



STANDARDS COMMITTEE

**Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Wednesday, 14th February, 2007
at 2.00 pm**

MEMBERSHIP

Independent Members

Mike Wilkinson (Chair)	(Independent Member)
C Grant	(Independent Member)
Rosemary Greaves	(Reserve Independent Member)

Councillors

E Nash	G Kirkland	J L Carter
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Parish Members

Councillor Mrs P Walker	Pool in Wharfedale Parish Council
Councillor John C Priestley	East Keswick Parish Council (Reserve Member)

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p>	
2			<p>EXCLUSION OF PUBLIC</p> <p>To identify items where resolutions may be moved to exclude the public</p>	
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF INTERESTS</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 13 of the Members' Code of Conduct</p>	
5			<p>MINUTES OF THE PREVIOUS MEETING</p> <p>To approve the minutes of the Standards Committee meeting held on 21st December 2006 and consider any matters arising.</p>	1 - 8
6			<p>MINUTES OF THE CORPORATE GOVERNANCE AND AUDIT COMMITTEE</p> <p>To note the minutes of the Corporate Governance and Audit Committee meeting of 29th November 2006.</p>	9 - 14

Item No	Ward/Equal Opportunities	Item Not Open		Page No
7			<p>ADJUDICATION PANEL FOR ENGLAND - DECISIONS OF CASE TRIBUNALS</p> <p>To note a report of the Director of Legal and Democratic Services detailing recent decisions by Adjudication Panel Case Tribunals in respect of allegations of misconduct, and consider if there are any lessons to learn for Leeds.</p>	15 - 20
8			<p>COMPREHENSIVE PERFORMANCE ASSESSMENT</p> <p>To consider a report of the Director of Legal and Democratic Services examining the Audit Commission's (CPA) use of resources assessment criteria for probity and propriety and the Council's relative position against those criteria.</p>	21 - 34
9			<p>PROTOCOL ON MEMBER/OFFICER RELATIONS – INCORPORATION OF GUIDELINES</p> <p>To receive a report of the Chief Democratic Services Officer advising the Committee of the existence of "Guidelines for Civic Dignitaries" and "Guidelines for Democratic Services Support to Members" and recommending that both of these documents be adopted as part of the provisions set out in the Protocol on Member/Officer Relations for the use of Council resources.</p>	35 - 80
10			<p>PLAIN ENGLISH GUIDE TO LOCAL CODES AND PROTOCOLS</p> <p>To consider a report of the Director of Legal and Democratic Services seeking Members' approval for a new plain English guide to the local codes and protocols.</p>	81 - 86

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11			<p>ANNUAL REPORT OF THE MONITORING OFFICER IN RELATION TO THE STANDARDS COMMITTEE PROCEDURE RULES</p> <p>To receive a report of the Director of Legal and Democratic Services providing details of how the “gate-keeping” role of the Monitoring Officer has been discharged in relation to complaints made under Local Codes, whether the arrangements set out in the procedure have been complied with, and proposing amendments to the Procedure Rules.</p>	87 - 138
12			<p>CONSULTATION ON AMENDMENTS TO THE MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS</p> <p>The consider a report of the Director of Legal and Democratic Services seeking the Committee’s comments on the consultation document published by the Department for Communities and Local Government.</p>	139 - 188
13			<p>MEMBERSHIP OF THE STANDARDS COMMITTEE</p> <p>To receive a report of the Director of Legal and Democratic Services considering various issues related to the membership and terms of office of members of the Standards Committee.</p>	189 - 200
14			<p>STANDARDS COMMITTEE ANNUAL REPORT 2006-2007</p> <p>To consider a report of the Director of Legal and Democratic Services seeking the Committee’s approval of the first draft of the Standards Committee Annual Report 2006-2007.</p>	201 - 226
15			<p>STANDARDS COMMITTEE WORK PROGRAMME</p> <p>To note the updated work programme for the Standards Committee for the remainder of the municipal year.</p>	227 - 232

Agenda Item 5

Standards Committee

Thursday, 21st December, 2006

PRESENT:

Independent Members

Mike Wilkinson (Chair)	(Independent Member)
C Grant	(Independent Member)
Rosemary Greaves	(Reserve Independent Member)

Councillors

E Nash	J L Carter
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Parish Members

Councillor Mrs P Walker	Pool in Wharfedale Parish Council
Councillor John C Priestley	East Keswick Parish Council (Reserve Member)

APOLOGIES:

G Kirkland

51 Appeals against refusal of inspection of documents

There were no appeals against refusal of inspection of documents in accordance with Procedure Rule 25 of the Access to Information Procedure Rules.

52 Exclusion of public

There were no resolutions to exclude the public.

53 Late items

There were no late items admitted to the agenda by the Chair for consideration.

54 Declaration of interests

There were no declarations of personal/prejudicial interest for the purpose of section 81(3) of the Local Government Act 2000 and paragraphs 9 to 12 of the Members' Code of Conduct.

Draft minutes to be approved at the meeting
to be held on Wednesday, 14th February, 2007

55 Minutes of the previous meeting

The minutes of the Standards Committee meeting on 4th October 2006 were approved as a correct record.

56 Minutes of the Corporate Governance and Audit Committee

The minutes of the Corporate Governance and Audit Committee meeting on 27th September 2006 were received and noted.

57 Standards Committee Independent Members' Forum of Yorkshire and Humberside

The minutes of the Standards Committee Independent Members' Regional Forum of 24th October 2006 were received and noted.

58 Members' ICT

The Chief Democratic Services Officer presented a report outlining new guidelines for the use by Members of their Council supplied ICT facilities. Members of the Committee were asked for their views on the implications for Member conduct matters arising from the introduction of the new guidelines.

Members discussed:

- The rules surrounding software licensing and Members adding software to their Council computers.
- The fee of £50 for personal use of Council provided ICT equipment and whether this should be increased. Members noted that this was a voluntary payment made by those Members who wished to make personal use of their Council provided equipment. The level of the fee was determined by Full Council on advice from the Independent Remuneration Panel.
- The problems with monitoring Members to determine whether they were complying with the guidelines.

It was outlined by the Director of Legal and Democratic Services that the guidelines could either be adopted as a local code in Part 5 of the Council's Constitution, or that they could be approved as part of the Council's arrangements for the use of Council resources, which would mean that any breach of the guidelines would also be a breach of the Members' Code of Conduct.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report;
- Request that all Members are provided with a copy of the Council's procedure for approving requests to add new software;
- Approve the guidelines as part of the Council's arrangements for the use of Council resources, meaning that any breach of the guidelines would also be a breach of the Members' Code of Conduct; and

- Recommend to the Council's Independent Remuneration Panel that the fee which applies to Members making personal use of their ICT equipment as contained within the Council's Members' Allowances Scheme remain at £50.00.

59 Standards Board for England: Bulletin 31

The Director of Legal and Democratic Services submitted a report informing Members of the Committee of the latest Standards Board Bulletin published on 27th November 2006.

RESOLVED – Members of the Committee resolved to note the contents of the report and the attached Bulletin.

60 Town and Parish Standard 08

The Director of Legal and Democratic Services submitted a report notifying Members of the Committee of the latest Town and Parish Standard issued by the Standards Board for England.

RESOLVED – Members of the Committee resolved to note the contents of the report and the Town and Parish Standard.

61 Standards Board Annual Assembly

The Director of Legal and Democratic Services submitted a report informing Members of the Committee of the Fifth Annual Assembly of Standards Committees held on 16th & 17th October 2006.

Members discussed:

- The problems with local investigations highlighted by monitoring officers in the results of the BMG research. The Monitoring Officer reported that these problems had not occurred in Leeds City Council.
- The new Association of Independent Members of Standards Committees in England and whether this may raise issues of importance to the Committee. The Chair reported that any such issues would be conveyed to the Committee as necessary.

RESOLVED – Members of the Committee resolved to note the contents of the report, the conference newsletters, and the attached research document.

62 Adjudication Panel for England - Decisions of case tribunals

The Director of Legal and Democratic Services submitted a report providing summaries of recent decisions made by the Adjudication Panel for England regarding allegations of misconduct against Members.

RESOLVED – Members of the Committee resolved to note the contents of the report.

63 Adjudication Panel for England - Annual Report

The Director of Legal and Democratic Services submitted a report advising Members of the Committee of the contents of the Adjudication Panel's Annual Report for the year ending 31st March 2006.

Members discussed their concerns regarding the statement made by the President of the Adjudication Panel in the Annual Report that there should be a requirement for the hearings by standards committees to be chaired by a lawyer who is familiar with the Competency Framework for Chairmen and Members of Tribunals. There was discussion around the President's statement in the context of the importance of legal advice but also concerns were expressed about the importance and value of the work of juries and magistrates. The point was also made that legal advice to any hearings panel would also be available in Leeds through the Monitoring Officer.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report; and
- To write to the Adjudication Panel, and copy the letter to the Standards Board for England, and the Committee for Standards in Public Life, regarding the Committee's concerns about the President's advice.

64 High Court decision - Livingstone appeal outcome

The Director of Legal and Democratic Services submitted a report advising Members of the Committee of the decision of the High Court in the recent appeal by Ken Livingstone against the finding of the Adjudication Panel for England that he had failed to follow the Code of Conduct, and also against the sanction applied by them.

RESOLVED – Members of the Committee resolved to note the contents of the report.

65 Standards Committee half year progress report

The Director of Legal and Democratic Services submitted a report seeking comments on the draft six monthly report advising the Corporate Governance and Audit Committee of the work completed by the Standards Committee to date in the 2006/7 Municipal year.

It was reported that amendments were required to the timescale for the annual report of the monitoring officer and the number of Parish Councils that had been trained on the Code of Conduct. These changes had occurred since the report was written.

RESOLVED – Members of the Committee resolved to:

- Approve the draft report subject to the minor amendments arising since the report was written; and
- Agree to refer the report, following amendment, to the Corporate Governance and Audit Committee for further consideration.

66 Revised Members' Code of Conduct

The Director of Legal and Democratic Services submitted a report advising Members of the current position in relation to the implementation of a new model Code of Conduct for Members.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report;
- Request the Director of Legal and Democratic Services to implement a series of training events for all Members of the Council prior to the Annual Meeting; and
- Request that the Director of Legal and Democratic Services liaise with the Parish and Town Councils in the Leeds area in order to arrange appropriate and timely training in relation to the new Code.

67 Parish and Town Council Training

The Director of Legal and Democratic Services submitted a report advising the Committee of the training provision offered to Parish and Town Councils since May 2006 and the number of Parish and Town Councils that have been trained so far.

Members discussed:

- That more information was required regarding the size of each Parish and Town Council and that this information should be included in an additional column in Appendix A to the report;
- That from the attendance figures and comments it would seem that some Parish and Town Councils do not want the training which the Council is offering;
- That in future the trainers rather than the Parish Clerks should take responsibility for inviting all Parish and Town Councils in the area to the training session;
- That it may be useful to include all details from the report in the letter to Parish and Town Clerks so that they can be reminded of all the forms of training available to them. Members of the Committee also proposed that the positive feedback received from the attendees could be included in the letter; and
- That more might be done by the Chair of the Committee and the Parish representatives to encourage Parish and Town Councils to take up the training offered.

RESOLVED – Members of the Committee resolved to:

- Arrange an informal discussion meeting between the Chair, the Parish Member and the Reserve Parish Member to take place in January 2007 to discuss the issues in the report and create an action plan; and
- Request that an addendum be circulated showing the proportion of each Parish and Town Council which has been trained.

68 Ethical Audit Questionnaire - Preliminary Results

The Director of Legal and Democratic Services submitted a report informing Members of the Committee of the response statistics for the survey and some preliminary results from the questionnaires.

Members discussed:

- Their disappointment with the level of awareness of the role of the Standards Committee amongst Members and officers; and
- The need for Standards Committee to input to the development of an action plan to address the areas for improvement.

It was reported that a facilitated workshop led by the Audit Commission was going to be organised to take place in February 2007 so that the Committee could discuss the draft action plan.

RESOLVED – Members of the Committee resolved:

- To note the contents of the report and the appendices; and
- The intention to have a workshop to discuss findings of the report.

69 Feedback on consultation process on amendments to the Protocol on Member/officer Relations

The Director of Legal and Democratic Services submitted a report advising Members of the Committee of the outcome of the consultation which had taken place in relation to the proposed changes to the Protocol on Member/Officer Relations.

It was reported that one Member had responded to the consultation with some concerns regarding the references to publicity in the Protocol. It was explained that the amendment had only been included to reflect the Code of Recommended Practice on Local Authority Publicity. However the Director of Legal and Democratic Services proposed to circulate some amended wording in the protocol to clarify the paraphrase which had been included to more accurately reflect the wording in the Code of Recommended Practice.

RESOLVED – Members of the Committee resolved to:

- Adopt the amended Protocol subject to the amendment to be drafted by the Director of Legal and Democratic Services; and
- Ask the Director of Legal and Democratic Services to make the necessary amendments to the Constitution under her delegated authority; and
- Ask the Director of Legal and Democratic Services to circulate the revised Protocol to all Members of Council and all co-opted members of Committees.

70 Protocol on Member/Education Leeds Relations

The Director of Legal and Democratic Services submitted a report advising the Committee of a number of proposed amendments to the Protocol for

Elected Member/Education Leeds Relations, and seeking the Committee's consent to a consultation process in relation to these amendments.

Members discussed:

- The status of Education Leeds staff and how far the Council could impose codes and protocols on them;
- That they welcomed the work being carried out by Governance Services regarding the corporate governance arrangements of the Councils' partnerships; and
- The extent to which Education Leeds and the Council's Arms Length Management Organisations were subject to the various codes and protocols within the Council's Constitution.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report;
- Request a briefing note on the status of Education Leeds and the Arms Length Management Organisations, and their relationship with Leeds City Council and the codes and protocols; and
- Consent to the consultation process detailed in paragraph 3.16 onwards of the report in relation to the amendments listed in paragraph 3.9 onwards of the report.

71 Standards Committee Work Programme

The Director of Legal and Democratic Services submitted a report notifying Members of the Committee of the work programme for the remainder of the municipal year.

RESOLVED – Members of the Committee resolved to note the work programme.

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Agenda Item 6

Corporate Governance and Audit Committee

Wednesday, 29th November, 2006

PRESENT: Councillor M Harris in the Chair

Councillors D Blackburn, A Carter and
E Minkin

Co-optee Mike Wilkinson

IN ATTENDANCE: Councillors T Leadley (In place of R Finnigan) and T Hanley (In place of K Wakefield)

Apologies Councillors R Finnigan and K Wakefield

38 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents in accordance with Procedure Rule 25 of the Access to Information Procedure Rules.

39 Exclusion of Public

There were no resolutions to exclude the public.

40 Late Items

There were no late items admitted to the agenda by the Chair for consideration.

41 Declaration of Interests

There were no declarations of personal/prejudicial interest for the purpose of section 81(3) of the Local Government Act 2000 and paragraphs 9 to 12 of the Members' Code of Conduct.

42 Minutes

RESOLVED – Members resolved:

- that the minutes of the meeting of the Corporate Governance and Audit Committee held on the 29th June be approved as a correct record; and
- to request the Director of Corporate Services to pursue the report requested at Minute 31.

Minutes approved at the meeting
held on Wednesday, 31st January, 2007

43 Minutes of the Standards Committee

Members particularly discussed Minute 41 in relation to Members insurance, and Minute 44 in relation to case law on bias and pre determination. Members noted their support of the Standards Committee resolution in relation to Minute 44 that advice on the issue be made available to all Councillors.

RESOLVED - That the minutes of the Standards Committee meeting held on the 8th June 2006 be noted.

44 Gambling Act 2005 - Constitutional Amendments

The Director of Legal and Democratic Services submitted a report seeking Members views on proposed amendments to the Council's Constitution in order to reflect the provisions of the Gambling Act 2005.

RESOLVED – Members resolved to:

- note the contents of the report; and
- make the following recommendations to Full Council:
 - to adopt the revised Article 8A as set out in Appendix 1 to the report;
 - to adopt a revised Part 3 Section 2B in relation to the terms of reference of the Licensing Committee and the Licensing and Regulatory Panel as set out in Appendices 2 and 3 to the report;
 - to adopt a revised Part 3 Section 2C in relation to Council (non-executive) functions delegated to the Director of Legal and Democratic Services as set out in Appendix 4 to the report;
 - to adopt a revised Part 3 Section 2A so that the summary of responsibilities reflects these changes as set out in Appendix 5 to the report; and
 - to give the Director of Legal and Democratic Services delegated authority to make consequential amendments to these documents after the end of the transitional period.

45 Audit Commission Report - Stewardship and Governance 2005

The Director of Corporate Services submitted a report regarding the Audit Commission report 'Stewardship and Governance'.

RESOLVED – Members resolved to note the report, and the report on the Audit Commission's work in 2005.

46 The Half Year Internal Audit Report 2006-2007

The Director of Corporate Services submitted a report bringing to the attention of the Corporate Governance and Audit Committee those issues raised by Internal Audit in the half-year internal audit report for 2006/2007.

Minutes approved at the meeting
held on Wednesday, 31st January, 2007

Members particularly discussed:

- the launch of Delivering Successful Change, which is scheduled for December 15th 2005;
- the difficulties highlighted in the report regarding the recruitment of staff to Internal Audit and the related impact on the results of the Customer Satisfaction Survey in relation to efficiency;
- the contents of the Leeds Evidence Framework; and
- the delivery of large scale projects by local authorities.

RESOLVED – Members resolved to:

- receive the Half Year Internal Audit Report;
- request a report to a future meeting of the committee regarding the Leeds Evidence Framework; and
- request a report to a future meeting of the Committee summarising the performance of large scale projects against budgets and timescales.

47 Progress Statement: External Audit

The Director of Corporate Services submitted a report presenting to Members a report from the Council's external auditors regarding progress against the 2005/6 and the 2006/7 external audit plans.

KPMG (the external auditors) were present to respond to questions from Members.

The auditors confirmed that work on Building Capacity and Area Management had been completed, and that the final reports would be received at the next meeting of the Committee.

RESOLVED – Members resolved to note the update report from the auditors.

48 Progress Against the Corporate Governance Statement Action Plan

The Director of Legal and Democratic Services submitted a report updating Members on the progress that the Authority has made against the Corporate Governance Statement Action Plan.

RESOLVED - Members resolved to:

- note the report and the attached Corporate Governance Statement Action Plan; and
- request that an additional page be inserted detailing the meaning of abbreviations / acronyms used in the Action Plan.

49 Review of Polling Districts and Places

The Chief Legal Services Officer submitted a report drawing to the attention of the committee the work carried out to date with regard to possible changes to

Minutes approved at the meeting
held on Wednesday, 31st January, 2007

the designation of polling districts and places, the recent changes in legislation affecting such reviews, and asking the committee to consider what changes to designations, if any, it wishes to implement prior to a full statutory review.

An additional document, summarising the information presented in Appendix 4 to the report was circulated.

Members particularly discussed the issue of Wards which fall across more than one parliamentary district and the possible impact of a parliamentary by-election.

RESOLVED – Members resolved to:

- note the content of the report;
- agree the proposal to only implement those changes where no objections have been received and which have officer support (as outlined at Appendix 4), with the exception of proposal CF/2 which was withdrawn; and
- call for a further report following the issues of the Electoral Commission guidance.

50 Update on the development of corporate consultation and engagement

The Chief Officer (Executive Support) submitted a report providing Members with an update on further progress made on the development of a co-ordinated, corporate approach to consultation, through the production of a policy and toolkit.

Members particularly discussed:

- the need to ensure that traditional forms of consultation are not neglected in favour of electronic methods;
- the need to ensure that appropriate officers are made aware of the toolkit and are appropriately trained on all elements of consulting with the public; and
- the difficulty in locating details of Councillors and related information on the Council's Internet site.

