until July 2017.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.3 In providing an oversight of local codes and protocols and the Members' Code of Conduct the Committee have considered comments and feedback from the relevant Committees and from other Leeds City Councillors.
- 4.1.4 In relation to complaints against Councillors, in all cases mentioned in this report the complainant has been contacted and an explanation has been provided as to why the complaint is not being progressed. The subject Member has also been informed of the complaint and the response to the complainant, for information only.

4.2 Equality and Diversity / Cohesion and Integration

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

4.3 Council policies and City Priorities

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

4.4 Resources and value for money

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

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Standards and Conduct Committee's terms of reference are taken from the Chapter 7 of the Localism Act 2011.
- 4.5.2 There are no implications for access to information or call in arising from this report.

4.6 Risk Management

- 4.6.1 The arrangements described within this report provide assurance that the authority, parish and town councils, individual councillors and the Monitoring Officer are complying with the requirements set out in the Localism Act 2011. The work undertaken by the Monitoring Officer and her staff, and by this committee, ensure that these arrangements remain up to date and fit for purpose and that the risk of breaching the statutory requirements is minimised.
- 4.6.2 In relation to complaints against councillors the Monitoring Officer has considered the information above and does not consider that there are any adverse trends in the types of complaints received, and as no potential breaches of the Members' Code of Conduct have been revealed, there are no issues to address through training.

5 Recommendations

- 5.1 Members are asked to consider;
- The matters set out in this annual report and resolve whether or not to refer the report to full Council for consideration, and;
 - Whether any amendments, to either the Members' Code of Conduct or the procedures for considering complaints, are required.

6 Background documents¹

- 6.1 None.

¹ 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.