



Report of City Solicitor

Report to Standards and Conduct Committee

Date: 6th March 2020

Subject: Annual Report of the Monitoring Officer to the Standards and Conduct Committee

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

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

The report provides assurances in respect of work undertaken to:

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

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- There are no specific implications for the Best Council Plan arising from this report.
- 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.
- The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority.

- This report outlines how the Standards and Conduct Committee has carried out this duty on behalf of the Council.

3. Resource Implications

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

Recommendations

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

1. Purpose of this report

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

2. Background information

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

3. Main issues

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

Training

- 3.3 As a result of the Local elections in May 2019 (and the By-Election in December 2019) 10 new members have been elected, one of whom was returning to Council.
- 3.4 All those Members who were new to the Council received induction training on the requirements of the Code of Conduct and the specific requirements relating to the registration and declaration of interests. The session highlighted that the Code requires Members to comply with supplementary guidance including all those codes and protocols contained at part 5 of the council's constitution.

- 3.5 Particular attention was drawn to the Protocol on Member Officer Relations and the Monitoring Officer's guidance on Social Media (a copy of which was shared with members).
- 3.6 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.
- 3.7 The Member Management Committee's Member Development and ICT Working group have reviewed both the Member Induction Programme and the wider Member Development Strategy with a view to ensuring that both are up to date and fit for purpose; ensuring that development opportunities meet the needs of Members in fulfilling their roles.
- 3.8 In accordance with the evolving Member Development Strategy it is proposed that training on the Council's Ethical framework will be further enhanced to include detailed advice and guidance in relation to the respective roles and relationships between Members and officers. It is proposed that information will be made available through a variety of learning media including written word, e-learning and face to face training and discussion.

3.9 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 interests 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.
- 3.12 These requirements have been met during the year with all new Members completing their Register of Interests prior to the Annual Council meeting and consequently well within the 28 day timeframe required by Statute.
- 3.13 In addition regular reminders have been issued to elected members to review their registers of interests. Whilst some reminders have been general in nature, others have provided focussed advice with reminders in the past year including: gifts and hospitality; the need to register spousal interests; interests arising from employment, office, trade, profession or vocation; dual hatted interests; and interests relating to consideration of the budget.

Sensitive Interests

- 3.14 Section 32 (2) of the Localism Act 2011 allows for interests which are considered to be sensitive to be withheld from a Member's Register of Interests. The decision as to whether to withhold such an interest from the public register is made by the Monitoring Officer. Permission to withhold an interest 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.
- 3.15 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.

- 3.16 The Member needs to provide supporting evidence for that reasonable belief and it is on the basis of that evidence that the Monitoring Officer agrees or not to the interest being withheld.
- 3.17 Twenty six (12 in 2018/19) permissions to withhold interests are in place (having been granted by the Monitoring Officer in respect of the 435 elected Leeds City Council and Parish and Town Council Members across the Leeds Metropolitan District, an increase of 14 on the previous year. Twenty (7 in 2018/19) of these relate to Leeds City Councillors, a substantial increase from last year. This reflects the trend nationally where elected representatives face increased threats and being targeted maliciously – often, although not exclusively, via Social Media.
- 3.18 In response to this the Member Management Committee established a Member Safety Task Force (Chaired by Cllr Scopes) to:
- Ensure that elected Members are fully engaged with the formulation, monitoring and evaluation of Members’ personal security and safety provisions.
 - Advise on policies and strategies relating to Members’ personal safety, including providing input on the identification of ‘best fit’ personal safety devices;
 - Explore support and escalation arrangements for Members from Legal Services and West Yorkshire Police;
 - Keep under review the implementation of Member safety arrangements and evaluate the continued effectiveness of Members’ personal safety offer;
 - Identify learning and development needs and champion take up by all Members.
- 3.19 The Monitoring Officer has reported into the Task Group to give assurance as to the proactive steps taken to engage with Members in relation to the publication of their home addresses.
- 3.20 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.
- 3.21** Members attention is also drawn to the report from the Committee on Standards in Public Life (CSPL), into Local Government Standards arrangements (reported to the Committee last year) which made a recommendation to Government to clarify that a councillor does not need to register their home address on an authority’s register of interests. No progress has been made by Government in relation to this. A more detailed note on progress in addressing the recommendations of the CSPL is provided later in this report.

Dispensations

- 3.22 If a councillor wishes to apply for a dispensation to allow them to take part in a meeting considering a matter in which they have a disclosable pecuniary interest they must submit a written application to the Monitoring Officer.