RESOLVED – Members resolved to:

- note the progress made on the co-ordination of consultation and engagement to date;
- support its presentation to Executive Board for formal approval; and
- request that a link to information relating to Councillors and other related information is placed on the Council's Internet home page.

51 Work Programme

The Director of Legal and Democratic Services submitted a report notifying Members of the updated work programme and seeking comments from the Committee regarding any additional items.

RESOLVED – Members resolved to note the updated work programme.

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Originator: Amy Bowler

Tel: 0113 39 50261

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Adjudication Panel for England: Decisions of Case Tribunals

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report provides summaries of the recent decisions made by the Adjudication Panel for England regarding allegations of misconduct against Members. The case tribunal decisions have each been summarised and then conclusions drawn regarding whether there are any lessons to be learnt for Leeds City Council.
2. Members of the Committee are asked to note the recent decisions of the case tribunals and to consider the lessons to be learnt for Leeds City Council.

1.0 Purpose Of This Report

1.1 This report provides summaries of recent decisions made by the Adjudication Panel for England in its role of determining allegations of misconduct. Further details of specific cases are available at www.adjudicationpanel.co.uk

2.0 Background Information

2.1 Two case tribunal decisions have been published since the last report. The decisions are summarised below, in order that Members of the Committee may consider if there are any lessons to be learned by this authority. Copies of each case summary published on the Adjudication Panel for England's website have been sent separately to those Members who have requested them.

2.2 The Committee will note that the majority of cases highlight the need for comprehensive and regular training for elected and co-opted Members, on the detailed requirements of the Code of Conduct.

2.3 Members of the Committee may wish to note that the cases have been separated into those involving Parish and Town Councils, those involving Borough, City or District Councils, and those which are appeals against local standards committee decisions, for ease of reference.

3.0 Main Issues

Parish and Town Councils

Shifnal Town Council

3.1 It was alleged that a Councillor had breached the Members' Code of Conduct by bringing his office or authority into disrepute, contrary to paragraph 4 of the Code, by pleading guilty to a number of charges of false accounting under section 17(1)(A) of the Theft Act 1968, for which he received a 12 months conditional discharge, together with an order for payment of costs and compensation.

3.2 The Councillor was awarded a contract for ground maintenance and grass cutting by Wednesfield Housing Association Ltd. The contract was given to him in his private capacity as an individual and not in his capacity as a Councillor. The contract stipulated that each of his monthly invoices must be accompanied by a statement of satisfaction for each visit, signed by an authorised representative of the Housing Association (which could be any tenant of the property).

3.3 One of the properties which the Councillor had a contract to maintain was fitted with a new security key coded entry system in 2004. Prior to this the Councillor was able to gain access to the flats to get the statement of satisfaction signed, but without the key code this became more difficult.

3.4 Following the installation of the new coded entry system the Councillor forged the signature of tenants on fifteen satisfaction slips before submitting them to the Housing Association for payment. During 2005 the Housing Association became suspicious of the satisfaction slips, as several of them had been signed by a tenant who had died a few months previously. Others had been signed in the name of a

tenants' grandson who did not reside at the property. The contract with the Councillor was not renewed when it expired in March 2005.

- 3.5 After questioning the Councillor about the slips, the Housing Association reported the matter to the police. The police subsequently arrested the Councillor when the tenants of the property identified their signatures as fraudulent.
- 3.6 In February 2006 the Councillor attended Telford Magistrate's Court and pleaded guilty to 15 counts of falsifying documents for personal gain. The Councillor was given a conditional discharge for 12 months, was ordered to pay £432 in compensation to the Housing Association, and £70 in court costs. The Councillor maintained that he had carried out the work on every occasion when he submitted a false satisfaction slip and only forged the signatures because of the difficulty he was having in getting the tenants to sign them.
- 3.7 The case tribunal decided that the Councillor was not acting in his official capacity but they also had to consider whether his conduct could fall under the definition of "any other circumstance" in paragraph 4 of the Code. To do this the case tribunal had to have regard to the decision of Mr Justice Collins in the Ken Livingstone case. The decision of Mr Justice Collins stated that the Code of Conduct could only apply when the member was "performing his functions", and to prove this there is a need for a link between the conduct of the member and the membership of the authority in question. Further to this Mr Justice Collins stated that unlawful conduct was not necessarily covered by the Code if the offence had nothing to do with the member's position as Councillor.
- 3.8 It was the case tribunal's decision that the Councillor was neither acting in his official capacity as a Councillor nor carrying out any functions as a member of Shifnal Town Council and that consequently there was no breach of paragraph 4 of the Code of Conduct.
- 3.9 **In Leeds, Members have already been made aware of the new understanding of the Code of Conduct resulting from Mr Justice Collins' decision, in particular the narrower interpretation of paragraph 4 of the Code. The Standards Committee received a report on this subject during their meeting on 21st December 2006, guidance has been provided in the Standards Board Bulletin, and the changes have already been incorporated into the training provided to Members, both in presentations and in the e-learning module.**

However Members may wish to note that due to proposed changes to sections 49 to 52 of the Local Government Act 2000 currently before Parliament, behaviour in a private capacity will be included within the remit of the Code of Conduct again. The remit of the Code will be limited to only cover private behaviour for which the Member has been convicted by a court, and not any matters which do not constitute a criminal offence. These changes are expected to receive royal assent in Autumn 2007.

Borough, City or District Councils

London Borough of Camden

- 3.10 It was alleged that a Councillor had brought his office or authority into disrepute, contrary to paragraph 4 of the Code of Conduct by:

- Speaking to *The Architect's Journal* prior to a planning application for the Kings Cross Central site being considered by the Council;
 - Failing personally to write to *The Architect's Journal* after the publication by the journal of the comments, which were attributed to him in relation to the proposed Kings Cross development; and
 - Telephoning a member of staff of English Heritage and improperly discussing the proposed Kings Cross Central development planning applications.
- 3.11 In May 2004 the developers submitted outline planning applications to the Council for the development of a 27 hectare site north of Kings Cross and St Pancras stations known as Kings Cross Central. A journalist from *The Architect's Journal* contacted the Councillor after the plans were submitted on an unrelated issue. At the close of the conversation the journalist asked the Councillor if he had any comments on the outline plans. It was the journalists' opinion that the Councillor was quite happy to give his opinion and spoke for several minutes on the subject with minimal prompting.
- 3.12 A few days after the telephone conversation the journalist published an article in *The Architect's Journal* about the planned development, which stated that the Councillor had condemned the design of the project. The Councillor did not challenge *The Architect's Journal* over the accuracy of the comments attributed to him in the article.
- 3.13 After the article was published the Council's monitoring officer wrote to the Councillor advising him that the article had fundamentally compromised his position in relation to the planning application and that he should take no further part in the decision making surrounding the development. The letter also advised the Councillor that the Council needed to respond to the letter to show that the Council as a whole was still able to consider the matter in an unbiased manner and that if the Councillor felt he was misrepresented he should say so in the letter.
- 3.14 In his response to the Monitoring officer's letter the Councillor stated that he had not expressed any predetermined view and so would not be withdrawing from the decision making process. The Councillor also pointed to previous corrections regarding *The Architect's Journal* which he stated showed that the journal was unreliable.
- 3.15 With the Councillor's agreement, the Leader of the Council submitted a letter to *The Architect's Journal* setting out the Council's position. In the letter the Leader stated that the Councillor had advised her that he had been badly misrepresented in the article and had not yet seen any assessments of the applications and so was in no position to comment as to how they would be considered. This letter was published in the journal in full a few days later.
- 3.16 A letter was also sent to the Chief Executive of the Council by the developers stating their concern about the Councillor's comments. They stated that it was difficult to dismiss the article as an example of bad journalism as they had been contacted to respond to negative comments made by the Councillor on previous occasions. The letter also referred to other occasions where the Councillor had made inappropriate comments about planning developments.
- 3.17 The Monitoring Officer sent a letter to the Councillor explaining that although the article itself was enough to make the Councillor appear biased, his apparent failure

to dispel this perception meant that he should withdraw from the decision making process. The Monitoring Officer attached a copy of the developer's letter to the Chief Executive as evidence of this perception.

- 3.18 During a meeting of the Planning Sub-Committee a few days after this letter was sent to him, the Councillor read out a statement which claimed that he had no pre-determined views on the Kings Cross Applications and that when the plans came before the Committee they would be considered impartially and professionally.
- 3.19 The Councillor also telephoned an employee of English Heritage (a statutory consultee on the application) on two occasions in 2004 regarding the Kings Cross development. When asked about the content of these discussions the Councillor stated that they had discussed various aspects of the applications for mutual benefit.
- 3.20 The case tribunal found that the Councillor was conducting the business of the office to which he had been elected at the material times and he was therefore acting in his official capacity for the purposes of paragraph 1 of the Code of Conduct. The Tribunal was also satisfied that the contact made with English Heritage was made in his capacity as a member of the Council and more particularly as Chair of the Development Control Sub-Committee. It was made in the light of his concerns over the form and substance of the Kings Cross applications. The questions regarding the applications from *The Architect's Journal* were put to him at the end of a telephone conversation made to him as Chair of the Development Control Sub-Committee with knowledge of the applications before the Council.
- 3.21 The case tribunal found nothing intrinsically wrong in a member of the Development Control Sub-Committee contacting a third party (for example a statutory consultee) in order to seek advice on an application that will come up before the sub-committee for determination, as long as the advice is sought to enable proper understanding of the application and is declared. However it was the case tribunal's opinion that in this case the Councillor had contacted the consultee with a view to lobbying them to object to the form and substance of the planning application. An objective observer would regard an attempt to influence the content of what should be impartial advice from a statutory consultee by a member of the Sub-Committee which is to determine the application, as wholly inappropriate and conduct which could reasonably be regarded as bringing the office of that member into disrepute. However the conduct would not be sufficient to bring the authority into disrepute as the Councillor was clearly acting on his own initiative and there were sufficient procedures in place to prevent the Councillor being involved in the decision making process.
- 3.22 The case tribunal also found that an objective observer would find no necessary impropriety in reading the provisional views of a member of the Development Control Sub-Committee in newspapers. Whilst out of caution it is clearly wise and sensible that members of the Sub-Committee should limit comment on applications yet to be determined, as long as the comments indicate there is no predetermination, such a comment would not breach paragraph 4 of the Code of Conduct. The tribunal's view is that the comments to *The Architect's Journal* indicated that there was no predetermination and were followed by a clear statement by him to the Sub-Committee and another newspaper that he had not predetermined the applications. The tribunal therefore finds no breach of paragraph 4 of the Code of Conduct in relation to *The Architect's Journal* allegations.

- 3.23 When deciding on an appropriate sanction, the case tribunal took into account the following matters:
- The Councillor's many years distinguished public service with the Council and as Chair of the Sub-Committee;
 - His unblemished record;
 - His declaration that he would not behave in this manner again;
 - The fact that he is no longer a member of the Development Sub-Committee; and
 - The fact that he thought his actions were in the public interest.

The case tribunal therefore decided to impose no sanction in this case.

- 3.24 In Leeds, the “Code of Practice for Determining Licensing and Planning Matters” gives guidance to Members involved in deciding planning applications regarding how to avoid fettering their discretion and their involvement in lobbying, for example: “do not be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind”. Members can find the Code of Practice within Part 5 of the Council’s Constitution.

The specific Code of Conduct implications of planning matters are also dealt with in the new training package being provided on “Decision Making and Conduct for Planning and Licensing Members”, which is being offered to all Members of these Committees and Panels.

4.0 Implications For Council Policy And Governance

- 4.1 There are no implications for Council Policy.
- 4.2 By continually monitoring decisions made by the Adjudication Panel and the implications for Leeds, the Standards Committee is fulfilling its terms of reference by keeping the codes and protocols of the Council under review.
- 4.3 By identifying problem areas the Standards Committee are also able to improve the training provided for Members on conduct issues, and maintain good conduct in the Council.

5.0 Legal And Resource Implications

- 5.1 There are no legal or resource implications to noting this report.

6.0 Conclusions

- 6.1 This report summarises the case tribunal decisions that have been published by the Adjudication Panel for England since the last Committee meeting. The possible lessons to be learnt for Leeds City Council are highlighted in bold at the end of each summary.

7.0 Recommendations

- 7.1 Members of the Committee are asked to note the latest decisions of the Adjudication Panel’s case tribunals, and consider if there are any lessons to be learned for Leeds.



Originator: Andy Hodson
Tel: 0113 2243208

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Comprehensive Performance Assessment

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report examines the Audit Commission's (CPA) use of resources assessment criteria for probity and propriety and the Council's assessed position against those criteria. The Audit Commission have judged the Council to be performing at level three, the same judgment as that given in the previous year.
2. Members are asked to consider the extent of the Council's current arrangements and advise on any identified areas of improvement.

1.0 Purpose Of This Report

1.1 The purpose of this report is to provide to Members of the Standards Committee with an assessment of Leeds City Council's performance for 2006 relative to the elements of the comprehensive performance assessment (CPA) that fall within the Standards Committee terms of reference.

2.0 Background Information

2.1 Members will recall that in September 2005 the Standards Committee received a report outlining outline of those aspects of the CPA Annual Use of Resources Assessment that fall within the Standards Committee Terms of Reference. Following advice from the Monitoring Officer Members of the Committee requested that a self-assessment exercise be undertaken to ascertain the Council's position relative to the standards expected.

2.2 Accordingly in November 2005 the Standards Committee received an outline of the Council's performance against those aspects of the CPA Annual Use of Resources Assessment relevant to the Standards Committee.

3.0 Main Issues

3.1 The Annual Use of Resources Assessment comprises many of the Council's specified governance elements. These are listed below.

- Financial Management
- Financial Standing
- Financial Reporting
- **Internal Control**
- Value for Money

3.2 A key role of the Standards Committee is to advise the Council on policies and procedures concerning matters of probity and propriety. The Internal Control element of CPA assesses these issues to determine;

- Whether the arrangements that are in place are adequate
- How well they operate in practice

3.3 Appendix 1 presents the self-assessment that has been undertaken by officers and submitted to the Audit Commission as the basis on which a judgment of performance could be based. Whilst demonstrating a number of features of performance at Level 4. In December 2006 the Audit Commission reported that the Council is 'performing well' with respect to Internal control matters. The rating aggregates performance in relation to;

- Managing Business Risks
- Systems of Internal Control
- Probity and Propriety

3.4 The scoring given by the Commission has rated the Council with respect to internal control matters at Level 3.

3.5 Improvements that have been identified for the Council mirror those that have been identified in the Council's 2006 Corporate Governance Statement.

4.0 Implications For Council Policy And Governance

4.1 The self-assessment demonstrates that the structures required for good corporate governance are in place within the Council. Along with the statutory requirement to publish a Statement on Internal Control¹, the key lines of enquiry for the CPA Use of Resources will provide further challenge that these arrangements are operating correctly.

5.0 Legal And Resource Implications

5.1 There are no specific legal or resource implications in relation to the contents of this report.

6.0 Conclusions

6.1 The scoring given by the Commission has rated the Council with respect to internal control matters at Level 3.

6.2 The self-assessment demonstrates that the structures required for good corporate governance are in place within the Council. Along with the statutory requirement to publish a Statement on Internal Control, the key lines of enquiry for the CPA Use of Resources will provide further challenge that these arrangements are operating correctly.

7.0 Recommendations

7.1 Members are asked to consider the extent of the Council's current arrangements and advise on any identified areas of improvement.

¹ In Leeds this requirement is satisfied by the publication of the Annual Corporate Governance Statement

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Audit Commission Use of Resources: Key Lines of Enquiry Criteria for Probity and Conduct

