

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 19th June 2013

Subject: Update on recent standards issues

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<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 make the Standards and Conduct Committee aware of any recent standards issues that have arisen since the last meeting on 5th April 2013, including any complaints that have been received and any dispensations granted.
2. At its first meeting the Standards and Conduct Committee resolved that the Committee should receive a breakdown of the number of complaints received in relation to the Members' Code of Conduct at each meeting.

Recommendations

3. Members of the Standards and Conduct Committee are asked to note the information in this report and to consider whether any further action needs to be taken in terms of the advice received from the Department for Communities and Local Government.

1 Purpose of this report

- 1.1 The purpose of this report is to make the Standards and Conduct Committee aware of any recent standards issues that have arisen since the last meeting on 5th April 2013, including any complaints that have been received and any dispensations granted.

2 Background information

- 2.1 At its first meeting the Standards and Conduct Committee resolved that the Committee should receive a breakdown of the number of complaints received in relation to the Members' Code of Conduct at each meeting.

3 Main issues

Complaints received since the 5th April 2013

- 3.1 Only one complaint against a Leeds City Councillor has been received since the last report to the Standards and Conduct Committee. This complaint was resolved at Stage One of the complaints process, because it was clear from the information provided that the Councillor concerned was not acting in their official capacity at the time of the alleged incident. The allegation was made by a member of the public and related to an incident of anti-social behaviour on the complainant's property.
- 3.2 The complainant was dissatisfied with the Council's response to this incident and contacted another Ward Councillor who referred her to the Monitoring Officer. The Monitoring Officer reviewed the case and the response of the Deputy Monitoring and reached the same conclusion. The Monitoring Officer therefore responded to the complainant advising her that the issue could not be dealt with by the Council.
- 3.3 No complaints have been received regarding Parish or Town Councillors in the Leeds area since the last report.

Revised interpretation of the disclosable pecuniary interests regulations

- 3.4 As Members of the Committee will be aware, all elected Members are obliged to notify the Monitoring Officer of their disclosable pecuniary interests so that they can be entered into the Register of Interests. One of the categories of disclosable pecuniary interests is:

"Any employment, office, trade, profession or vocation carried on for profit or gain."

- 3.5 In the past, officers have advised that this will not include any positions for which a Member receives an allowance under the Members' Allowances Scheme or otherwise, on the basis that allowances are designed to ensure that Members are reimbursed for costs properly incurred in the performance of their duties, and therefore would not constitute 'profit or gain'.

- 3.6 However, during April the Monitoring Officer became aware of a letter written by Mr Brandon Lewis MP (Parliamentary under Secretary of State for the Department of Communities and Local Government) to Mr Desmond Swayne MP on 4th January 2013, which sets out an alternative interpretation.
- 3.7 Although the letter states that it is not the practice for the Department to give legal advice or opinion, Mr Lewis states that generally he would remark that:
- “a member being in receipt of taxable members’ allowances may be considered to give rise to a disclosable pecuniary interest under the subject of ‘Employment, office, trade or vocation’ set out in the regulations. Whether a Councillor who wishes to participate in the discussion or voting on an item of council business related to the other authority of which he is a member needs to apply for a dispensation will depend on what is to be discussed, but if a councillor is concerned because they have registered their membership of the other authority as a disclosable pecuniary interest, they may wish to apply for a dispensation, and have one granted, to put the matter beyond doubt.”
- 3.8 He further suggests that councils could consider granting “‘standing dispensations’ for the whole of the member’s term of office for certain recurring items of council business where it is foreseen that one of the grounds for granting a dispensation set out in the Act will be met. This could apply in the case of a dual-hatted member who has specialist knowledge of a matter which would be relevant to a discussion or decision and where that member does not stand to make a personal financial gain by being granted a dispensation.”
- 3.9 As a result of this letter the Monitoring Officer issued advice to all Members on 17th April 2013 that the safest course of action would be for all Members to include the following positions in their register of interests:
- Their position as a Leeds City Councillor for which they receive a basic allowance, and any other positions held within Leeds City Council for which they receive a Special Responsibility Allowance; and
 - Any positions held in outside bodies to which they have been appointed by the Council for which they receive a taxable allowance.
- 3.10 The Deputy Monitoring Officer took steps to add these interests to each Members’ register on their behalf, unless they contacted Governance Services to request that these interests are not added. Furthermore, each register entry has been revised following the appointments to outside bodies made at the Annual Meeting on 20th May 2013.
- 3.11 Furthermore, the Monitoring Officer recommended that each Member applied for a dispensation to allow them to take part (including voting) in any decision relating to one of these positions. 98 Members signed the application form to apply for a dispensation by 10th May 2013, and the Chief Executive granted the dispensation on 13th May 2013 which lasts for a period of four years. Unless the interpretation of the Regulations changes all new Members will be invited to apply for a dispensation in relation to this issue after joining the Council.

- 3.12 Members have also been invited to notify Governance Services of any other positions they hold for which they receive a taxable income, so that these can also be entered into the register of interests. However, the dispensation will not enable Members to take part in decisions affecting these positions, only those to which the Member has been appointed by the Council.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Before granting a dispensation the Chief Executive must consult the Chair of the Standards and Conduct Committee. On this occasion the Chair was supportive of a dispensation being granted.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity or cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 The Standards and Conduct Committee's terms of reference set out that the Committee is responsible for promoting and maintaining high standards of conduct within the Council. Considering information about the number and type of complaints received assists the Committee in achieving this.

4.4 Resources and value for money

- 4.4.1 There are no implications for resources or value for money.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The legal implications are set out in the main body of this report.

4.6 Risk Management

- 4.6.1 The risks of a Member accidentally breaching the requirements of the Localism Act have been mitigated by sharing the revised guidance with all Members, updating the register of interests on Members' behalf, and also by arranging for all Members to be granted a dispensation allowing them to take part in the discussion and vote on any matters relating to their disclosable pecuniary interest.

5 Conclusions

- 5.1 This report sets out the number of complaints received since the last report to the Standards and Conduct Committee, and any recent standards issues that have arisen.

6 Recommendations

- 6.1 Members of the Standards and Conduct Committee are asked to note the information in this report and to consider whether any further action needs to be

taken in terms of the advice received from the Department for Communities and Local Government.

7 Background documents¹

7.1 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.