- 3.23 Applications are then decided by the Head of Paid Service. However, in deciding whether to grant a dispensation the Head of Paid Service must have regard to s 33(2) Localism Act and, as per arrangements established in Leeds, consult with the Chair of the Standards and Conduct Committee.
- 3.24 No alterations have been made to the Standards and Conduct Committee's conclusions regarding local prohibitions on councillor's involvement in decision making where they have a Disclosable Pecuniary Interest (DPI). Members will recall that the circumstances where a member of the public has rights to attend and make representations – for example in relation to a personal planning application - the committee's view was that this limitation placed an unjust discrimination upon councillors.
- 3.25 In light of this, and recognising the committee's views on this matter, subject to certain constraints, and the receipt of an application, the Head of Paid Service has continued to set aside these restrictions by way of the granting of a dispensation to newly elected members.
- 3.26 The dispensation allow members (when they have a DPI) to make representations at a meeting where members of the public have the same entitlement – however those members must not otherwise be involved in the decision making of the decision making body.
- 3.27 The other active dispensation, granted to all Members, permits members to take part and vote in matters relating to:
- Any office held within Leeds City Council for which they receive a taxable income; and
 - Any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income.
- 3.28 Members will recall from last year's report that in May 2018, following all out elections, both dispensations were granted until May 2022 reflecting the four year term of office to be served by one third of those councillors elected. A new dispensation was granted in the same terms for those Members elected at the 2019 local election lasting until May 2023 reflecting their term of office, with a further dispensation being granted for the Member elected at the 2019 by-election also to expire in May 2023 at the end of her term of office.
- 3.29 It is proposed that subject to any legislative or policy change, and in consultation with the Chair of this Committee the Chief Executive will be invited to grant dispensations in similar terms following each local election, for a period reflecting the term of office of successful candidates.

Complaint handling

- 3.30 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.

- 3.31 So far all complaints this year have been resolved either before or at Stage 1 of the complaints procedure. There have been no formal findings of a failure by Leeds City Councillors or Parish and Town Councillors in Leeds to comply with the relevant Code of Conduct.
- 3.32 As part of their regular briefings (with the Deputy Monitoring Officers) the Chair and the Independent Person have been appraised with a summary of the (anonymised) complaints that have been received together with an outline of how those complaints have been assessed and concluded.
- 3.33 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.
- 3.34 Each complaint is assessed by either the Monitoring Officer (or one of her Deputies), in consultation with the Independent Person; it is the Monitoring Officer (or her nominated Deputy) that makes a decision as to whether it will be treated as a valid complaint or not. Where information is lacking, complainants are also offered the opportunity to provide further information to substantiate their complaint to enable an objective assessment to be undertaken.

Complaints relating to Leeds City Councillors

- 3.35 Last year, at the time the Committee met, Members were advised that 6 complaints had been received in respect of Leeds City Council Members. One further complaint was received between the committee meeting and the end of the 2018/19 Municipal year.
- 3.36 From the commencement of this Municipal Year (to date) there have been 12 complaints made against Leeds City Councillors.

Leeds City Council Member Complaints Summary

Complaint	Nature of Complaint	Outcome
1-4	Complaint made in relation to comments made by subject Member at an event.	No further action - complaint invalid under paragraphs 6 (c) and 6 (l) of the complaints procedure
5	Complaint related to subject Members' response to correspondence	No further action invalid under paragraph 6 (d) and 6 (l)
6	Complaint concerned issues relating to involvement of subject member in unsuccessful planning application of complainant	No further action - no information has been provided to substantiate invalid under Paragraph 6(l)
7	Issues relating to statement made by the Subject Member to Court	Awaiting further information to substantiate complaint.

Complaint	Nature of Complaint	Outcome
8	Issues concerning 4 subject Members various separate engagement with the complainant's planning application at Plans Panel.	No further action – various reasons; 6(d), 6(k) and 6 (l)
9	Issues regarding interaction of Subject Member with a third party and alleged misuse of Councillor position.	No further action – request for complaint form to be completed along with provision of information to substantiate the claims made – no further correspondence received.
10	Following release of information under Freedom of Information, complainant concerned about terminology used by Subject Member in an email and the Subject Members involvement in an event booking.	No further action - no information has been provided to substantiate invalid under Paragraph 6(l)
11	Concern over Subject Members response to complainant's Social Media postings about Subject Member's private life and transparency of interests.	Currently being assessed
12	Concern over interaction of Subject Member with Complainant following complainant's Social Media postings concerning Member's private life and transparency of interests.	Currently being assessed

3.37 There have been no trends in relation to the types of complaints received, although complaints 1-4 related to the same issues complained of by 4 different individuals about the same Subject Member. Complaints 11 and 12, are separate complaints from different individuals but relate to the same Subject Member. The most notable element though is the increase in complaints, which, although remaining small, doubled in the last reporting period.

3.38 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

3.39 Last year, at the time the Committee met, Members were advised that two complaints were received in respect of Parish and Town Council Members. No further complaints were received between the committee meeting and the end of the Municipal year.

3.40 At the time of this report, in the 2019/20 Municipal Year the Monitoring Officer has received seven complaints relating to Parish or Town Councillors in the Leeds area; these are summarised in the table below.

Parish and Town Council Member Complaints Summary

Complaint	Nature of Complaint	Outcome
a - e	Complaint made in relation to Subject Member's private landholdings and neighbour dispute.	No further Action issues do not fall within the scope of Code or Complaints procedure - invalid under Paragraph 6 (l)
f	Issues regarding engagement with a contractor and resolution of disputes – complaint relates to 2 Subject Members.	No further Action - Complaint form and procedure sent – no further correspondence received.
g	Initial correspondence received concerning dispute over handling of booking arrangements at Town Council.	No further action. Complaint form and procedure sent with request to substantiate claims made– no further correspondence received.