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry 4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus Evidence that: <ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 2 * The council has formally adopted a code of conduct for members that includes the mandatory provisions of the statutory Model Code of Conduct. * All elected and co-opted members have signed up to the code of conduct. * The council has adopted a code of conduct for staff.	Leeds City Council comments/evidence The Council does have a Members Code of Conduct. This forms part of the constitution. These are in accordance with the requirements of the Local Govt Act 2000. the Council also has a number of additional protocols that govern the relationship between Members and Officers e.g. <ul style="list-style-type: none"> • Protocol on Member Officer Relations • Protocol for Elected Members/Education Leeds Relations • Roles of members and Officers in Decision Making All Elected Members of the Council and Co-opted Members have signed up to the Code of Conduct and have completed a Register of Interests Declaration. Governance Services can provide full details. It is part of terms and conditions of contract that staff sign up to the Code of Conduct. This is the Officer Code of Conduct and full details are found in the Council's Constitution.	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that:		
<ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 2	Leeds City Council comments/evidence	
* The council has put in place arrangements for monitoring compliance with standards of conduct across the council including: <ul style="list-style-type: none"> • register of interests • register of gifts and hospitality • complaints procedure 	<p>A review process is embedded within Democratic Services for monitoring the declarations made by elected members of acceptance of gifts and hospitality.</p> <p>The Council does have well established policies relating to the register of interests, gifts and hospitalities and complaints.</p> <p>There are facilities in place to monitor returns of the forms etc. and IA periodically review the register of interests and gifts and hospitality procedures and forms as part of it's risk based annual audit plan.</p> <p>Reports on complaints are referred to the Standards Board for England every 6 months, in relation to members of Leeds City Council and local parish and town councillors. Outcomes from complaints are monitored. The Standards Committee, on a bi monthly basis, review the decisions of the Adjudication Panel for England and consider any lessons learnt.</p>	
* The standards committee's membership and functions are in accordance with the requirements of the Local Government Act 2000.	<p>The Committee's membership and functions are in accordance with the requirements of the Local Government Act 2000. Independent members of the Standards Committee do not work for the Council.</p>	
* There is a counter fraud and corruption policy applying to all aspects of the council's business which has been communicated throughout the council.	<p>There is a Fraud and Corruption policy. It is wide ranging and makes reference to the fraud hotline. This is supplemented by the whistle-blowing policy.</p> <p>The audit plan allocates a significant number of plan days to undertake counter fraud strategies as well as a duplicate payment exercise which is undertaken annually. Posters and leaflets have been made available to new employees and managers in the past, with more literature to be circulated following completion of the current review and intended re-launch of the anti fraud & corruption and whistleblowing policies.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that:		
<ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 2	Leeds City Council comments/evidence	
* The council has arrangements in place to receive and investigate allegations of breaches of proper standards of financial conduct, and of fraud and corruption. * There is a whistleblowing policy which has been communicated to staff and those parties contracting with the council. * The council has provided the required data for the National Fraud Initiative (NFI), has notified data subjects of this use of data, and has established a process to follow-up NFI data matches.	<p>IA receive and investigate allegations made via the whistleblowing hotline, letter and Management & Council Member concerns. Where necessary, Internal Audit also liaise with West Yorkshire Police. The Counter Fraud Strategy details the Council's Fraud Response plan.</p> <p>The Standards Committee is also charged, through its terms of reference, with investigating allegations against Members and determining any sanctions.</p> <p>The Monitoring Officer is also involved in any allegations made against Members.</p> <p>There is a whistleblowing policy which is reviewed annually. The policy is available on the intranet and is also publicised via posters distributed throughout the Council and is written into corporate documents. Fraud & Corruption leaflets have also been provided for new employees and managers. Internal Audit are to undertake a relaunch of the anti fraud & corruption and whistleblowing policy in 2006/07.</p> <p>This is a biannual exercise. The data for the 2007 exercise will be prepared in October 2006 per the data request from the Audit Commission.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that:		
<ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 3		
The council is proactive in raising the standards of ethical conduct amongst members and staff, including the provision of ethics training.	<p>Training on the Members Code of Conduct is provided as part of Members induction and bi-monthly briefings via 'Governance Matters' are provided to Elected members, staff and the public (via the Intranet and Internet). The Monitoring Officer reports to the Standards Committee regarding whether the arrangements set out in the Code have been complied with.</p> <p>The Council does have established policies on procurement and financial aspects. These are:</p> <ul style="list-style-type: none"> • The Contract Procedure Rules, and • Financial Procedure Rules. <p>The policy statement on Fraud and Corruption also reflects the Council's commitment to Nolan's 7 principles of public life.</p> <p>The Council also employs a number of professionally qualified staff, each of whom have to abide by their bodies Code of Ethics, for example:</p> <ul style="list-style-type: none"> • CIPFA; • ACCA; • IIA; • Law Society; • RIBA <p>By employing staff and putting them through professional qualifications this helps to raise standards in the Council.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that: <ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 3		
* The council has undertaken an assessment of standards of conduct, including how effectively members are complying with the code of conduct, the number and types of complaints received, and takes action as appropriate.	<p>The Standards Committee has a role to play in this in terms of the conduct of members. The standards committee and the reports that are submitted and considered there can evidence this through the minutes of meetings. The standards committee are to lead, in conjunction with the Audit Commission, an Ethical Audit in 2006. This will enable an assessment to be made of progress since the last audit in 2004, identify knowledge gaps which may need filling, and allow for a comparison of Leeds position against other local authorities.</p> <p>There is also the role of the Monitoring Officer as set out in Part 5f of the Constitution; Monitoring Officer Protocol. Complaints from public about Members are investigated.</p> <p>Minutes from Standards Committee meetings are published on the Intranet.</p> <p>The Constitution lays out the requirements in the Code of Conduct for both members and officers.</p> <p>Internal Audit also undertake audits on a number of areas, including:</p> <ul style="list-style-type: none"> • Members Allowances; • Gifts and hospitality; • Register of interests; <p>Following recent audits, reminders have been issued to all departments in respect of good practice in relation to Gifts & Hospitality and Register of Interests.</p> <p>This is part of the Members Code of Conduct. There is evidence of members making disclosures through the recorded minutes of meetings.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that:		
<ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 3		
<p>* A strong counter fraud culture is supported and promoted by members and senior officers.</p> <p>* The council undertakes proactive counter fraud and corruption work which is determined by a formal risk assessment.</p> <p>* Investigations into allegations of fraud and corruption are conducted in accordance with statutory requirements, e.g. Police and Criminal Evidence Act, Regulation of Investigatory Powers Act, Data Protection Act, by appropriately trained staff.</p>	<p>This can be evidenced by the strong commitment to the anti fraud & corruption policy and by the level of referrals made via departmental management teams and members. Significant audit days are allocated to undertaking pro-active fraud work within the Council.</p> <p>Internal communications promote a counter fraud culture through the publication of fraud bulletins. The Counter Fraud Strategy details the Council's policy of consideration of publicising recent proven cases as a deterrent factor.</p> <p>This can be supported by the NFI work that is undertaken, as detailed under level 2. Also the annual audit plan is based on a formal risk assessment, with high- risk areas receiving appropriate coverage. As detailed previously a significant number of plan days are allocated to proactive fraud strategy work on the basis of a risk assessment</p> <p>The audit plan allocates a significant number of plan days directly to this work, and in addition there are contingency days which can be allocated as necessary. There are other members of the division who are also trained to carry out these audits who can be called up should the need arise.</p> <p>Management reviews are undertaken to ensure the effectiveness and appropriateness of investigation work. Comprehensive files are retained for each investigation undertaken. Counter fraud work is undertaken in accordance with agreed and documented procedures. RIPA compliance forms are completed and retained where applicable, which are approved in advance by the appropriate designated officer. Audit staff have had training on the appropriate legislation and compliance forms are available for inspection. With respect of the Benefits Fraud Team an audit was undertaken in 2005/6 that provided satisfactory assurance of appropriate training.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that: <ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 3		
<p>* The whistleblowing policy is publicised within the council and demonstrates the council's commitment to providing support to whistleblowers.</p> <p>The council has effectively identified the key NFI data matches for review from all levels of reports (high, medium and low).</p> <p>The council works with other bodies such as DWP when following-up data matches from NFI. Risks are followed-up promptly to prevent prolonged exposure.</p> <p>Weaknesses revealed by instances of proven fraud and corruption, including NFI data matches, are reviewed to ensure that appropriate action is taken to strengthen internal control arrangements.</p>	<p>The whistleblowing policy is available on the intranet and has been publicised previously on posters and leaflets throughout the Council. The policy is to be relaunched in 2006/07. The number and outcome of whistleblowing referrals received are reported annually to the Corporate Governance & Audit Committee.</p> <p>Reports are allocated to the correct team (HB fraud team where appropriate) and investigation work prioritised according to Audit Commission guidance. For the current NFI exercise, the Council has committed to undertaking not only the mandatory datamatches but also a number of the optional datasets.</p> <p>All Housing Benefit Fraud details are passed to LBS who will sift and investigate as appropriate. Again this will be on a risk based approach. There is evidence that the Council does work with other bodies. In particular LBS Fraud Section notify DWP where appropriate and have set up investigations with other bodies. The Council has designated officers dealing with NFI information.</p> <p>Where applicable, audit reports issued following an investigation also note any system weaknesses identified as well as suggesting recommendations for improvements to strengthen the internal control environment. Previous instances of fraud and corruption are one of the factors considered when prioritising proactive counter fraud work.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry 4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus Evidence that: <ul style="list-style-type: none">• the council has adopted codes of conduct and monitors compliance• the council's arrangements to prevent and detect fraud and corruption are effective		
Criteria for Judgement		
Level 4		
The council can demonstrate that its members and staff exhibit high standards of personal conduct.	<p>As detailed for level 2 there are staff that belong to professional bodies, each of which have their own code of ethics.</p> <p>Internal Audit reviewed the arrangements in place across the council for recording declaration of interests and offers of gifts and hospitality. A series of recommendations have been made and an action plan is currently being developed to address these. The findings of the audit are to be considered by the Standards Committee.</p> <p>During 2005/06 new guidance has been produced to support the Standards Committee in any hearing the Committee may need to undertake following allegations of a breach of the Members Code of Conduct.</p> <p>In 2005/06, out of 99 current councillors, no councillor has been found by the Adjudication Panel for England, to have breached the Members Code of Conduct.</p>	
The council can demonstrate a strong counter fraud culture across all departments. Staff have clearly acknowledged and accepted their responsibility to prevent and detect fraud and corruption.	<p>The counter fraud strategy and anti fraud & corruption policy outlines the commitment of the Council to a strong counter fraud culture and are publicised within departments via the intranet. The effectiveness of the whistleblowing policy, monitored via number and type of referral outlines staff awareness and acknowledgement of the anti fraud culture of the Council.</p>	
The risk of fraud and corruption is specifically considered in the council's overall risk management process.	<p>The annual audit plan is based on a formal risk assessment framework which includes consideration of fraud & corruption, with high risk areas receiving appropriate coverage.</p>	

4. INTERNAL CONTROL How well does the council's internal control environment enable it to manage its significant business risks?		Previous Years Score: 3
Key line of enquiry		
4.3 The council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business (3)		
Audit Focus		
Evidence that:		
<ul style="list-style-type: none"> • the council has adopted codes of conduct and monitors compliance • the council's arrangements to prevent and detect fraud and corruption are effective 		
Criteria for Judgement		
Level 4		
<p>The use of publicity in successful cases of proven fraud/corruption is routinely considered to raise awareness.</p> <p>The council has a track record for effective action in response to whistleblowing disclosures. There are periodic reviews of the effectiveness of the whistleblowing arrangements, and there are effective arrangements for receiving and acting upon disclosures from members of the public.</p> <p>The council can demonstrate that effective action has been taken to maximise the potential savings available through NFI.</p>		<p>The fraud strategy of the Council outlines the use of publicity as a useful tool in raising awareness of fraud & corruption issues. Cases are considered for publicity, including press releases, internal publications and fraud awareness training.</p> <p>The whistleblowing policy is regularly reviewed and will be relaunched in 2006/07. Internal Audit has adopted procedures to effectively deal with referrals from whistleblowing disclosures. The effectiveness of the policy is monitored via annual returns to the Corporate Governance & Audit Committee outlining the number and type of referrals received in the year. All whistleblowing referrals are investigated and outcomes reported to the relevant departmental director.</p> <p>The Council report outcomes from the NFI exercise periodically in accordance with Audit Committee requirements. As well as the mandatory datasets required for 2006/07, the Council has committed to undertake a number optional datasets in order to maximise non HB savings. Management checks are in place to ensure that all key risk areas are investigated or reasons for non investigation are justified and recorded.</p>

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Originator: Nick de la Taste

Tel: 24 74560

Report of the Chief Democratic Services Officer

Standards Committee

Date: 14th February 2007

Subject: Protocol on Member/Officer Relations – Incorporation of Guidelines

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose of this Report

- 1.1 This report advises the Standards Committee of the existence of "Guidelines for Civic Dignitaries" and "Guidelines for Democratic Services Support to Members" and recommends that both of these documents be adopted as part of the provisions set out in the Protocol on Member/Officer Relations for the use of Council resources

2.0 Background Information

- 2.1 At its last meeting, of the Standards Committee considered the document "Guidelines for Members using ICT Equipment" and decided that these should be adopted as part of the provisions set out in the Protocol on Member/Officer Relations for the use of Council resources

- 2.2 Two similar sets of guidelines are maintained.

Guidelines for Democratic Services Support to Members

- 2.3 This Committee has previously received a copy of guidelines that have been established in relation to the provision of support to Elected Members by member support staff in Democratic Services.

- 2.4 A recent report from the Council's external auditors highlighted the fact that, whilst the document was been distributed to officers and is clear regarding the responsibilities which it places upon them, it also places expectations upon Members which are not formally communicated to them.

- 2.5 A copy of the current guidelines is contained in Appendix 1. This document is, however, currently under review and is likely to be reissued before the end of the Municipal Year. In particular it should be noted that the current document is titled as "Instructions to Staff". The reissued version will be appropriately retitled.

Guidelines for Civic Dignitaries

- 2.6 Acting upon recommendations from the Council's internal auditors, a set of Guidelines for Civic Dignitaries has been developed. These were first approved for the mayoral year 2004/05 by means of an officer delegated decision and have been subsequently reviewed and updated on a regular basis, most recently in January 07. A copy of the current guidelines is attached at Appendix 2 to this report.
- 2.7 These guidelines deal with a range of matters including links between the mayoralty and support staff, and guidance as to how the resources allocated to the Lord Mayor may be utilised.

3.0 Main Issues

- 3.1 Further to the decision taken at the last meeting of the Standards Committee to adopt the Guidelines for Members using ICT Equipment it would probably be helpful to incorporate a specific reference to these guidelines within the Protocol on Member/Officer Relations. This will serve to help signpost Members and officers towards the guidelines in a clear manner.
- 3.2 The documents "Guidelines for Civic Dignitaries" and "Guidelines for Democratic Services Support to Members" also set out expectations of Members and officers in relation to the use of Council resources by Members. In order to bring all such documents into one place, and again to help signpost them to Members and officers, it may again be helpful to include appropriate references within the Protocol on Member/Officer Relations.
- 3.3 The individual documents would continue to be regularly reviewed and updated by the Chief Democratic Services Officer (acting under delegated powers from the Director of Legal and Democratic Services) and would be made available to Members via appropriate nominated officers.
- 3.4 As these are existing documents, with established arrangements for updating and consultation, it is not proposed that they be submitted for further consultation. Similarly, as the necessary amendments to the Protocol on Member/Officer Relations are by way of clarification rather than substance, it is not proposed to enter into the consultation process normally employed in updating it.
- 3.5 The resultant amendments to the Protocol for Member/Officer Relations are detailed in Appendix 3.
- 3.6 Appendix 3 also contains an amendment to paragraph 18.2 which provides guidance to Members on publicity. Members of the Standards Committee discussed the wording of this guidance at their last meeting on 21st December 2007, and it was agreed that the Director of Legal and Democratic Services would circulate some amended wording to clarify the paraphrase which had been included in the protocol to more accurately reflect the wording in the Code of Recommended Practice on Publicity.
- 3.7 The wording has now been amended from "*publicity should not be given to individual Members except in circumstances where they are representing the Council as a whole*" to "*publicity relating to individual Members should relate to their role as a holder of a particular position and personalisation of issues or personal image making should be avoided.*"

4.0 Implications for Council Policy and Governance

- 4.1 The existence of guidelines in these areas contributes to the maintenance of good governance arrangements which would be further enhanced by more explicit arrangements with regard to the links between these guidelines and the Council's Constitution.

5.0 Legal and Resource Implications

- 5.1 There are no specific legal or resource implications arising from the recommendations detailed in this report.

6.0 Recommendation

- 6.1 It is recommended that the amendments to the Protocol for Member/Officer Relations, clarifying links to various existing guidelines, be approved.

INSTRUCTIONS TO MEMBER SUPPORT STAFF IN DEMOCRATIC SERVICES

1. INTRODUCTION

- 1.1 These Instructions cover the support provided to Members¹ via Democratic Services. They are supplementary to, and should be read in conjunction with, the Officer Code of Conduct and Protocol on Member/Officer Relations².
- 1.2 These Instructions allocate specific responsibilities to Group Support Managers who are responsible for managing support staff to Members of the Labour, Liberal Democrat and Conservative Groups. For staff who support other Members, references within this document to Group Support Managers should be interpreted as meaning the Democratic Services Officer.
- 1.3 The Council only has power to provide support services to Members to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services can therefore only be used for the efficient discharge of Council duties and not for private purposes or in connection with party political or electoral campaigning activity. For the avoidance of doubt, any expenditure by the Council (either monetary or in officer time), on activities designed to affect public support for a political party would be unlawful.
- 1.4 Subject to 9.12 below, these Instructions do not affect the activities of Members using non-Council resources, for example using support provided by their political parties. Any difference in the level of resources available to the different political groups from outside the Council is not a matter for the Council.

2. LEVEL OF SUPPORT

- 2.1 The Council provides office accommodation and administrative support to Members taking into account the size of the political groups, the budget available, and the importance of providing appropriate support to all Members

3. OFFICERS PROVIDING SUPPORT TO MEMBERS

- 3.1 The Council has not established posts of "political group assistants"³ under Section 9 Local Government and Housing Act 1989. Therefore, all staff are required to be appointed on the basis of merit and without reference to political affiliation. For the avoidance of doubt, it must be recognised that in discharging their duties, officers serve the Council as a whole and not any political group exclusively, combination of groups or any individual Member.

¹ Appropriate support provided to Honorary Aldermen through the Group Offices will be considered as falling within the requirements of this Protocol

² The Officer Code of Conduct and Protocol on Member/Officer Relations are contained in Part 5 of the Council's Constitution

³ An authority can appoint up to three political group assistants and the posts can be filled in accordance with the wishes of the political group to which the post is allocated. For these posts the authority can have regard to a person's political affiliations/activities in considering appointments. The terms of employment include a maximum salary (currently £25,044) and a maximum term of office of 4 years.

- 3.2 Group Support Managers are paid on a salary scale which extends to SCP 44 and beyond. Upon attaining SCP 44, a Group Support Manager will be categorised as occupying a Politically Restricted post as determined within Part 1 of the Local Government and Housing Act 1989.⁴
- 3.3 Officers within Democratic Services are accountable to the Chief Democratic Services Officer and whilst they should seek to assist the Members to whom they provide support, in doing so, they should not go beyond the authority they have been given by the Chief Democratic Services Officer. Concerns regarding the extent of support to be provided should be raised with the Chief Democratic Services Officer.

4. ROLE OF OFFICERS

- 4.1 Officers within Democratic Services support the work of Members in their capacity as elected representatives, but not the political party as a whole. Therefore within the parameters set out in these Instructions, officers can:-
- arrange Group meetings, circulate agendas, draft minutes
 - prepare and circulate factsheets/briefing notes within the Group
 - at the request of a Member, offer assistance re speeches/press releases
 - act as a contact point between the press and a Group
 - research information to provide support on policy development within the Group
 - update Members on policies at European, national, regional and local level including legislative or other changes affecting the Council
 - assist a Group in its work on Boards, Panels and within the Council as a whole
 - provide support to Executive Members and other Council office holders
 - provide administrative support to Group officers, e.g. Whip
 - type letters to residents re casework and monitor progress
 - monitor matters which affect the wards
 - exchange and disseminate good practice with colleagues
- 4.2 Group Offices are neither political offices nor a substitute for, or an extension of, a political party or Member of Parliament's office. Political agents, employees of political parties, party members and volunteers cannot use the resources within Group Offices. It is the responsibility of Group Support Managers to ensure that arrangements are in place to ensure as far as reasonably possible that the perception cannot be gained that a Group Office is a "political" office.
- 4.3 Group Support Managers are responsible for ensuring arrangements are in place to prevent private or party political work being carried out in Group Offices. A Group Support Manager should immediately inform the Chief Democratic Services Officer of any circumstances where it appears that the Group Office has been used for such purposes to allow appropriate action to be taken, which could include that the full cost of production and distribution, including staff time is paid for by the Member(s) concerned.

⁴ Officers may seek exemption on an individual basis although the Council has no role in requesting or granting exemptions.

5. POLITICAL NEUTRALITY

- 5.1 All Council officers, serve the Council as a whole and must be seen as politically neutral. Not only must officers maintain political neutrality, they must also seek to maintain the perception of neutrality. Close personal familiarity between Members and officers can damage this perception. Situations should be avoided that could give rise to the perception that political neutrality is being compromised
- 5.2 Officer support must not extend into political campaigning or work of a party political nature, e.g. at election time officers should not be involved in the preparation or display of party political material such as campaign literature, leaflets or rosettes. Each political party has its own mechanisms for dealing with campaigning issues which must not involve the use of Council resources. Officers need to ensure that at election time, any support given to Members cannot be perceived to be assisting a political party. Officers therefore need to ask themselves how the support being requested assists the Member in their role as a Councillor discharging Council functions.
- 5.3 Officers are not in posts identified as “politically restricted”⁵ with the exception, in certain circumstances, of Group Support Managers as described in paragraph 3.2. Therefore in their personal capacity and outside work, officers are not prevented from carrying out political activities⁶. However, officers must ensure that when acting in their personal capacity, the impression is not given that they are acting in their work capacity.
- 5.4 Officers may properly be called upon to provide support to the deliberations of political groups but they must at all times, maintain political neutrality.

6. SURGERIES FOR MEMBERS

- 6.1 Democratic Services provides posters to advertise Councillors' surgeries which must be distributed by the Members themselves within their own ward. It is not acceptable to ask officers to undertake this for Members other than by post. Neither is it appropriate under any circumstances for an officer to conduct surgeries on behalf of a Member. Officers should not use their own transport in Council time to take Members to surgeries.

7. ATTENDANCE AT POLITICAL CONFERENCES AND MEETINGS

- 7.1 An Officer should not represent Members at political conferences or meetings. Where an officer attends, the officer must not contribute to the meeting or convey a Member's political view. The officer must only undertake a watching brief and report back factually on the event as required.

⁵ Section 2 Local Government and Housing Act 1989

⁶ “Political activities” includes the following:- Stand as a candidate or be elected as an MP, MEP, Councillor; act as election agent; canvas on behalf of a political party, member or candidate; hold office in a political party or branch; speak to the public with the intention of affecting public support for a political party; speak as an authorised representative of a political party; publish work intended to affect public support for a political party.

8. CONFIDENTIALITY

- 8.1 In carrying out duties, officers may acquire information which has not been made public or is confidential. Officers must not use that information for personal advantage nor must it be passed to anyone not entitled to receive it. Officers must not communicate to the public or press, the proceedings of any meeting from which the public or the press have been excluded, including meetings between individual Members and Officers. Officers must respect the confidentiality of any political group discussions at which they are present and must not relay the content of any such discussion to anyone outside the political group concerned.

9. COMMUNICATIONS AND PUBLICITY

Legal Context

- 9.1 Subject to the law on defamation, a Member is entitled to express his/her politically partisan views in communications with constituents, the public, the media and otherwise provided that s/he does not use Council resources or support to do so⁷.
- 9.2 The Council, however, is subject to legal constraints and it is unlawful for the Council to publish material which in whole or in part appears to be designed to affect public support for a political party⁸. “Publicity” has a very wide legal definition and includes any communication to any section of the public.
- 9.3 In considering whether material appears to be designed to affect public support for a political party, regard should be had to the:
- content and style of the material
 - time and other circumstances of publication
 - likely effect on those to whom it is directed
 - whether the material
 - (i) refers to a political party or persons identified with a political party
 - (ii) promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another
 - where the material is part of a campaign, the effect the campaign appears to be designed to achieve.
- 9.4 If the material could be considered to be “party political” under the above criteria, then any expenditure by the Council could be challenged by the Audit Commission as being unlawful.

⁷ Such activities may include criticising the activities of other political groups. In such circumstances, Council resources (e.g. research, briefing papers and press releases) may only be employed to support criticism of the actions of Members of the Council and in relation to the business of the Council. Council resources may not be employed to support criticism of political activities and policies which do not relate to the business of the Council.

⁸ S2 Local Government Act 1986

- 9.5 If the material does not appear “party political” after applying the above criteria and the Council may lawfully publish the material, then the Council must have regard to the Code of Practice on Local Authority Publicity in coming to any decision on publicity. (See Appendix).

Press Releases using Council Resources

- 9.6 Officers within Democratic Services must not put themselves in a position where their actions could be considered to be politically partisan and, they must conduct their relations with the press, in particular, with this in mind.
- 9.7 Officers should have care with regard to conducting conversations with the press at meetings of the Council, Executive Board, or other Committees. Officers should have regard to people’s perceptions of these circumstances. Officers should not act as the political “mouthpiece” of the political group they serve, either officially or unofficially, publicly or privately. However, at the request of a Member, officers are able to contact the press to make arrangements for them to meet/ talk to the Member concerned.
- 9.8 Officers must never brief the press in circumstances where the impression could be given that the views being expressed are their own.
- 9.9 In all cases where a Member asks an officer to prepare a press release it is for the Member to decide the final form of the press release and the Member is responsible for its contents.
- 9.10 Any press releases regarding the Group’s views which are issued through Group Offices must be in the name of the Member/s and not an officer. However, it is acceptable to include the name of an officer as a contact point for the Member/s concerned provided this role is made clear on the press release. An officer who is contacted by the press regarding a press release, and seeking anything other than clarification of factual information, must refer the journalist to the Member concerned and not pass personal opinions or make any reference to issues of a party political nature.
- 9.11 Press releases must be designed and have as their purpose an explanation of the views of the political group on matters facing the Council, rather than the views of the national political party. The press release must not be designed to affect support for a political party. Therefore whilst it is appropriate to explain a political group’s stance or policy on a matter affecting the Council and comment on how it differs from that of another political group, the press release must not promote or denigrate a political party.
- 9.12 Regard must be had in particular to paragraphs 39 and 40 of the Code of Practice on Local Authority Publicity in relation to publicity involving individual councillors. The Code makes it clear that all such publicity should be objective and explanatory and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided. Further, any publicity using Council resources should not be in party political terms using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

9.13 Press releases should be headed “xxx Group Office, Leeds City Council” and include the Council’s logo but not a party political logo, strap line, colour or other design feature identifiable with a political party.

Provision of Information

9.14 Support is available to Members to assist them in the discharge of the functions of the Council or of the office to which the Member has been elected or appointed by the Council. This includes the provision of information to constituents in their Wards regarding:-

- the work of the Council, the Executive Board, Scrutiny Boards and Regulatory Panels
- services in the area provided by the Council or joint authorities (e.g. police, fire, transport, health)
- how to contact their local Councillors or MP and raise issues
- meetings, consultation and local initiatives for the area organised by or on behalf of the Council.

Avoidance of Political Publicity

9.15 In order to avoid allegations of “political publicity” officers are advised that correspondence and other material produced by the Council

- **Must not** include slogans, strap lines, logos, colours or other design features identifiable with a political party.
- **Must not** emphasise the political party to which a Member belongs by the use of a large font, unnecessary repetition, design features, etc. A single incident, low-key reference to the political group only is permissible.
- **Must not** promote or denigrate a political party
- **Must not** promote or denigrate policies that are clearly those of a political party
- **Must not** consist of campaigning or persuasive material, as opposed to informative material.

9.16 All material to be produced or circulated at Council expense through Democratic Services must have been produced/circulated in accordance with arrangements established by the Group Support Officer who has the overall responsibility to ensure that the material is not party political. Members should seek advice of the Group Support Officer if they are unclear as to the arrangements or the status of material proposed to be produced. In cases of doubt, the Officer should seek the views of the Members Services Manager. The Group Support Officer should:

- consider the purpose of the material being published
- apply the test outlined at para 9.2 and 9.3 above
- consider whether it would be more cost effective and/or efficient for the information to be published corporately or by the relevant Council Department. In such circumstances, the Group Support Officer should liaise with the relevant officer to address the above point.

If the publicity appears designed to affect public support for a political party, then the publicity must not be issued at Council expense. It could, however, be issued by the political party at its own expense.

- 9.17 It should be noted that any party political material produced using non-Council resources should not contain:
- photographs of council officers
 - council telephone numbers/address (except for the purpose of publicising specific Council services which should be clearly described as such)
 - council logo
- 9.18 It should be remembered that the Group Office is not a district branch office and therefore the recipient of any information must be able to clearly distinguish the material from party political documents and therefore recognise it as material coming from the Council. Neither the material produced nor the envelope in which it is sent should contain party political material including:
- tear off slips to join a political party
 - response facility via freepost to a political party office
 - political posters
 - political party address or website, local or national
 - political party literature
 - recruitment literature
- 9.19 Any requests received by officers for party political information should be referred to the local party organisation with an explanation to the caller/writer that officers cannot deal with the matter
- 9.20 Officers should not amend Council forms to make them “party politically friendly”. Any amendments to Council forms must be notified immediately to the Chief Democratic Services Officer.

Group Factsheet/Briefing Notes

- 9.21 Officers may assist a political group by producing and circulating factsheets/briefing notes in relation to matters affecting Members in the discharge of their Council duties. Such information should only be circulated within the Group and not externally.⁹

Ward Letter/Leaflet/Community Newsletter

- 9.22 The appropriate test regarding such material is what is the purpose of sending the document and why it needs to be sent out in the name of a Member. If the purpose appears to be to affect public support for a political party then it must not be produced.

Use of Intranet and Internet

- 9.23 With the increase of information technology, internet and internet sites are an effective medium of communication. However, “publicity” includes information contained on such sites.

⁹ Small numbers of copies of previously prepared information may also be circulated to ex-officio Group Members, prospective candidates and specialist advisers. However, only Elected Members of the Council may commission such documents.

- 9.24 A political Group may use the Council's intranet facilities to develop a Group site to ease communication within the Group and thereby reduce Council expenditure on printing and stationery costs.
- 9.25 Council resources must not be employed in connection with posting information to party political websites which are independent of the Council's corporate website, leeds.gov.uk.

10. WORD PROCESSING SUPPORT TO MEMBERS

- 10.1 Word Processing support is available to Members, through Democratic Services staff. Officers must not be asked to prepare documents which are for a Member's private purposes, party political, defamatory or which purport to be on behalf of another Member.
- 10.2 Any officer asked to prepare such documentation must refer the matter immediately to his/her Group Support Manager. The Group Support Manager is responsible for ensuring arrangements are in place to allow him/her to monitor requests for work to ensure they do not contravene these Instructions.

11. LEVEL OF DISTRIBUTION OF MATERIAL

- 11.1 Normally, there should not be a problem regarding the distribution of material when providing support to Members, such as responding to individual constituents' complaints and enquiries, helping to solve individual problems, or dealing with local environmental and social issues. However, activity could become promotional party political publicity which must not be supported by Council staff or facilities, if the nature or scale of the distribution is too large. For example:-

- The material **must not** be copied for distribution more widely than the topic requires. For example, an eyesore will be a problem to the people who live near it, not to everybody in the district. Most environmental or social issues are of importance only to nearby neighbours, not to people living some distance away;
- Facilities are made available to Members acting in their capacity as Ward Members and for the discharge of their responsibilities as such. Ward matters should not normally involve correspondence outside the Member's ward boundary¹⁰. An exception might be made if an environmental issue concerned a property at a ward boundary which plainly and directly affected neighbours in an adjoining ward, but not otherwise.
- Members should consider using representative bodies e.g. residents/tenants associations where appropriate, to minimise costs where possible.

¹⁰ This restriction does not apply in the case of a Member responding, on an individual basis, to correspondence specifically addressed to them.

- 11.2 The maximum copies of any letter/document produced will normally be **100¹¹ A4 copies** per Member or 300 for three Members within the same ward per letter/document, irrespective of whether the documents are to be posted or hand delivered. Repeat orders for the same or a very similar document will not be accepted. Splitting a batch over several days does not overcome the limit. The materials used will be white paper or card stocked by Reprographics Unit and will be in black ink. In exceptional circumstances, the Chief Democratic Services Officer has discretion to relax the restriction on numbers¹² but Group Support Officers must nevertheless adhere to their agreed postage budgets.

11.3 **Processing of Requests**

Printing requests by Members to the Reprographics Unit must be submitted via the Group Support Manager for prior approval and the Reprographics Unit will be unable to process any request without such approval. The Group Support Manager will advise the Member of any decision not to process the request together with the reasons.

12. PHOTOCOPIERS

- 12.1 Short run copying facilities are provided in Democratic Services for use by Members and staff in connection with Council business only. Members should submit requests for photocopying in accordance with such arrangements as are established by the appropriate Group Support Manager.

13. COUNCILLORS LETTERHEADS

- 13.1 All Members may include their party affiliation on all constituency letters except, during the period between the notice of a local authority or general election and the election itself. This also includes Members who may be affected by a by-election.
- 13.2 The periods referred to in paragraph 13.1 above is a minimum of 25 working days before the day of the election or by-election, and a minimum of 14 working days in respect of a general election.
- 13.3 During the periods referred to above, Members standing for election must cease the use of their party affiliation on all letterheads to constituents until the day after the election. Any Member not seeking re-election must also cease the inclusion of their party affiliation on letterheads to constituents where a joint letter is being sent on behalf of Ward Members which includes a Member seeking re-election or in any circumstances where that Member is involved directly with the election.
- 13.4 A Member who is a Chair of an Area Committee and writing to constituents on behalf of the Area Committee, can refer to their position as Chair but must not include their party affiliation on such correspondence even where the Members of the Area Committee are of the same political party.

¹¹ Or such other reasonable number as may be determined from time to time by the Member Management Committee

¹² Each such instance will be detailed on the appropriate approval form and circulated for information amongst all Group Support Officers.

13.5 The Leader of the Council and the Leaders of the Opposition groups may specify the political group which they lead in all correspondence relevant to the business of the Council. They should have regard to paragraphs 13.1 to 13.3 above in relation to elections.

14. STATIONERY

14.1 Members can obtain stationery for the discharge of Council duties only. Requests for stationery should be made in accordance with such arrangements as are established by the appropriate Group Support Manager.

15. POSTAGE

15.1 The Council's post facilities are available to Members via the Group Offices on matters relating to their duties as Councillors, specifically:-

- responding to an individual or small groups of constituents on specific matters raised by them.
- communication with an individual or small groups of constituents on specific matters directly affecting them.
- communication with other organisations as part of dealing with issues raised by constituents.

15.2 Council post is not available for mail shots, the distribution of leaflets or the posting of general information to constituents other than in the circumstances described above. Neither is it available for posting any material which could not be printed by the Council.

15.3 Other than responses re casework, and in exceptional circumstances and with the prior approval of the appropriate Group Support Manager all post will be sent second class.

15.4 Clarification on any proposed use of external postal facilities can be obtained from the appropriate Group Support Manager

15.5 Members can obtain a small supply of postage stamps, for emergency purposes only, for the discharge of Council duties only. Requests for stamps should be made to the appropriate Group Support Manager who will keep a record of stamps distributed.

16. COAT OF ARMS

16.1 The Coat of Arms and the Council's logo are only available for use in connection with Council business. Use by Members of the Council is only acceptable on material produced under the arrangements for communication and publicity described in paragraph 9 above and on Members personalised stationery.

16.2 Under no circumstances should the Coat of Arms or the City Council logo be used as part of any party political material produced by or on behalf of Members, using non-Council resources.

17. OPENING AND COUNTING ARRANGEMENTS AT LOCAL, NATIONAL AND EUROPEAN ELECTIONS

- 17.1 It is appropriate for Democratic Services to be asked to support Leaders and Group Members, by providing briefing and press support, and by collecting/disseminating information regarding election results. However, it is not appropriate for Democratic Services staff to be in attendance at the opening or counting of ballot papers in their capacity as officers of the City Council.
- 17.2 Any support provided by Democratic Services staff may only commence at the point where information is relayed to them from those who have been authorised by the Returning Officer to be at the relevant opening or count.¹³
- 17.3 If any staff wish to attend ballot paper opening or counting sessions, with appropriate party authority and in a private capacity, that is a matter for them provided that they take annual leave or flexi leave in respect of such attendance. Where a Group Support Manager has been identified as being in a Politically Restricted post, as detailed in paragraph 3.2, he/she may not participate in political activities in connection with elections or otherwise.

18. MONITORING

- 18.1 It is the responsibility of the Group Support Managers and the Chief Democratic Services Officer, to ensure that these Instructions are observed at all times and to establish arrangements to ensure these Instructions are observed.

19. BREACHES OF THESE INSTRUCTIONS

- 19.1 These Instructions are deemed to comprise standing instructions to staff in Democratic Services and any alleged breach of will be considered to be a disciplinary matter which may be referred for investigation under the Council's disciplinary procedures and could lead to dismissal or other form disciplinary action being taken.
- 19.2 It is incumbent upon officers to advise Members on the application of these Instructions. In circumstances where a Member, having received such advice, takes action which may lead to a breach of these instructions, then this may lead to a complaint to the Standards Board.

¹³ This does not preclude any Democratic Services staff from being appointed by the Returning Officer to undertake temporary, paid employment in connection with elections.



LEEDS CITY COUNCIL

LEGAL AND DEMOCRATIC SERVICES (LORD MAYOR'S OFFICE)

GUIDELINES FOR CIVIC DIGNITARIES

Revised January 2007

GUIDELINES FOR CIVIC DIGNITARIES

1. The Mayor

- a) The word “Mayor” derives from the Latin word “Magnus” meaning great. The office of Mayor together with the Domesday Book and the feudal system were brought to this country by the Normans. During the Middle Ages the Mayor seems to have held a position similar in many ways to that of his modern successor. He (it was always a “he”) was acknowledged as the “First Citizen” of the Town and he had a Council to assist him. He was “Custodian of the Peace” – the name for early Magistrates. By Tudor times the powers of the Mayor were greatly increased and by the 17th century the Mayor had, in many Boroughs, become all-powerful with powers which included being Borough Coroner and Keeper of the Borough Gaol.
- b) Leeds had 240 Mayors until 1897 when, in her Jubilee Year, Queen Victoria declared and ordained by Letters Patent that the First Citizen should be “styled, entitled and called ‘Lord Mayor of Leeds’ and be authorised and empowered to enjoy and use all the rights, privileges, pre-eminentces and advantages to such degree duly and of right belonging”. The title of City had been conferred upon the Borough by Royal Charter on 13 February 1893 and the Leeds Corporation Act of 1899 and declared the style of the corporate body to be “The Lord Mayor, Aldermen and Citizens of the City of Leeds”.

2. The Importance and Role of the Lord Mayor Today

- a) The three suggested important roles for the Lord Mayor are:
 1. A symbol of authority
 2. A symbol of an open society
 3. An expression of social cohesion
- b) The Lord Mayor, as first citizen, should act as a focal point in times of crisis, tragedy and triumph.
- c) The Lord Mayor should lead the citizens in an appropriate and dignified manner. Throughout the year of office many people or organisations will wish the Lord Mayor to spearhead their particular favoured project. The Lord Mayor should not give patronage to any appeal or society unless he or she is satisfied of its relevance to the area.
- d) The Lord Mayor enjoys precedence in his/her own area, not that of neighbouring areas. Therefore the Lord Mayor should not accept an invitation to attend, in an official capacity, a function in another area without the express permission of the Lord Mayor of that area. Such consent should be discussed between the appropriate Lord Mayor’s officers. If consent to attend in another area is forthcoming, the Mayoral robes/chains should not be worn unless approved by the Lord Mayor of the area to be visited.

NB For Lord Mayor read Lord Mayor, Mayor or Chairman of the Council to be visited.

3. The Deputy Lord Mayor

- a) In accordance with the Local Government Act 1972 Schedules 5(1) and 5(2) the Council must appoint from amongst its members a Deputy Lord Mayor. In the absence of the Lord Mayor, the Deputy Lord Mayor is entitled to the Lord Mayor's right of precedence within the District although he/she does not have the right to wear the Lord Mayor's Robe and Chain.
- b) Invitations to a function should not be sent to (or solicited by) a Deputy Lord Mayor. The Deputy should not attend functions in his/her own right, but only when deputising for the Lord Mayor.
- c) All invitations should be sent for consideration by the Lord Mayor and, if he/she cannot attend, it may be appropriate to "pass down" an invitation.
- d) On the rare occasions when the Deputy Lord Mayor receives an invitation in his/her own right, the procedure is that, as a matter of courtesy, it must be shown to the Lord Mayor via the Mayoral Secretary so that there is no misunderstanding.
- e) The Deputy exists to cover for the Lord Mayor only when he/she is absent and it is not intended that the Deputy should act or be used as a second Lord Mayor.

4. Forms of Address

Title:

The Right Worshipful The Lord Mayor of Leeds
The Lady Mayoress of Leeds
The Deputy Lord Mayor of Leeds

Verbal:

"My Lord Mayor" or "Lord Mayor"
"Lady Mayoress"
"Deputy Lord Mayor" or "Deputy"

5. Precedence

- a) After the Royal Family and Her Majesty's representative, the Lord Lieutenant, the Lord Mayor has precedence in the City as the first citizen. At civic functions and **in civic premises** the Lord Lieutenant usually concedes precedence to the Lord Mayor.

6. Effect of being Lord Mayor

- a) The Lord Mayor's role is potentially **full-time** seven days per week. It is essential therefore to consider how the gap in the Lord Mayor's career can be bridged. The Lord Mayor is traditionally neutral and should **step back from politics** for his/her term of office. He/she also represents all sections of the Council, not merely those who support a particular political, social or religious view. The role of the Lord Mayor is to **acknowledge, celebrate and support diversity in the City**.
- b) He/she cannot deliberately avoid invitations to particular places and he/she, with a particular belief, should support and attend other **religious** services, as should a Lord Mayor who is an atheist.

- c) Some Lord Mayors will feel uncomfortable with the **formality** of the office. There are robes, chains etc to wear and numerous protocols to follow. Yet most of the public want such trappings of office and it is disappointing to visitors/guests and staff alike if the office holder does not keep to formalities and observe protocols. Guidance exists on this from the staff of the Lord Mayor's Office. It should be noted that during the year of office there will be several requests from members of the public and guests to "try on" the Mayoral chains. For insurance reasons such requests must be declined.
- d) As a Councillor, the prospective Lord Mayor will be aware of the constraints on him/her in terms of **personal and prejudicial interests** and such constraints also apply to the Lord Mayor.
- e) The **Lord Mayor's partner** will also be expected to play a part in this and observe the neutral positions.
- f) A Lord Mayor is amongst, but separate from **other councillors**. The Lord Mayor will spend less time on committee work than other councillors, and there may be some loss of "political" contact .
- g) Due to the higher profile the office of the Lord Mayor brings, the Lord Mayor can experience an increase in **constituency work**. This should either be planned for, or assistance sought – although this assistance cannot come from the staff of the Lord Mayor's Office.
- h) Finally, the Lord Mayor should not forget about the effect of the office on himself/herself and should consider the practicality of accepting numerous invitations. The role is very demanding, which is often not appreciated, and rest periods and/or suitable breaks should be taken. Too many late nights and the necessary extensive socialising takes its toll on the Lord Mayor and can lead to tiredness and ill-health. This can have the effect of lessening the enjoyment of the Mayoral year.