3.41 Analysis shows that complaints a-e related to the same issues complained of by 5 different individuals about the same Subject Member. Complaints f and g, are separate complaints but relate (complaint f – in part) to the same Subject Member¹.

3.42 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 in relation to Parish and Town Councils.

Supporting Members of Parish and Town Councils

3.43 Parish and Town Councils continue with the greater responsibilities under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:

- promoting and maintaining high standards of conduct by their own Members;
- formally adopting a Code of Conduct that is consistent with the requirements of the Localism Act and publicising that adoption;
- completing a register of disclosable pecuniary interests and ensuring that information about this register is available on the Parish or Town Council's own website (if it has one);
- putting in place arrangements for Members to apply for and be granted a dispensation; and

¹ This Member is a dual hatted Member who was also the Subject Member in complaints 11 and 12 in the table relating to Leeds City Councillors.

- 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.

3.44 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.

3.45 Leeds City Council also has a responsibility to collate the registers of interest completed by Parish and Town Councillors in Leeds and to publish these on the Council's website. In May 2019 all-out elections took place for parish and town councillors across the Leeds district. Arrangements were put in place to provide guidance to parish and town council clerks in respect of these duties and bespoke training was offered to all clerks at three venues across the city.

3.46 Following the all-out Parish and Town Elections arrangements were made to receive and publish registers of interests from each town and parish council. The Monitoring Officer undertook careful tracking of the registration of interests by all town and parish councillors; – there are 32 Parish and Town Councils with 303 Councillors. The Monitoring Officer has received the vast majority of these with a very small² number being in the process of being chased up with the clerks concerned.

3.47 As set out earlier, Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.

3.48 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.

3.49 A parish member is not entitled to vote at the meeting, but would be entitled to speak at the discretion of the Chair. One parish member remains co-opted to the committee - Councillor Debbie Potter (from Shadwell Parish Council). Co-opted parish members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.

3.50 The Standards and Conduct Committee are asked to consider whether a further member be sought to form a pool of parish and town council members that the authority can call upon as needed.

Independent Person

3.51 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.

3.52 Following the amendment to the Procedure Rules, Mr Tollefson is now routinely consulted on draft complaint assessments. He also has regular briefing meetings with one of the Deputy Monitoring Officers and during the year has provided support to Members to help resolve issues. By way of this report, the Committee are invited to extend their thanks to Mr Tollefson for his continued service as Independent Person this year.

² Three registers have not been received since the elections in May 2019 – 2 from one Parish Council and 1 another (both with the same clerk). One further register is due from one Town Council as a result of a Town Councillor appointment in late January 2020.

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

- 3.53 The Committee launched their findings at an event in Parliament on the 30th January 2019 to which the chair, Cllr Nash and the Deputy Monitoring Officer were invited by the committee's secretariat.
- 3.54 Following recommendations made by the Standards and Conduct Committee the Annual Council meeting approved enhancements of the ethical framework in Leeds – particularly relating to Bullying and Harassment provisions in the Code of Conduct, the involvement of the Independent Person at Stage 1 of the complaints process and to the guidance available to Members relating to Social Media.
- 3.55 Since the publication of the report, the Ministry of Housing Communities and Local Government has been engaging with a small number of local authority Monitoring Officers (Leeds included) to formulate the steps necessary to implement the Committee on Standards in Public Life (CSPL) recommendations. However, given the recent constraints on parliamentary time little progress has been made in responding to the CSPL recommendations.
- 3.56 However in response to one recommendation³, the Local Government Association are currently undertaking a consultation exercise on the content of a new draft Members' Code of Conduct – the intention being that a draft Code will be consulted upon at some point in the Spring with the LGA currently scheduled to consider a final document at their Annual Meeting in July. Subject to this being approved this will be available for adoption by Local Authorities.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 In relation to complaints against Councillors, in all cases mentioned in this report the complainant has been contacted and an explanation has been provided as to why the complaint is not being progressed. The subject Member has also been informed of the complaint and the response to the complainant, for information only. As introduced last year, an explicit instruction has been introduced to remind Members to not share the details of complaints/complainants as this is unlikely to be in accordance with Members responsibilities as data controllers under data protection legislation.

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 the Best Council Plan

- 4.3.1 Principle 3 of the Code of Corporate Governance states that the Council will put in place a Code of Conduct and keep it under review.

³ **Recommendation 1** - The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

- 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

Climate Emergency

- 4.3.3 There are no issues arising from this report relating to the Climate Emergency resolution of Full Council.

4.4 Resources, procurement and value for money

- 4.4.1 There are no resource implications arising from this report although the Monitoring Officer advises that an additional Deputy Monitoring Officer has, during the year, been designated to support her in the discharge of her statutory functions. This has increased both capacity and resilience in relation to the Council's standards and conduct work.

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. As a Council function the report is not eligible for Call In.

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

5. Conclusions

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

6. Recommendations

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

7. Background documents⁴

7.1 None.

⁴ 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.