7. Engagements

- a) All invitations for the Lord Mayor/Deputy Lord Mayor should be sent to the Lord Mayor's Office, where they will be processed as to availability to attend, after which they will be discussed with the Lord Mayor/Deputy Lord Mayor. Details of new engagements will be passed to you each day and a response is required within 48 hours to ensure that all necessary arrangements can be made. Once a decision has been made the Lord Mayor/Deputy Lord Mayor enters the engagement in their own personal diary and it is also entered in the Civic diary, kept in the office and an appropriate response will be sent to the correspondent.
- b) Please do not be tempted to accept invitations made by word of mouth. It is so easy for you to be approached by someone when attending an official engagement, be made aware of similar functions in the future and asked to go along to that. It is not appropriate for this to happen, as you will not have access to your diary.
- c) The best response you can give is "I'd be delighted to attend, if I am free. Please write in to the Lord Mayor's Office giving all the details and we will get back to you".
- d) To enable all arrangements to be made including the necessary briefing notes, it is not possible to accept any invitation received less than seven working days before the event.

- e) It is recommended that once an invitation is accepted it should only be cancelled as a last resort. It does not matter whether it is a high profile event, or something more informal, such as a 100th Birthday celebration. Both functions are very important to those organising them and it is disappointing to let them down, once you have agreed to accept an invitation. If there is any uncertainty about attending it is best not to accept in the first place and to send apologies and best wishes instead.
- f) You should not seek or accept invitations to events that relate to your personal interest rather than your Civic capacity. As an elected Councillor it may not be appropriate to accept tickets or invitations to sports events or the theatre etc on a regular basis. The Lord Mayor's Secretary will offer advice and guidance on whether it is appropriate to accept an invitation but the decision and responsibility for complying with the Members Code of Conduct remains with you.
- g) When you attend engagements, whether of a formal or informal nature it is probable that the organisers will wish to take photographs of you, either alone or with others, to remember the occasion. These photographs should not be reproduced for commercial purposes or to endorse any company, service or product and you should not do or say anything which might give the impression that such usage is permissible.

8. Use of Civic Car

- a) Whilst the Civic car is the usual mode of transport for local engagements there will be times when rail and air travel is necessary or more appropriate and on these occasions wherever possible second/economy class travel must be used. When travelling by air flights from Leeds/Bradford Airport must be booked wherever possible. From a practical point of view there will be engagements in the City Centre when it would be more sensible to attend on foot for example – City Centre events at the Carriageworks, the Town Hall, St Ann's Cathedral, City Varieties etc.
- b) When attending civic engagements, a car and driver will be available to collect you from home, take you to the engagement and then take you back home.
- c) The Civic car(s) can only be used for civic engagements by the Lord Mayor, the Lady Mayoress, Deputy Lord Mayor, Deputy Lady Mayoress. It is not appropriate for it to be used for any private/personal journeys.
- d) At the conclusion of a civic engagement, if you wish to come back to the Civic Hall to attend a meeting, which is not Civic related, the car will be available to bring you into the Civic Hall. However, it is not appropriate for the car and driver to remain to take you home afterwards. Instead, arrangements will be made for you to be taken home by taxi. This is to ensure that the uniformed staff are not on duty for longer periods than appropriate or acceptable under Health and Safety Regulations. In addition should you decide to return to the office to deal with matters not related to Civic duties again it would not be appropriate for the car and driver to remain to take you home. Again arrangements will be made for you to be taken home by taxi (in both cases the cost of the taxi will be charge to the Lord Mayor's budget).

9. Mayoral Budget

- a) The annual Mayoral budget is available to support the Lord Mayor/Deputy Lord Mayor in carrying out their Civic duties including expenditure on appropriate clothing, presentation items, gifts to people visiting the City or for when the Lord Mayor takes gifts on overseas visits; donations to charities; churches; etc.; accommodation and travel; photographs; entertainment/refreshments etc. Separate amounts are payable to the Lord Mayor and the Deputy Lord Mayor.

The Lord Mayor's Secretary will maintain a running total of expenditure and this will be provided to the Lord Mayor on a monthly basis for budget monitoring purposes.

The Mayoral Budget is subject to tax. The Taxation Officer in the Corporate Services Department will brief you on any taxation issues.

- b) The clothing budget only covers clothing for the Lord Mayor, Lady Mayoress and the Deputy Lord Mayor and Deputy Lady Mayoress or Consort. It should only be used to purchase appropriate outer wear garments to be worn at Civic engagements. The majority of clothing required should be purchased during the first six months of office - but it is acceptable for some expenditure on clothing to be incurred from around two months prior to Mayor-making. Except in exceptional circumstances, no significant expenditure should be incurred during the final three months of office. In respect of the Lord Mayor, expenditure on clothing should never exceed 15% of that total budget allocated to the Lord Mayor. In respect of the Deputy Lord Mayor (who is allocated a smaller payment but who also undertakes fewer mayoral commitments), expenditure on clothing should never exceed 20% of that total budget allocated to the Deputy Lord Mayor. When purchasing items of clothing you are advised to exercise care in the amount spent on individual items. Whilst it is recognised that as a Civic dignitary, representing the City both at home and abroad, you need to be smartly dressed, care should be taken so that excessive amounts are not spent on individual items bearing in mind that public money is being spent.
- c) Payment for approved clothing purchases should be made by you and the receipt given to the Lord Mayor's Secretary at the earliest opportunity. The receipt should indicate the item(s) of clothing purchased and should be submitted without delay to ensure prompt reimbursement. Credit Card or Bank statements (without itemised receipts) cannot be accepted. In the case of foreign language receipts, these should be supplemented with details of the purchase in English.
- d) Under normal circumstances if receipts are submitted in this way you will receive payment by cheque before you are required to settle your credit card account, if appropriate. The Council's financial procedures rules should be observed at all times and this includes providing receipts for any expenditure to be reimbursed.
- e) When attending religious services where a collection is taken, on the day, you will be given an envelope containing £10.00 (this is the accepted contribution and will be handed to you by the Sergeant-at-Mace).

- f) When attending other functions such as open days, which may include raffles, tombola etc., you will be expected to join in and purchase raffle tickets etc. The suggestion is not to spend more than £10.00 on the day.¹⁴ You should make a note of the function and each month submit details for re-imbbursement on the claim form provided. If you are successful in winning a prize at such a function you should either politely refuse the prize or inform the Lord Mayor's Secretary who will advise you on the appropriate course of action.
- g) If you wish, arrangements may be made for the Sergeant at Mace to be allocated a cash float, in order to assist you in dealing with small items of expenditure.

10. Taxis

- a) There may be times, for a number of reasons, when it is more convenient for you to use a taxi. If this is the case, it should be discussed and agreed beforehand with the Lord Mayor's Secretary.
- b) If it is agreed to be appropriate, the office will make the arrangements and arrange to settle the account on your behalf.
- c) The account with the taxi company exists for the sole benefit of the Lord Mayor, Lady Mayoress, the Deputy Lord Mayor and Consort only when engaged in Civic functions and **must not** be used by other members of family, or friends. The account is drawn up in the name of the Lord Mayor and Deputy Lord Mayor.

11. Meals

- a) Generally speaking it will be known in advance if it will be necessary for you to have a meal at some point in between engagements. As time may be at a premium, it is recommended that the Lord Mayor's Office be advised in advance so that any necessary reservations can be made.
- b) It is recommended that wherever possible the venue be en route and as well as being acceptable to you for its standard of food and comfort, that it should also be able to provide safe, secure parking for the Mayoral car.
- c) The Basic Budget, which is paid to all Members of Council, includes an element to cover all subsistence expenses in relation to duties **within** the city.
- d) For subsistence taken **outside** the City, the Sergeant-at-Mace, or equivalent, will deal with the bill on each occasion, generally by advising the proprietor to send the account to the office for payment.
- e) Any necessary travel and accommodation bookings in connection with Civic engagements will be made on your behalf by the Lord Mayor's Office.

¹⁴ If you attend a charity function that you especially wish to support, it is recommended that you do not exceed the £10.00 expenditure on the day. If you wish to give additional financial support, discuss this with the Lord Mayor's Secretary.

12. Providing Hospitality

- a) On occasions the Lord Mayor or Deputy Lord Mayor may wish to host Blue Room lunches/dinners for the purpose of providing hospitality to Civic visitors. The arrangements for these occasions should be discussed with the Lord Mayor's Secretary.
- b) The Mayoral Rooms are also available for the Lord Mayor and Deputy Lord Mayor for private functions but any such requests need to be discussed with the Lord Mayor's Secretary and all costs associated with such functions must be paid for personally by the Lord Mayor or Deputy Lord Mayor.
- c) The Lord Mayor and Deputy Lord Mayor have access to a drinks cupboard for the purposes of providing hospitality to *official* Civic visitors. Hospitality for personal guests is discouraged and if it does occur the cost should not be borne by the Council. The Lord Mayor's Secretary and/or the Sergeant-at-Mace will carry out regular stocktaking to ensure that stocks are maintained at an acceptable level.
- d) Invitations will be regularly received for the Lord Mayor and Deputy Lord Mayor to be guests at charitable dinners and fundraising events. It is not appropriate to use the Mayoral Budget to purchase additional tickets for events of this nature to distribute to personal guests.

13. Civic Visits/Travel Arrangements

- a) Each year the Lord Mayor undertakes one major visit abroad (in the past few years it has been Durban or Hangzhou) plus a visit to Dortmund.
- b) As soon as information is available on the visit(s) you will be briefed on the content of the visit by the appropriate officers.
- c) When the Lord Mayor attends Buckingham Palace Garden Party it is customary to travel to London the day before the Garden Party and then return following its conclusion. Overnight accommodation will be arranged and paid for from the Lord Mayor's budget but any entertainment must be arranged and paid for personally by the Lord Mayor.

14. Civic and Personal Gifts

- a) Throughout the year you will receive gifts from visiting dignitaries. Whether the gifts are personal or for the City, it is necessary to notify the Lord Mayor's Secretary, so that details can be entered in the Register, held in the Lord Mayor's Office. The Lord Mayor's Secretary will offer advice and guidance on whether it is appropriate to accept a gift but the decision and responsibility for complying with the Members Code of Conduct remains with you.
- b) Separately, it is necessary to register details of any personal gifts received (over the value of £25) in the register maintained by the appropriate Group Office. **This must be done within 28 days of receipt.**

15. Christmas Cards

- a) The Lord Mayor's Office will make arrangements for official Civic Christmas cards to be produced in consultation with the Lord Mayor and Deputy Lord Mayor. Should extra cards be required by the Lord Mayor and Deputy Lord Mayor for family and friends they can be arranged but it is the responsibility of the Lord Mayor and Deputy Lord Mayor to address and post them at their expense.

16. Lord Mayor's Charity

- a) Care should be taken when identifying a charity or charities to support during your year of office. It is strongly recommended that local rather than national charities (with which the public can identify) should be chosen and that they must be registered with Charity Commissioners and wherever possible have an established, active support base available to ensure maximum benefit to the Appeal fund.
- b) Staff in the Lord Mayor's Office will give appropriate support to the Lord Mayor's Charity and work closely with the Charity's fundraisers. Advice on the role of staff in this regard should be sought from the Lord Mayor's Secretary.
- c) To maximise the amount received in support of the Charity, staff in the office, as well as the Lord Mayor, should impress on those wishing to support the Charity that cheques should be made payable to the "Lord Mayor's Charity Appeal", so that it can be deposited into the account opened in that name. Funds should not be paid directly to the Charity concerned.

17. Review of Guidelines

This document is provided by the Director of Legal and Democratic Services. Its implementation will be monitored, as a result of which it will be revised and reissued as appropriate.

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A PROTOCOL FOR MEMBER/OFFICER RELATIONS

1.0 INTRODUCTION AND PRINCIPLES

- 1.1 The objectives of this Protocol are to guide Members¹ and officers of the Council² in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.³
- 1.2 The Council has adopted Codes of conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Given the variety and complexity of relations between members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.
- 1.7 The provisions of the Protocol are to be interpreted in accordance and in conjunction with the general principles applying to the conduct of Members as set out by Order of the Secretary of State. These are the principles of selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership.

2.0 THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for

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

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

³ A further protocol, entitled Protocol for Elected Member/Education Leeds Relations, makes similar provision with regard to the relationship between the officers of Education Leeds and Members of the Council.

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conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Executive, Scrutiny Boards, Area Committees or other committees and sub-committees of the Council.
- 2.7 Members serving on Scrutiny Boards monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 2.8 Members serving on Area Committees work to promote and improve the economic, social and environmental well-being of the Committee's area and exercise Area Functions. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.
- 2.9 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 2.10 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12 Members are not authorised to instruct officers other than:
 - through the formal decision-making process;
 - to request the provision of consumable resources provided by the Council for Members' use⁴.

⁴ See further paragraph 6.4

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- 2.13 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.14 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
- 2.15 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

3.0 THE ROLE OF OFFICERS

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

4.0 THE RELATIONSHIP: GENERAL POINTS

- 4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their

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term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of the Council.

- 4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor XX/Lord Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:
 - avoid personal attacks on, or abuse of, the officer at all times,
 - ensure that any criticism is well founded and constructive,
 - never make a criticism in public, and
 - take up the concern with the officer privately.

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- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in paragraph 4.10 is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Board except in relation to Council functions. The Overview and Scrutiny Committee may also call-in Key and Major Decisions before they are implemented. Members may also individually request sight of delegated decision forms and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Director, Deputy Chief Executive or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, Deputy Chief Executive or Chief Executive will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Director of Legal and Democratic Services in the context of the Standards Committee/Board considering the complaint.

5.0 THE RELATIONSHIP: DECISION MAKING

- 5.1 The executive arrangements adopted by the Council in December 2001 provide for scheme of delegation. The details of this scheme are set out in Part 3 of the Constitution and in separate departmental sub delegation schemes.
- 5.2 Both Members and officers have responsibility for decision making within the scheme of delegation for both Council⁵ and Executive⁶ functions.
- 5.3 Members and officers will comply with the advice and guidance set out in the Guidance Notes on Delegated Decision Making⁷ and the Protocol for the Respective Roles of Members and Officers in Decision Making⁸, in addition to any other relevant code or guidance, whilst involved in the decision making process.

6.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

- 6.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and Members should avoid inappropriate involvement in such matters.

⁵ See part 3 Section 2 of the Constitution

⁶ See part 3 Section 3 of the Constitution

⁷ Part 3 Section 5 of the Constitution

⁸ Part 5 of the Constitution

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- 6.2 Officers will provide support to both the Executive and all Members in their respective roles.
- 6.3 The respective roles and responsibilities of Members and Officers in relation to employment issues are set out in the Officer Employment Procedure Rules.
- 6.4 If participating in the appointment of officers, Members should:
 - remember that the sole criterion is merit⁹;
 - never canvass support for a particular candidate;
 - not take part where one of the candidates is a close friend or relative;
 - not be influenced by personal preferences; and
 - not favour a candidate by giving him/her information not available to the other candidates.
- 6.5 A Member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Member has had a working relationship.
- 6.6 Certain statutory officers – the Chief Executive as Head of Paid Service, Director of Legal and Democratic Services as the Monitoring Officer and the Chief Finance Officer as the S151¹⁰ officer – have specific roles. These are addressed in the Constitution. The roles need to be understood and respected by all Members.
- 6.7 The following key principles reflect the way in which the officer corps generally relates to Members:
 - all officers are employed by, and accountable to the Council as a whole;
 - they have a duty to implement the properly authorised decisions of the Council;
 - support from officers is needed for all the Council's functions including Full Council, Scrutiny Boards, the Executive, Regulatory Panels, individual Members representing their communities etc;
 - day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other officers;
 - Officers will be provided with training and development to help them support the various Member roles effectively and to understand the structures.
- 6.8 On occasion, a decision may be reached which authorises named officers to take action following consultation with a Member or Members. The Member or Members may offer his/her views or advice to the officer who must take them into account. The Member or Members must not apply inappropriate pressure on the officer. The decision remains the responsibility of the officer him/herself. It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.
- 6.9 Finally, it must be remembered that Officers within a Department are accountable to their Director and Deputy Chief Executive. That is, officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds

⁹ (other than in the case of political assistants where political consideration may apply)

¹⁰ S151 Local Government Act 1972

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of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.

- 6.10 Whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Where appropriate, officers should make a Member aware of the limits of the Officer's authority and explain that the matter would have to be referred to the Director.
- 6.11 Officers will do their best to give timely responses to Members' enquiries. Officers' work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
- 6.12 Members will endeavour to give timely responses to enquiries from officers¹¹.
- 6.13 An officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward Member.
- 6.14 Members and officers should respect each other's free (i.e. non-Council) time.

7.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS AND PARTY GROUPS

- 7.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 7.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 7.3 The support provided by officers can take many forms. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 7.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
 - Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;

¹¹ See further paragraph 14 in respect of correspondence.

Deleted: 7.4 Officers who work within political group offices must only provide support and resources to Members in accordance with the standing instructions issued to them by the Chief Democratic Services Officer.¶

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- party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
 - the presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
 - where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 7.5 Special care needs to be exercised whenever officers are requested to provide information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not be able to give the same level of advice as they would to a Members only meeting nor give advice to such meetings.
- 7.6 Officers have the right to refuse a request to attend a party group and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
- 7.7 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
- 7.10 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 7.11 No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 7.12 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or to any other Members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 7.13 In relation to budget proposals:

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Deleted: This does not preclude officers working in the political group offices attending to provide support, in so far as this is in accordance with the standing instructions issued by the Chief Democratic Services Officer.

- (a) the controlling political group shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the group or until published in advance of Committee/Council meetings, whichever is the earlier; and
 - (b) the opposition groups shall also be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.
- 7.14 It must not be assumed by any party group or Member that any officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 7.15 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

8.0 OFFICER SUPPORT TO COMMITTEES AND SUB-COMMITTEES

- 8.1 The appropriate senior officers will offer to arrange regular informal meetings with chairs of committees and sub-committees.
- 8.2 Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
- 8.3 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.

9.0 OFFICER SUPPORT TO THE EXECUTIVE¹²

- 9.1 It is clearly important that there should be a close working relationship between Executive Members and the officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and other party groups.
- 9.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Director or other senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

¹² References to the term **Executive** refers to the Leader and Cabinet

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9.3 The Executive and its Members have wide ranging leadership roles. They will:

- lead the community planning process and the search for Best Value, with input and advice from Scrutiny Boards, area committees and any other persons as appropriate;
- lead the preparation of the Council's policies and budget;
- take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
- be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

9.4 Executive members will take decisions in accordance with the Constitution and will not otherwise direct officers. Senior officers will be responsible for instructing officers to implement the Executive's decisions.

9.5 Officers will make arrangements for briefing Members of the Executive about business within their remit. Senior officers and Executive Members shall agree mutually convenient methods of regular contact.

9.6 Where functions which are the responsibility of the Executive are delegated to officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. The Overview and Scrutiny Committee may call in and review the decisions of the Executive Board and officers acting under delegated authorities and report the outcome of its review to Council, the Executive Board and Officers as appropriate.

9.7 If agreed as part of the executive arrangements, individual Members of the Executive may be allowed to formally take decisions. At present individual Members have not been given authority to take decisions. Where such delegation has been agreed, the Executive and Board Members must satisfy themselves that they are clear what exactly they can and cannot do¹³.

9.8 Officers work for and serve the Council as a whole. Nevertheless, as the majority of functions are the responsibility of the Executive, it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly providing advice and assistance to the Executive, their political neutrality is not compromised.

¹³ Where individual Members can formally take decisions, the Council will put in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.

Decisions taken by individual Members of the Executive will give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive would always need to be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Financial Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the Council and the communities it serves, there would be arrangements to ensure co-ordination of and sharing responsibility for Executive decisions including those made by individuals.

- 9.9 In organising support for the Executive, there is a potential for tension between Directors and Executive Members with portfolios. All Members and officers need to be constantly aware of the possibility of such tensions arising and both officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.
- 9.10 The administrative and clerical support available to Executive and Lead Members is set out in paragraph 6 of the Protocol “Roles of Members and Officers in Decision Making”.

10.0 THE RELATIONSHIP: OFFICER AND SCRUTINY BOARDS¹⁴

- 10.1 Scrutiny Boards have both a Scrutiny role and a Policy Development and Review role.
- 10.2 In exercising the right to call-in a decision of the Executive, Members of the Overview and Scrutiny Committee must seek officer advice if they consider the decision is contrary to the Council’s approved plans, policies or frameworks, or is unlawful.
- 10.3 Provisions relating to the attendance of officers at a Scrutiny Board are set out in the Scrutiny Board Procedure Rules,
- 10.4 Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 10.5 When making requests for officer attendance, Scrutiny Board Members shall have regard to the workload of officers.
- 10.6 It is recognised that officers required to appear before a Scrutiny Board may often be those who have advised the Executive or another part of the Council on the matter under investigation. Any requirement for external support will be dealt with in accordance with the Scrutiny Board Procedure Rules guidance notes.
- 10.7 Officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.
- 10.8 In giving evidence, officers must not be asked to give political views.
- 10.9 Officers should respect Members in the way they respond to Members’ questions.
- 10.10 Members should not question officers in a way which could be interpreted as harassment.
- 10.11 Scrutiny proceedings must not be used to question the capability or competence of officers. Members need to make a distinction

¹⁴ References to Scrutiny Boards also refer to the Overview and Scrutiny Committee and any Scrutiny Commissions appointed by that Committee. **References to the Scrutiny Board Procedure Rules include reference to the Scrutiny Commission Procedure Rules.**

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between reviewing the policies and performance of the Council and its services, and appraising the personal performance of officers.

10.12 Officers and Members should be aware of the following government guidance relating to Scrutiny Boards, and specifically their scrutiny role:

- Officers' evidence should so far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- Officers may explain: what the policies are; the justification and objectives of those policies as the Executive sees them; the extent to which those objectives may have been met and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- Officers may, and in many cases should, be asked to explain and justify advice they have given to Members of the Executive prior to a decision being taken and they should also be asked to explain and justify decisions they themselves have taken under delegations from the Executive.
- As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Executive's policies and actions should always be consistent with the requirement for officers to be politically impartial.

10.13 In connection with the Scrutiny Boards Policy Development and Review role, Officers may reasonably be expected to advise on the effects which would arise out of the adoption of alternative policy options. Any advice on the development of policies should be consistent with the requirement for officers to be politically impartial.

10.14 It is not a Scrutiny Board's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on behalf of a Scrutiny Board. This is the Chief Executive's function alone in relation to officers and the Monitoring Officer's and the Standards Committee's functions as regards the conduct of Members.

10.15 Scrutiny Board's questioning should be directed towards establishing the facts about what occurred in the making of decisions or implementing Council policies, and not towards the allocation of criticism or blame. A Scrutiny Board may recommend (but not require) the Chief Executive to institute a formal enquiry for this purpose.

10.16 The Scrutiny Board Procedure Rules set out general principles relating to all Scrutiny Board witnesses, including notification requirements. If questioning should stray substantially outside the matters that the Board had previously indicated, the Chair should consider whether an adjournment may need to be considered to enable officers to provide the required information. Questioning should not stray outside any Terms of Reference agreed for an Inquiry.

- 10.17 The Scrutiny Board Procedure Rules enable Scrutiny Boards to appoint Working Groups. There is a separate guidance note which provides guidance to Members and Officers with regard to the activities of Scrutiny Board Working Groups.
- 10.18 In relation to complaints brought by an individual (Members, officers, or members of the public) about decisions affecting them individually, a Scrutiny Board must not act as an alternative to normal appeals procedures, whether internal, such as the Corporate Complaints procedure, or external, such as the Local Government Ombudsman, or an appeal to a Court. A Scrutiny Board should not normally pass judgements on the merits of such a decision.
- 10.19 In respect of officer support to Scrutiny Boards, Scrutiny Board Chairs are provided with dedicated administrative and clerical support to assist them in carrying out their duties. In addition, to assist Scrutiny Boards in undertaking comprehensive independent inquiries, the Scrutiny Support Unit provides the Scrutiny Boards with professional and administrative help. The Council's Directors remain responsible for providing specialised professional advice and should advise Scrutiny Board of reasons where they would not wish to provide such services.

11.0 THE RELATIONSHIP, OFFICER SUPPORT TO AREA COMMITTEES

- 11.1 Area Committees have both Executive and Council functions¹⁵. These are set out in the Terms of Reference for Area Committees.
- 11.2 The Area Committee Procedure Rules set out how meetings of Area Committees should be conducted.
- 11.3 Area Committees must make decisions following consideration of a report from the relevant Director or his nominee. The Area Committee is entitled to request a report in relation to any matter within their terms of reference that the Area Committee wish to consider. Such requests should always be made to the relevant Director who may nominate another officer to provide the report if appropriate.
- 11.4 Officers who present reports to Area Committees may copy the report to such of the other Area Committees as he thinks fit if he is of the view that the report would be relevant to those Committees.
- 11.5 Area Committees may request that report authors attend meetings. When doing so they should have regard to the workload of the officer in question.
- 11.6 All questions addressed to officers attending Area Committees shall be addressed through the Chair of the Committee. Officers should not be questioned in such a way as could be interpreted as harassment. Neither should questions be asked which seek to address the capability or competence of officers.
- 11.7 The Area Committee Procedure Rules provide for an Open Forum¹⁶ for members of the public to make representations or ask questions on matters within the terms of

¹⁵ The Executive functions are well being functions and other Area functions which are determined by the Executive Board.

¹⁶ See rules 6.24 and 6.25

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reference of the Area Committee. The Chair of the Committee shall ensure that officers are only asked questions which pertain to their report.

- 11.8 Officers should respect Members in the way they respond to Members questions. If unable to provide a direct response to a question at an Area Committee meeting the officer shall respond in writing to the Committee Chair as soon as he is able.
- 11.9 Where advisory or consultative forums are established by the Area Committee Members and officers shall apply this guidance equally to their involvement in those groups.
- 11.10 From time to time additional meetings are convened by Members in respect of local matters. Whilst these meetings are not always meetings of the Area Committee officers will provide appropriate support to these meetings. Members should therefore ensure that appropriate notice is given of all such meetings.
- 11.11 When convening meetings in relation to local matters care should be taken to distinguish between party group meetings and area meetings.

12.0 THE RELATIONSHIP, OFFICER SUPPORT TO REGULATORY PANELS¹⁷

- 12.1 At the request of a Chair of a Regulatory Panel, a briefing shall be arranged prior to a meeting of the Panel.
- 12.2 The Chief Executive is responsible for determining the agenda for a formally convened meeting of a Regulatory Panel, in consultation with the Chair of the Panel.
- 12.3 Members and officers need to be aware of additional Codes and Protocols which may refer to their specific area, such as the Code of Practice for Councillors responsible for determining Planning applications.

13.0 MAYOR AND OFFICERS

- 13.1 Officers will respect the position of Mayor and provide appropriate support.

13.2 Detailed guidance for the Lord Mayor, Deputy Lord Mayor and support staff is contained within the Guidelines for Civic Dignitaries¹⁸

Deleted:

14.0 MEMBERS AND OFFICERS ON OUTSIDE BODIES

- 14.1 Members and officers serving on outside bodies will treat one another professionally and with respect.
- 14.2 Members and officers should be aware of their role on any outside body to which they are appointed. In particular they should be aware of whether they are appointed:-

¹⁷ For the purposes of this Protocol only, any reference to "Regulatory Panels" includes a reference to the Licensing Committee and its sub-committees

¹⁸ Copies of the Guidelines for Civic Dignitaries may be obtained from the Chief Democratic Services Officer or from the Lord Mayor's secretary.

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- As a representative of the Council
 - As a ward Member, representing the local community
 - As a group Member, or
 - In their individual capacity
- 14.3 Where Members and officers are appointed to an outside body as a representative of the Council they should ensure that they are aware of the Council's position in relation to matters within the body's remit.
- 14.3.1 The appointee should seek to abide by the Council's position in relation to that matter unless their duties and responsibilities to the outside body prevent this.¹⁹
- 14.3.2 Should a Member and an officer both be appointed to the same body as the Council's representatives they should seek to agree their understanding of the Council's position prior to any meeting of the body.
- 14.4 If a Member or officer is appointed to an outside body in a capacity other than as the Council's representative they are not obliged to abide by the Council's position in respect of any matter. They should however seek to ensure that any view that they express or action they take can not be perceived as bringing the Council into disrepute.
- 14.4.1 If a Member and an officer have a disagreement in relation to a matter within the remit of that body, arising out of their respective roles on the body, they will treat that disagreement in a professional manner. In particular both the Member and the Officer will take steps to ensure that the disagreement does not affect the nature of their relationship within their respective roles as Member and officer of the Council.
- 14.5 The Outside Bodies Procedure Rules²⁰ make provision for support to Members appointed to external organisations.

15.0 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 15.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

15.2 Detailed guidance regarding the provision of support to Members by support staff in Democratic Services is contained within the Guidelines for Democratic Services Support to Members²¹

¹⁹ For example, where the appointment is as a Director or Trustee of the outside body. Briefing notes entitled "Guide for Elected Members and Officer on the responsibilities and duties of directors nominated by the Council" and "Guide for Elected Members and Officer on the responsibilities and duties of trustees nominated by the Council" are available on the Legal and Democratic Services pages of the Council's intranet.

²⁰ See Part 4 of the Constitution

²¹ Copies of the Guidelines For Democratic Services Support To Members may be obtained from the Chief Democratic Services Officer or from Group Support Managers.

16.0 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 16.1 Members have the ability to ask for information pursuant to their legal rights to information. Further details of these rights are set out in the Access to Information Procedure Rules.

17.0 CORRESPONDENCE

- 17.1 Correspondence²² between an individual Member and an Officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary for an officer to copy the correspondence to another Member, the original Member will be advised before any such correspondence is copied. In other words, a system of 'silent copies' should not be employed. However, it may be appropriate in certain circumstances for Members to copy correspondence to an officer, for example to Ward colleagues.
- 17.2 Paragraph 17.1 above should not be taken to prevent the copying of correspondence where necessary as part of the background information when briefing an Executive or Lead Member in relation to the history of any matter. In addition it should be noted that the Council may have to release copies of correspondence in accordance with Freedom of Information Legislation²³.
- 17.3 Official letters on behalf of the Council (as distinct from letters in response to constituent's queries) should normally be sent in the name of the appropriate officer, rather than the name of a Member. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader, but this should be the exception rather than the norm.
- 17.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.
- 17.5 When writing in an individual capacity as a ward Member, a Member must make clear that fact.
- 17.6 Officers should respond to Members' correspondence in accordance with the Protocol for responding to Member correspondence²⁴.
- 17.7 When entering into correspondence with one another both Members and officers should ensure that they maintain their recognition of and respect for each other's roles and responsibilities. As with other areas of their relationship Members and officers should conduct correspondence in a positive and constructive way and observe the same level of courtesy and respect.

²² "Correspondence" in this context means letters, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Member

²³ For details please see Access to Information Procedure Rules

²⁴ Implemented in accordance with a resolution of the Executive Board taken on 13th November 2002 – minute number 146.

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18.0 PUBLICITY AND PRESS RELEASES

- 18.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors, and non-domestic rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed. The Local Government Act 1986 prohibits political publicity – this is defined as any material which, in whole or in part, appears to be designed to affect public support for a political party. This prohibition also extends to regulated companies such as Education Leeds and the ALMOs.
- 18.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that the Council's decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as s/he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity, and such other matters as s/he thinks appropriate. The main principles of the Code are:

- That publicity relating to individual Members should relate to their role as a holder of a particular position and personalisation of issues or personal image making should be avoided.
- Publicity should be factual and designed to raise public awareness and its primary purpose must not be to persuade members of the public to hold a particular view on a matter of policy.
- Particular care should be taken when publicity is issued immediately before an election or by-election to ensure that this could not be perceived as seeking to influence public opinion, or to promote the image of a particular candidate, or group of candidates. The Code provides 'between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual members or groups of members'.

Deleted: <#>That publicity should not be given to individual Members except in circumstances where they are representing the Council as a whole¶

The Code also applies to other bodies funded by the Council, where that funding could be used for publicity, for example Education Leeds and the ALMOs.

- 18.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Director of Legal and Democratic Services. Particular care should be paid to any publicity used by the Council

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around the time of an election. Particular advice will be given on this by the Director of Legal and Democratic Services as appropriate.

- 18.4 Contact with the media, including issuing press releases, should be carried out in accordance with any relevant protocols (for example those adopted by the Standards Committee/Executive Board).
- 18.5 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 18.6 Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters. Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
- 18.7 Likewise, officers will inform the Council's Corporate Communications Team of issues likely to be of media interest, since that unit is often the media's first point of contact.
- 18.8 If a Member is contacted by, or contacts, the media on an issue, he/she should:
 - indicate in what capacity he/she is speaking (e.g. as ward Member, in a personal capacity, as an Executive Member, on behalf of the Council, or on behalf of a party group);
 - be sure of what he/she wants to say or not to say;
 - if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications Team and/or relevant senior officer, except in relation to a statement which is party political in nature²⁵;
 - consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
 - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
 - consider whether to consult other relevant Members; and
 - take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist. Council resources must never be used to affect public support for a political party.

19 INVOLVEMENT OF WARD COUNCILLORS

- 19.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, officers should

²⁵ Any press releases issued regarding a Groups views which are issued through Group Offices must be issued in accordance with the [Guidelines for Democratic Services Support to Members](#).

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Deleted: standing instructions to staff in political group offices

consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be referred to the relevant Area Committee for consideration. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

- 19.2 Whilst support for Members' ward work is legitimate, care should be taken if officers are asked to accompany Members to ward surgeries. In such circumstances:
 - the surgeries must be open to the general public, and
 - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
- 19.3 Officers must never be asked to attend ward or constituency political party meetings.
- 19.4 It is acknowledged that some officers (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.
- 19.5 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested time-scale, and may need to seek instructions from their managers.

20.0 ACCESS TO PREMISES

- 20.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 20.2 Members have a right of access to Council land and premises to fulfil their duties.
- 20.3 When making visits as individual Members, Members should:
 - whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
 - comply with health and safety, security and other workplace rules;
 - not interfere with the services or activities being provided at the time of the visit;
 - if outside his/her own ward, notify the ward Members beforehand; and
 - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

21.0 USE OF COUNCIL RESOURCES

- 21.1 The Council provides all Members with services such as typing, printing and

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photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

- 21.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:
- where facilities are provided in Members' homes at the Council's expense;
 - In relation to any locally-agreed arrangements e.g. payment for private use or photocopying; and
 - regarding ICT security.

21.3 Detailed guidance regarding the use by Members of ICT equipment is contained within the Guidelines for Members using ICT Equipment²⁶.

- 21.4 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:
- business which is solely to do with a political party;
 - work in connection with a ward or constituency party political meeting; electioneering;
 - work associated with an event attended by a Member in a capacity other than as a Member of the Council;
 - private personal correspondence;
 - work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
 - support to a Member in his/her capacity as a councillor of another local authority.

22.0 CO-OPTED MEMBERS

- 22.1 Officers should provide the same level of support to Co-opted Members of a Scrutiny Board or Committee, as they provide to other (elected) Members, for example by providing them with the same papers, briefings and training opportunities. Officers and elected Members should afford Co-opted Members the same level of respect and opportunity to contribute (so far as their role permits them to do so), as to any other Member of the Board or Committee.

23.0 CONCLUSION

- 23.1 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.

24.0 BREACHES OF THE PROTOCOL

- 24.1 Allegations of breaches of this Protocol by Members may be referred to Monitoring Officer for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the political group. However, in certain circumstances a breach of this

²⁶ Copies of the Guidelines for Members Using ICT Equipment may be obtained from the Chief Democratic Services Officer or Group Support Managers.

protocol might constitute a breach of the Members' Code of Conduct, in which case a written complaint would be referred to the Standards Board for England.

- 24.2 Allegations of breaches by officers are to be referred to the employee's Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

25.0 MONITORING

The Director of Legal and Democratic Services will report annually to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year. In particular the Director of Legal and Democratic Services will monitor the following:

- (a) the number of complaints made about breaches of the Protocol and the outcomes of those complaints.
- (b) whether the Protocol has been considered as part of Member/Officer induction training.
- (c) the level of awareness of the Protocol among Members and Officers, to be established by means of an ethical audit.
- (d) external inspection reports in respect of any relevant issues arising.
- (e) changes to legislation which may affect the provisions of the Protocol.

26.0 IMPLEMENTATION AND INTERPRETATION

- 26.1 This Protocol was drafted by Director of Legal and Democratic Services, and adopted by the Standards Committee as part of the Constitution on 20 February 2003.
- 26.2 The Protocol will be made available, as part of the Council's Constitution, on the Council's internet and intranet sites. Members will be advised that these documents are available²⁷.
- 26.3 Questions of interpretation of this Protocol will be determined by the Director of Legal and Democratic Services.

²⁷ See Articles 2 and 16 of the Constitution.

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Originator: Amy Bowler

Tel: 0113 39 50261

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Plain English Guide to Local Codes and Protocols

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to seek Members' approval for a new plain English guide to the local codes and protocols.
2. Members of the Committee requested some form of plain English guide to the local codes and protocols within the constitution during the Committee meeting in July 2006¹, which would provide details of the various codes and protocols and could be tailored to each Councillors' responsibilities and position.
3. The draft plain English guide is attached as Appendix 1 to this report. The guide is colour coded to show which sections of Part 5 apply to all Members and which sections are role specific. It is proposed that the guide by reissued in hard copy format every May following the elections and the Constitution review, and is published on the Council's intranet site.
4. Members of the Committee are asked to note the contents of the report and approve the draft guide at Appendix 1.

¹ Minute 63 of the Standards Committee meeting held on 26th July 2006.

1.0 Purpose Of This Report

1.1 The purpose of this report is to seek Members' approval for a new plain English guide to the local codes and protocols.

2.0 Background Information

2.1 Members of the Committee requested some form of plain English guide to the local codes and protocols within the constitution during the Committee meeting in July 2006², which would provide details of the various codes and protocols and could be tailored to each Councillors' responsibilities and position.

2.2 Members of the Standards Committee made a similar request during February 2004, and as a result a table of relevance, a brief summary of each code and protocol and an index to Part 5 of the Constitution was produced. Initially the information was due to be included as part of the preamble in the Council diary, however it was decided that it would be more appropriate to include the information on the Council's intranet site to sit alongside the Council's Constitution. The information is no longer published on the Council's intranet site.

3.0 Main Issues

Format of the guide

3.1 As these documents originally met with the approval of the Standards Committee in February 2004 it is proposed that these form the basis of the new plain English guide (attached as Appendix 1).

3.2 It is also proposed that the new version be in the format of a pocket guide, in order to be used in conjunction with the Standards Board for England pocket flashcard guide called "The Code to Protect You"³ which informs Members how to declare interests in meetings. Used together these two documents will be a quick reference guide to both the provisions of the Members' Code of Conduct and any local codes and protocols which may apply to the Member. A hard copy colour example of the draft guide will be available on the day of the meeting.

3.3 It is recognised that not all of the codes and protocols will apply to every Member. The guide has therefore been colour coded so that Members can quickly see which elements apply to them.

3.3.1 The blue pages refer to codes and protocols which apply to all Members. These are:

- The Codes of Conduct
- Monitoring Officer Protocol
- Protocol on the Distribution of External Inspection Reports
- Protocol on Member Officer Relations and Elected Member/Education Leeds Relations
- Roles of Members and Officers in Decision Making

² Minute 63 of the Standards Committee meeting held on 26th July 2006.

³ It is understood that this document will be re-issued once the new model Code of Conduct has been released.

3.3.2 The yellow pages refer to codes and protocols which are role specific and only apply to Councillors who are members of certain committees or have specific responsibilities. The special roles identified in the guide are:

- Executive Members
- Lead Members
- Licensing Committee Members
- Plans Panel Members
- Scrutiny Board Members
- Standards Committee Members

Revisions and amendments

- 3.4 It is further proposed that the guide be issued once a year in May following the elections and Annual Meeting. This will coincide with the outcome of the review of the Constitution. Although the codes and protocols will be updated throughout the municipal year, there will be large cost implications to updating every few months. Because of this, it is also proposed that the description of the contents of each code and protocol is kept very brief meaning that it will remain accurate for longer, and act only as a sign posting exercise rather than a replacement to Part 5 of the Constitution.
- 3.5 As well as being distributed to all Members in hard copy in May of each year, it is also proposed that the guide is published on the Council's intranet site to be available with the Constitution.

4.0 Implications For Council Policy And Governance

- 4.1 Issuing a plain English guide to the local codes and protocols will aid understanding and compliance amongst Members and therefore improve the Council's governance arrangements.
- 4.2 The guide may also raise awareness of the local codes and protocols amongst Members which will assist with addressing the issues arising from the results of the ethical audit.

5.0 Legal And Resource Implications

- 5.1 There are no legal implications to the contents of this report.
- 5.2 There are printing costs to issuing a colour guide to the codes and protocols once a year. However it is anticipated that the costs will be met from within from existing budgets.

6.0 Conclusions

- 6.1 In response to a request from Committee members in July 2006, a plain English guide to the local codes and protocols has been drafted (see Appendix 1).
- 6.2 It is proposed that this guide is released as a pocket reference guide to be used in conjunction with "The Code to Protect You" issued by the Standards Board for England. The guide will be colour coded to make it clear which codes and protocols apply to all Members and which are role specific.

6.3 It is further proposed that the guide is re-issued once a year in May following the elections and the review of the Constitution. The contents of the guide will therefore be kept as brief as possible in order to remain accurate. As well as being distributed to all Members in hard copy in May of each year, it is also proposed that the guide is published on the Council's intranet site to be available with the Constitution.

7.0 Recommendations

7.1 Members of the Committee are asked to note the contents of the report and approve the draft guide at Appendix 1.

Monitoring Officer Protocol

This Protocol sets out the statutory responsibilities of the Monitoring Officer and the requirements on **all Members** and officers to comply with the law. The protocol gives guidance on the working relationship between the Monitoring Officer and Members and what support and guidance Members can expect. Members should also be aware of their responsibilities to report any breaches of the law to the Monitoring Officer as laid out in the protocol.

Protocol for the Distribution of External Inspection Reports

This protocol provides details of when **all Members** can expect to receive external inspection reports and when they can be disclosed.

- All Members must abide by the National Code of Conduct. This is a Members', Code of Conduct. This is a private life as well as in public. For a simple guide to the Code of Conduct refer to "The Code to protect you" by the Standards Board for England.
- All officers of the Council have to abide by the Officer Code of Conduct. Although it is more important for officers to be aware of the Code, it may assist all Members to be aware of certain provisions, such as the requirement for certain provisions, such as the

On the blue pages you will find information about the Codes and protocols which apply to all Members. To find out more about the role specific codes, see the yellow pages.

Executive Members

Executive Members should be particularly aware of the Protocol for the Distribution of External Inspection Reports and the Protocol for the Presentation of Scrutiny Board reports, as these provide guidance on the procedure for Executive Board meetings involving these reports. Also Executive Members need to refer to the Protocol – Roles of Members and Officers in Decision Making which describes the role and duties of an Executive Member in detail.

Lead Members

Lead Members may be interested in the Protocol – Roles of Members and Officers in Decision Making as it gives guidance on the role of a Lead Member and their relationship with their Executive Member.

Licensing Committee Members

Members of the Licensing

Committee must comply with the Code of Practice for the Determination of Licensing Matters. This code gives advice to Members on interests and acting with impartiality when making regulatory decisions.

Plans Panel Members

Members of the various plans

panels also need to follow the provisions of the Code of Practice for the Determination of Planning Matters. In addition they should also be aware of the Protocol for Public Speaking at Plans Panels. This protocol sets out the procedure regarding members of the public speaking about planning applications, for example time limits.

Issue 1 - May 2007

Members
A guide for Leeds City Council
The Local Codes and Protocols:



Every effort will be made to ensure that this document remains accurate – however it is only intended as a quick guide to the local codes and protocols. It is important that you refer to the Constitution for more detailed information about their provisions. A copy of the Constitution can be found in your group office or on the Council's internet site: www.leeds.gov.uk

For further advice on standards issues, please contact the Monitoring Officer (Nicole Jackson) or the Corporate Governance Team on 0113 2478408.



Scrutiny Board Members

Members of Scrutiny Boards

particularly Chairs, should be aware of the Protocol for the Presentation of Scrutiny Board reports. This protocol gives details of the procedure at Executive Board meetings when Scrutiny Board reports are presented.

Standards Committee Members

Members of the Standards

Committee should be aware of the Standards Committee Media Protocol. The Standards Committee Media Protocol provides guidance on procedures for dealing with the media in relation to complaints and investigations considered by the Standards Committee.

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Originator: Kate Sadler

Tel: 0113 24 78408

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2006

Subject: Annual Report of the Monitoring Officer in relation to the Standards Committee Procedure Rules

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report is the Monitoring Officer's annual report to the Committee in relation to the Standards Committee Procedure Rules.
2. Members are asked to note the contents of this report and to approve the proposed amendments to the Standards Committee Procedure Rules.

1.0 Purpose Of This Report

- 1.1 This report is the Monitoring Officer's annual report in relation to the Standards Committee Procedure Rules.
- 1.2 This report gives details of how the "gate-keeping" role of the Monitoring Officer has been discharged in relation to complaints made under Local Codes, whether the arrangements set out in the procedure have been complied with, and proposes amendments to the Rules to make them clearer and more simple to use in the event of a hearing.

2.0 Background Information

- 2.1 Paragraph 10 of the Standards Committee Procedure Rules requires that the Monitoring Officer reports annually to the Standards Committee in relation to her "gate-keeping" role and with regard to whether the arrangements set out in the Rules have been complied with.
- 2.2 In addition Paragraph 10.2 invites the monitoring officer to include any proposals for amendments in the light of any issues that have arisen during the year.
- 2.3 The Committee held its first hearing into a case of misconduct against a Leeds City Councillor on 25th May 2006. At its meeting of 26th July 2006 the Committee received a report detailing matters which had arisen as a result of this case and resolved to approve a number of amendments proposed to the Rules.

3.0 Main Issues

- 3.1 The Monitoring Officer has not had cause to discharge her "gate-keeping" role during the course of the past 12 months.
- 3.2 The Monitoring Officer is satisfied that the arrangements set out in the Rules have been complied with. The hearing which took place in May 2006 was successfully completed and the Member concerned has complied in full with the Sanction imposed by the Hearings Sub Committee.
- 3.3 In addition to approving the amendments proposed to the Rules at the meeting in July 2006, the Committee requested that the Director of Legal and Democratic Services undertake a review of the forms used in the pre-hearing process, in order to ensure that they are as accessible as possible to the Member, the Investigating Officer and the Committee.
- 3.4 The Director of Legal and Democratic Services undertook this task alongside a more general review of the Rules. As a result of this review a number of further amendments are proposed which seek to clarify the Rules. A copy of the Rules is attached as Appendix 1 to this report in which the proposed amendments are highlighted. The following brief explanations may be of assistance to Members in considering the amendments proposed:-
 - 3.4.1 A definition of "Parish Council" has been included in paragraph 1 for clarity of understanding throughout the Rules.

- 3.4.2 An additional bullet point has been added at paragraph 4.9 to ensure that the complainant in any case is clear that the information that they give, including details of their identity, may be shared with the Committee and be made public during the course of the hearing.
- 3.4.3 Paragraphs 5 and 6 have been re-organised to make the procedure to be followed clearer. All of the possible actions which could be taken in relation to a Local Complaint or Referred Complaint for Investigation prior to the substantive hearing are now detailed before the steps taken in relation to a Referred Complaint for Determination which will proceed directly to a substantive hearing.
- 3.4.4 A footnote is added to paragraph 9.9.1 to ensure that it is clear that the requirement that the case be heard within three months applies even in the event of an adjournment.
- 3.4.5 At paragraph 9.11.4 information is transferred from footnote into the main body of the Rules to make it clearer that the Committee may consider the issue of whether the hearing should be conducted in private at a number of points during the course of the hearing.
- 3.4.6 The reference to paragraph 4.1 has been deleted from paragraph 10.1 as this reference did not refer to the Monitoring Officer's gate keeping role.
- 3.4.7 A number of the Annexes to the Rules have been relabelled in order to include the General Principles Governing Members' Conduct formally as Annex A to the Rules. Appropriate amendments have been made to references to Annexes throughout the Rules.
- 3.4.8 The forms contained within Annexes C and D have been redrafted in an attempt to make them simpler to complete and the information contained within them following completion easier to absorb.
- 3.4.9 The old Annex F has been removed from the Protocol given that the Access to Information Procedure Rules include full details as to the provisions which apply to restricting public access to hearings and to related documentation. Annex G remains to give details of the Standards Board's guidance in this regard.

4.0 Implications For Council Policy And Governance

- 4.1 The Monitoring Officer is satisfied that the Standards Committee Procedure Rules have been complied with. However, it is good practice to ensure that both the Rules and the Forms contained within them are as clear and accessible as possible in order that Members and potential complainants can be certain of the procedure to be adopted in the event of an investigation and/or hearing taking place.
- 4.2 The proposed amendments will make the Rules clearer and therefore improve the governance arrangements in place Leeds City Council.

5.0 Legal And Resource Implications

- 5.1 There are no legal or resource implications to this report.

6.0 Conclusions

- 6.1 Members are advised that the Monitoring Officer is satisfied that the Standards Committee Procedure Rules have been complied with.
- 6.2 A general review of the Standards Committee Procedure Rules has been undertaken and the forms used in the pre-hearing process have been amended to make them more user friendly and the information contained within them more accessible. Members are invited to consider these amendments.

7.0 Recommendations

- 7.1 Members are asked to;
 - 7.1.1 note the contents of this report, and
 - 7.1.2 approve the amendments proposed at paragraph 3.4.

PROCEDURE FOR DEALING WITH COMPLAINTS OF MISCONDUCT AGAINST MEMBERS OF THE COUNCIL

1.0 INTERPRETATION

“Authority” means Leeds City Council;¹

“Chair” means the Chair of the Committee;²

“Code of Conduct” means the Code of Conduct adopted by the Authority;³

“Committee” means the Standards Committee;

“Complainant” means the person who made the complaint;

“day” means a clear working day unless otherwise indicated;

“ESO” means the Ethical Standards Officer appointed by the Standards Board who referred the Referred Complaint to the Monitoring Officer, or the ESO’s nominee;

“Investigator” in respect of a Referred Complaint for Determination means the ESO who referred the report to the Monitoring Officer or the ESO’s nominee.⁴ In respect of a Referred Complaint for Investigation, it means the Monitoring Officer or nominee. In respect of a Local Complaint, it means the Monitoring Officer or nominee;

“Legal Advisor” means the person providing legal advice to the Committee;⁵

“Local Code” means⁶

- the National Code of Local Government Conduct where the alleged breach is committed before 5 April 2002; or
- any of the Authority’s Protocols/Codes which refer to the conduct of members, other than the Code of Conduct; or
- a breach of the Members’ Allowances Scheme in relation to the requirement to submit six monthly reports, or a gross neglect of duties highlighted by such a report.

“Local Complaint” means a complaint that the Member has breached a Local Code;

“Member” means the Member or co-opted member⁷ of the Authority who is the subject of the complaint of misconduct. It also includes the Member’s nominated representative where the context requires this;

¹ Or, where relevant, the parish council within its area, in respect of which the Standards Committee is exercising functions under Part III of the Local Government Act 2000.

² Or other Member elected by the Committee in the absence of the Chair.

³ Under Section 51 of the Local Government Act 2000.

⁴ In respect of a hearing it also includes the Monitoring Officer’s nominee where the ESO has not chosen to attend the hearing.

⁵ This will be the Monitoring Officer or nominee who may be another legally qualified officer of the Authority or someone legally qualified who is appointed for this purpose from outside the Authority.

⁶ The Monitoring Officer will provide copies of these on request.

"Parish Council" means any Town or Parish Council;

"Party" means the Member or the Investigator but does not include the Complainant;

"Referred Complaint" means a complaint that a Member has breached the Authority's Code of Conduct, and which an ESO has referred to the Monitoring Officer⁸;

"Referred Complaint for Determination" means a Referred Complaint which the ESO has investigated and referred for the Standards Committee to determine;⁹

"Referred Complaint for Investigation" means a Referred Complaint which the ESO has referred for the Monitoring Officer to investigate;¹⁰

"Standards Board" means the Standards Board for England.

2.0 GENERAL

- 2.1 This procedure applies to complaints made by Members or officers of the Authority or members of the public. These may be Local Complaints made to the Monitoring Officer or Referred Complaints, which were originally made to the Standards Board.
- 2.2 This is the usual procedure to be followed in respect of both Local and Referred Complaints.
- 2.3 The general principles of conduct¹¹ will be used by the Committee as a guide to interpretation of the Local Codes and the Code of Conduct.
- 2.4 Except for the requirements¹² which are listed below, the Committee (or in relation to the pre-hearing process, the Chair), may vary the procedure as it considers appropriate in the circumstances. The Committee will deal with a complaint in the manner which it considers most suitable to clarify the issues before it, and generally to the just handling of the proceedings.

2.5 Requirements which may not be waived:

- 2.5.1 Where the Committee is considering a Referred Complaint for Determination, the Committee will ensure that the hearing takes place:

⁷ As defined in Section 47 Local Government Act 2000. It also includes a former member or co-opted member. It does not include Parish Council members unless they are the subject of a Referred Complaint.

⁸ Under section 64(2) or section 60(2) or (3) of the Local Government Act 2000.

⁹ In accordance with section 64(2) of the Local Government Act 2000

¹⁰ In accordance with section 60(2) or (3) of the Local Government Act 2000

¹¹ As set out in the Relevant Authorities (General Principles) Order 2001, and attached as Annex A to this procedure.

¹² These are imposed by the Local Authorities (Code of Conduct) Local Determination Regulations 2003. The Regulations apply only to Referred Complaints, but where appropriate the requirements have been extended to apply to Local Complaints dealt with under this procedure.

Standards Committee Procedure Rules

- within three months of the date on which the Monitoring Officer received the report from the ESO; and
- at least 14 days¹³ after the date on which the Monitoring Officer sent the Member a copy of the report, unless the Member agrees to an earlier date;

2.5.2 Where the Committee is considering a Referred Complaint for Investigation, the Committee will ensure that the hearing takes place:

- within three months of the date on which the Investigator completed the report; and
- at least 14 days¹⁴ after the date on which the Investigator sent the Member a copy of the report, unless the Member agrees to an earlier date;

2.5.3 Where the Committee is considering a Local Complaint, the Committee will ensure that the hearing takes place:

- within three months of the date on which the Investigator completed the report, or as soon as reasonably practicable after that; and
- at least 14 days¹⁵ after the date on which the Investigator sent the Member a copy of the report, unless the Member agrees to an earlier date;

2.5.4 Where the Committee is considering either a Local or a Referred Complaint, the Committee will ensure that:

- the hearing is conducted having regard to guidance issued by the Standards Board;¹⁶
- the Committee gives the Member an opportunity to present evidence in support of the Member's case; and
- the Committee gives the Member, or, at the choice of the Member, the Member's representative, the opportunity to make representations at the hearing. These may be made either orally, or, at the choice of the Member, in writing.

2.6 Representation

2.6.1 A Member may be represented by a barrister, a solicitor or with the consent of the Committee, any other person the Member wishes.¹⁷

¹³ These are not working days.

¹⁴ These are not working days.

¹⁵ These are not working days.

¹⁶ Under Section 57 of the Local Government Act 2000

¹⁷ The Committee will usually provide its consent, unless the representative is directly involved in the Complaint.

3.0 RECEIPT/PRELIMINARY INVESTIGATION OF LOCAL COMPLAINTS AND RECEIPT OF REFERRED COMPLAINTS FOR INVESTIGATION

3.1 Receipt of Local Complaints

3.1.2 A Local Complaint must be made in writing to the Monitoring Officer.

3.1.3 The Monitoring Officer will acknowledge receipt of a Local Complaint to the Complainant within 5 days.

3.1.4 The Monitoring Officer will notify the Member within 5 days of receiving the Complaint¹⁸:

- that s/he has received the complaint;
- who the complainant is;¹⁹
- what the complaint is about, including which Local Code it is alleged that the Member has breached; and
- the procedure which will be followed in respect of the complaint.

3.2 Preliminary Investigation- Local Complaints

3.2.1 The Monitoring Officer or nominee will carry out a preliminary investigation of a Local Complaint in order to decide whether it warrants a full investigation.

3.2.2 The Monitoring Officer will complete the preliminary investigation within 15 days of receiving the Local Complaint, or as soon as reasonably practicable after that.

3.2.3 The Monitoring Officer will consider as part of the preliminary investigation:-

- whether the conduct complained of may amount to breach of a Local Code;
- whether the conduct complained of merits investigation by some other agency (e.g. the police);
- whether the Complaint has already been investigated; and
- whether the Complaint is supported by sufficient information (either provided by the Complainant or obtained by the Monitoring Officer from initial enquiries) to justify a full investigation.

3.2.4 The purpose of the preliminary investigation is to enable the Monitoring Officer to identify if the Local Complaint:-

- is frivolous or unsupported by any reliable information;
- falls outside the Committee's terms of reference; or
- has already been investigated.

¹⁸ In exceptional cases where the Monitoring Officer has reason to believe that there is a serious risk of intimidation of witnesses or destruction of evidence, the Monitoring Officer may complete the preliminary investigation without notifying the Member;

¹⁹ In accordance with the Authority's Whistleblowing policy, the identity of the Complainant may be protected in some cases.

3.2.5 Within 3 days of completing the preliminary investigation, the Monitoring Officer will:-

- decide whether or not the Local Complaint warrants a full investigation; and
- notify the Complainant and the Member of the decision. Where the decision is not to take further action s/he will also give reasons for this.

3.3 Receipt of referred complaints for investigation

3.3.1 On receipt of a Referred Complaint for Investigation, unless otherwise directed by the ESO, the Monitoring Officer shall inform

- the Member;
- the Complainant; and
- any Parish Council concerned.

that the Complaint has been referred to the Monitoring Officer for investigation²⁰.

3.3.2 The Monitoring Officer will also

- explain what will happen next;
- explain who will be in contact again; and
- provide any directions s/he wants to make regarding the investigation.

4.0 INVESTIGATION OF COMPLAINTS (LOCAL COMPLAINTS AND REFERRED COMPLAINTS FOR INVESTIGATION)

4.1 The Monitoring Officer may act as Investigator, or may appoint a nominee to do this²¹.

4.2 The Monitoring Officer will have regard during the conduct of the investigation to any relevant guidance issued by the Standards Board to Monitoring Officers.

4.3 The purpose of a full investigation is to establish the facts of the Complaint, so that the Committee may then make a properly informed judgement about it.

4.4 When conducting an investigation, the Investigator will

- seek to interview and/or obtain information from anybody within or outside the Authority who may be able to help establish the facts.

²⁰ In accordance with Regulation 5(3) of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483)

²¹ The Monitoring Officer must consider in respect of each Local Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Investigator, which would make it inappropriate for the Monitoring Officer to act as Investigator. In respect of a Referred Complaint for Investigation, the Monitoring Officer may appoint the Deputy Monitoring Officer, or any person nominated under the provisions of section 82A(2) or (3) of the Local Government Act 2000 to perform any function.

Standards Committee Procedure Rules

4.5 When conducting an investigation the Investigator may:

- require any of the Authorities concerned to provide such advice and assistance as s/he may reasonably need to assist him or her in the investigation;
- require the Authority (other than a Parish Council), to meet the cost of any advice and assistance provided so far as such cost is reasonable²², and/or
- require the Authority to afford reasonable access to such documents in the possession of the Authority as appear to the Investigator to be necessary for the purpose of conducting the investigation.

4.6 Failure by an officer to assist the Investigator will be referred to the relevant Authority (where a Parish Council) or to the Director and/or Chief Executive of the Authority for appropriate action to be considered, which may include disciplinary investigation.

4.7 Referral back to ESO

Where the Investigator of a Referred Complaint for Investigation conducts an investigation, s/he may at any stage before completing the investigation request in writing to the ESO that the complaint be referred back to the ESO for the ESO to conduct the investigation. The Investigator will comply with any direction given by the ESO in response.

4.8 The Investigator will make clear to any person interviewed that any information which that person provides may be shared with the Committee and may be made public. Any person interviewed will be entitled to be accompanied by a representative of their choice.

4.9 The Investigator will:-

- invite the Complainant for interview; and
- give the Complainant the opportunity to submit any additional material which the Complainant considers is relevant to the investigation.
- advise the Complainant that any information provided by the Complainant, including their identity, may be shared with the Committee and or made public in the course of dealing with the complaint.²³

4.10 The Investigator will:-

- give the Member a full copy of the complaint;²⁴
- invite the Member for interview;
- give the Member the opportunity to submit any additional material which the Member considers is relevant to the investigation;

²² If the Authority is a parish council, the Investigator may require Leeds City Council as responsible authority to meet any costs incurred by that Parish Council so far as such cost is reasonable

²³ In accordance with the Authority's Whistle blowing Policy, the identity of the Complainant may be protected in some cases in respect of a Local Complaint. For a Referred Complaint, it may also be withheld at the direction of the ESO.

²⁴ See note 22 above.

Standards Committee Procedure Rules

- invite the Member to identify any person who the Member considers should be interviewed as part of the investigation; and
- give the Member the opportunity to comment on the allegations made.

4.11 Draft Reports

4.11.1 When the Investigator has concluded the investigation, the Investigator will consider whether to issue a draft report before the final report.

4.11.2 Where the Investigator decides to issue a draft report, s/he will issue this to

- the Member; and
- the Complainant

for review and comment, giving the Investigator the opportunity to check facts and ensure that all aspects of the case have been explored in sufficient detail.

4.11.3 The Investigator does not need to send the draft report to the relevant parish clerk.

4.11.4 The Investigator will mark the draft report “confidential” and “draft”.

4.11.5 The Member may make representations about the draft report in whatever manner is most convenient to him/her.

4.11.6 The Investigator will take whatever action s/he considers to be appropriate in view of any representations received.

4.12 The Final Report

4.12.1 The Report should be written and contain:-

- a “final” marking;
- the date;
- (where a Referred Complaint) the legislation under which the investigation is being carried out;
- the relevant sections of the Local Code or Code of Conduct;
- evidence;
- the Investigator’s findings of fact;
- the Investigator’s reasoning;
- the investigator’s finding whether
 - there has been a failure to comply with the Local Code or Code of Conduct – a “finding of failure”; or
 - there has not been a failure to comply with the Local Code or Code of Conduct – a “finding of no failure”; and
- documents relied on by the Investigator in reaching his or her conclusions.

4.12.2 The report should state that it represents the Investigator’s final findings and will be presented to the Standards Committee.

Standards Committee Procedure Rules

5.0 RECEIPT OF REPORT - Local Complaints and Referred Complaints for Investigation

Deleted: NOTIFICATION

5.1 Notification of Report

5.1.1 The Investigator will send a copy of the final report to

- the Member;
- the Complainant;
- the Standards Committee²⁵;
- the clerk of any relevant parish council²⁶;
- the ESO²⁷; and
- the Monitoring Officer²⁸

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¶ 5.1.1

5.1.2 The report will be accompanied by information explaining the circumstances under which the Standards Committee may conduct a hearing into the allegations, and the procedure for this.

5.1.3 The Monitoring Officer will:

within 2 days of completing or receiving the report:

- ask the Committee Clerk to make arrangements for the Committee either to
 - start the pre-hearing process (where the report contains a finding of failure); or
 - consider the report in accordance with paragraph [5.2](#) below (where the report contains a finding of no failure);
- notify the Committee Clerk of the date on which the report was completed and the date on which the report was sent to the Member;

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¶

within 5 days of completing or receiving the report, tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.²⁹

5.2 Consideration Of Report By The Committee Where Finding Of No Failure

5.2.1 Where the Committee receives a report which contains a finding of no failure, it will meet to consider the report³⁰ and decide whether:

- it accepts the Investigator's finding (a "finding of acceptance"), or
- the matter should be considered at a hearing of the Standards Committee.

²⁵ Members of the Committee are advised that the contents of the Investigator's report remains confidential until all or part of it is brought into the public domain at the hearing.

²⁶ Referred Complaint only

²⁷ Referred Complaint only

²⁸ Where the Monitoring Officer has not acted as Investigator

²⁹ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

³⁰ In the event that the Committee receives a report with a number of findings, when one or more of those findings indicate a breach of the Code of Conduct or a Local Code, the Committee will not consider the report prior to the hearing in relation to the findings of breach. In these circumstances the Monitoring Officer will ask the Committee Clerk to start the pre-hearing process in accordance with Rule 5.2.1. The Committee, or the Parish and Town Council's Hearings Sub-Committee as appropriate, will consider the entirety of the report at the hearing including the finding of no breach.

³⁰ Referred Complaint only

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5.2.2 At this meeting, the Committee will consider the report; it will not interview witnesses, nor take representations from the parties.

5.2.3 The Committee may make recommendations to the Authority on matters arising from the report.

5.2.4 As soon as reasonably practicable after making a finding of acceptance, the Committee shall give written notice of the finding to

- the Member;
- the ESO³¹;
- the Investigator;
- any Parish Council³²; and
- the Complainant³³

5.2.5 The Committee shall also as soon as reasonably practicable, arrange for a notice to be published stating that the Committee have found that there has not been a failure on the part of the Member to comply with the Code of Conduct. This notice shall not be published if the Member requests that it should not be.

6 RECEIPT OF REPORT - Referred Complaint for Determination

6.1 Notification of Report

6.1.1 When the Monitoring Officer receives a copy of an Investigator's report relating to a Referred Complaint for Determination s/he will:-

- within 2 days, send a copy of the report to the Member;
- within 2 days, send a copy of the report to all members of the Committee,³⁴
- within 2 days, ask the Committee Clerk to make arrangements for the Committee to consider the report, and to start the pre-hearing process and notify the Committee Clerk of the date on which the report was received from the Investigator and on which it was sent to the Member;
- within 5 days , tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.³⁵

³¹ Referred Complaint only

³² Referred Complaints only

³³ Also, to the Standards Committee of the authority concerned, if not the Standards Committee that made the finding, and the Standards Committee of any other authority concerned, if not the Standards Committee that made the finding.

³⁴ Members of the Committee are advised that the contents of the Investigator's report remains confidential until all or part of it is brought into the public domain at the hearing.

³⁵ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

7.0 HEARINGS BY COMMITTEE

7.1 The Standards Committee³⁶ shall conduct a hearing in relation to

- a Referred Complaint for Determination;
- a report prepared by an Investigator which concerns a finding of failure; or
- a Complaint which the Committee has decided should be considered at a hearing, in accordance with paragraph 6 above.

8.0 THE PRE-HEARING PROCESS

8.1 The pre-hearing process will only deal with procedural issues. It will normally be carried out in writing, although the Chair has discretion to convene a pre-hearing meeting with the Parties, where the Chair considers this is necessary.

8.2 The purpose of the pre-hearing process is to:

- identify whether the Member disagrees with any of the findings of fact in the report;
- decide whether or not those disagreements are significant to the hearing;
- decide whether or not to hear evidence about those disagreements during the hearing;
- decide whether or not there are any parts of the hearing that should be held in private; and
- decide whether or not any parts of the report or other documents should be withheld from the public.

8.3 After consultation with the Chair and within 3 days of receiving notification from the Monitoring Officer the Committee Clerk will:-

- provide a copy of this procedure to the Member;
- send the Member an outline of his/her rights and responsibilities (Annex B to this procedure); and
- invite the Member to respond in writing by a set time³⁷ to the questions set out in the Member's Information Form (Annex C to this procedure), in order to find out whether the Member:

- disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
- wishes to make representations about any sanctions to be imposed if the Committee decide that the Member has breached the Code of Conduct or a Local Code;
- wants to be represented at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Committee, either verbally or in writing;
- can come to the hearing on the proposed date³⁸;

³⁶ Or, in the case of a complaint in relation to a Parish or Town Councillor, the Parish and Town Council Hearings Sub Committee.

³⁷ The Chair will decide the set time in relation to each Complaint, according to the relevant circumstances, but it will be a minimum of 10 days.

Standards Committee Procedure Rules

- wants any part of the hearing to be held in private; and
- wants any part of the report or other relevant documents to be withheld from the public.

8.4 If the Member does not respond within the time set under paragraph 8.3 the Committee Clerk will send the Member a reminder giving a further 5 working days in which to respond.

8.5 If the Member fails to respond following the reminder it will be assumed that the Member

- agrees with any of the findings of fact in the report;
- does not wish to make representations about any sanctions to be imposed if the Committee decide that the Member has breached the Code of Conduct or a Local Code;
- does not want to be represented at the hearing by a solicitor, barrister or any other person;
- does not want to give evidence to the Committee, either verbally or in writing;
- is content for the hearing to be fixed on any of the proposed dates whether or not the Member can attend;
- does not want any part of the hearing to be held in private; and
- does not want any part of the report or other relevant documents to be withheld from the public.

8.6 After consultation with the Chair and within 3 days of receiving the Member's response the Committee Clerk will:

- send the Member's response to the Investigator for comment and response within a set time³⁹ to the questions set out in the Investigator's Information Form (Annex D to this procedure) in order to find out whether the Investigator:
 - wants to be represented at the hearing;
 - wants to call relevant witnesses to give evidence to the Committee;
 - wants any part of the hearing to be held in private; and
 - wants any part of the report or other relevant documents to be withheld from the public.
- After the set time periods have expired, (or after the Committee Clerk has received responses from both Parties if this is earlier), the Committee Clerk will refer the responses of the Parties to the Chair. The Chair will review the information received, and, after consultation with the Legal Advisor, may decide any issues which will help the Committee to determine the complaint.

8.7 These decisions may include but are not limited to the following matters:

- whether the Committee consents to the Member being represented by a non-legally qualified representative;

³⁸ Where ever possible, given the availability of Members of the Standards Committee or the Parish Council Hearings Sub-Committee and the availability of suitable accommodation the Member will be given a choice of dates. These dates will be proposed by the Chair in consultation with the Committee Clerk.

³⁹ The Chair will decide the set time in relation to each complaint, according to the relevant circumstances, but will be a minimum of 10 days.

Standards Committee Procedure Rules

- whether witnesses will be heard at the hearing;
- whether the Committee wishes to call any witnesses to attend who may help the Committee to determine the Complaint;⁴⁰
- whether the Committee is likely to refuse to hear evidence from any of the witnesses notified by either Party, and the reasons for this;⁴¹
- the date, time and place of the hearing;
- a request to either Party to provide by a set date such details, supplementary statement or access to documents as may be reasonably required for the determination of the Complaint; and
- in respect of a Referred Complaint, where the ESO has indicated that the ESO does neither wish to attend, nor be represented at the hearing, a request to the Monitoring Officer to nominate a person to act as Investigator at the hearing.

8.8 Pre-hearing process summary

| 8.8.1 The Chair, in consultation with the Legal Advisor will then prepare a pre-hearing process summary, in accordance with Annex E to this procedure. This will be sent to the Parties, the Chair of the Committee and the Legal Advisor at least 10 days before the hearing.

8.8.2 The purpose of the summary is to:

- set the date, time and place for the hearing;⁴²
- summarise the Complaint;
- outline the main facts of the Complaint that are agreed;
- outline the main facts which are not agreed;
- note whether the Member or the Investigator will go to or be represented at the hearing;
- list those witnesses, if any who will be asked to give evidence; and
- outline the proposed procedure for the hearing.

9.0 HEARINGS - PROCEDURE

Note : the Committee may vary this procedure in respect of hearings in accordance with the provisions of paragraphs 2.3 and 2.4 above.

9.1 Recording the Hearing

| All hearings by the Committee shall be recorded in full by tape recording, in accordance with Annex E to this procedure.

⁴⁰ This may include the Complainant. The Committee cannot however order witnesses to appear or give evidence.

⁴¹ The Party will be able to make representations about this to the Committee at the beginning of the hearing, provided that the Party has notified the Committee Clerk at least 10 days before the hearing that they intend to do so.

⁴² Unless a complaint is complicated, the Committee will aim to complete a hearing in one sitting or in consecutive sittings of no more than 1 day in total.

9.2 Purpose of the Hearing

The purpose of the hearing is to test the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. The Committee's approach should therefore be inquisitorial, based on seeking information in order to identify potential flaws in the report and to clarify issues, rather than an adversarial approach where the focus would be on hearing evidence and cross-examining witnesses.

9.3 Documents

- 9.3.1 The Committee Clerk, after consultation with the Legal Advisor and the Parties, will collate the documents provided by the Parties to be considered by the Committee during the hearing.
- 9.3.2 Where a Party has asked for a document be kept private, this document will not be made available to the public with the agenda before the meeting.⁴³

9.4 Witnesses

- 9.4.1 A Member may arrange for witnesses to attend at a hearing as the Member wishes, although the Committee may place a limit on the number of witnesses a Member may call if it is of the view that the number of witnesses is unreasonable.
- 9.4.2 The Committee has the right to govern its own procedures as long as it acts fairly. For this reason the Committee may choose not to hear from certain witnesses if it believes that they will simply be repeating evidence of earlier witnesses or if a witness will not be providing evidence that will assist the Standards Committee to reach its decision.
- 9.4.3 The Committee may arrange for witnesses to attend as it considers appropriate.

9.5 Legal Advice

The Committee may take legal advice from its Legal Advisor at any time during the hearing or while it is deliberating. The substance of any legal advice given to the Committee should be shared with the Parties attending the hearing.

9.6 Questioning

- 9.6.1 The Committee controls the procedure and evidence presented at a hearing, including the way witnesses are questioned.
- 9.6.2 At any time during the hearing the Committee may directly question any witness or Party on any point raised either in evidence or by way of representations.

⁴³ The Committee will have to consider which documents should be made available for public inspection – see 6.9.2 below.

Standards Committee Procedure Rules

9.6.3 It is for the Committee to decide whether Parties may question or cross-examine witnesses. The Committee can ask for questions to be directed through the Chair.

9.7 New Evidence

9.7.1 The Committee will not allow the Member to raise new disagreements over findings of fact in the Investigator's report at the hearing unless there are good reasons for doing so.⁴⁴

9.7.2 If the Member disagrees with any relevant fact in the Investigator's report without having given prior notice of the disagreement⁴⁵, the Committee will ask the Member for the reasons why the evidence was not raised before.

9.7.3 At a hearing of a Referred Complaint at which the ESO is not present, the Committee will consider whether or not it would be in the public interest to continue in the ESO's absence, even if an Investigator has been nominated by the Monitoring Officer for the purpose of the hearing.

9.7.4 After considering the Member's explanation for not raising the issue earlier the Committee may then:

- continue with the hearing relying on the information in the Investigator's report; or
- allow the Member to make representations about the issue, and allow the Investigator to respond and call any witnesses, as necessary; or
- postpone the hearing to arrange for appropriate witnesses to be present, or for the ESO to be present.

9.8 Failure to attend

9.8.1 If either Party fails to attend a hearing, the Committee will consider whether there is sufficient reason for the failure. The Committee shall consider any representations submitted by the Party in writing before making any determination in the Party's absence.

9.8.2 If the Committee does not consider that there is sufficient reason, it will consider the complaint and make a determination in the Party's absence.

9.8.3 If the Committee does consider there is sufficient reason, it will adjourn the hearing to another date.⁴⁶

⁴⁴ The Committee should not re-open an investigation. However if more evidence becomes available after the completion of the investigation the Committee may consider that evidence during the course of the hearing.

⁴⁵ by raising it in the course of the pre-hearing process, or as soon as practicable after that.

⁴⁶ In respect of Referred Complaints, this is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Monitoring Officer received the report from the ESO.

9.9 Adjournment for further information or investigation

9.9.1 The Committee may at any stage prior to the conclusion of the hearing adjourn the hearing⁴⁷ and require the Investigator to seek further information or undertake further investigation on any specified point.

9.9.2 The Committee may not adjourn the hearing on more than one occasion under this paragraph.

9.10 Referral back to the ESO- Referred Complaints

9.10.1 The Committee may at any stage prior to the conclusion of the hearing adjourn the hearing and make a written request to the ESO that the matter be referred back to the ESO for investigation. Any such request must set out the Committee's reasons for making it.

9.10.2 The Committee shall comply with any direction given by the ESO in response to such a request. Where the ESO directs that the Committee should continue to deal with the complaint, the hearing must be held within three months of the direction.

9.11 Stage 1: Introductions and procedure

9.11.1 The Committee and its advisors will assemble in the hearing room⁴⁸.

9.11.2 At the start of the Hearing all parties present will be invited to enter the hearing room.

9.11.3 The Chair will ensure that the Parties are formally introduced.

9.11.4 The Committee will consider whether to exclude the public from any parts of the hearing and which parts of the agenda are not to be made available for public inspection⁴⁹. There is a clear presumption that hearings will be held in public. The Committee will therefore need to keep this issue under review throughout the hearing, and may consider excluding the public on each occasion it makes its deliberations in making any finding on a complaint – marked * in this procedure.

9.11.5 The Legal Advisor will outline the procedure which the Committee proposes to follow for the hearing. If the Committee proposes to vary the procedure from that set out below, it will invite and consider representations on this from the Parties, before proceeding.

⁴⁷ In respect of Referred Complaints, this is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Monitoring Officer received the report from the ESO

⁴⁸ At no time before, during or after the hearing, should either party be present or represented before the Committee without the other party being also present or represented, unless the other party has failed to attend and the Committee is discussing whether to proceed in his/her absence or has decided to proceed in his/her absence.

⁴⁹ See further Access to Information Procedure Rules and Annex G. If evidence is heard in private, the Legal Advisor should warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing.

Standards Committee Procedure Rules

9.12 Stage 2: Outstanding Preliminary procedural issues

9.12.1 The Committee will then invite the Parties to make representations about any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

9.12.2 The Committee will then decide these issues or disagreements.*

9.13 Stage 3: Making findings of fact

9.13.1 After dealing with any preliminary issues, the Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.

9.13.2 If there is no significant disagreement about the facts, the Committee will move on to Stage 4 of the hearing.

9.13.3 If there is a disagreement, the Committee will invite the Investigator to make any necessary representations to support the relevant findings of fact in the report.

9.13.4 The Investigator may, with the agreement of the Committee, call any necessary supporting witnesses to give evidence.

9.13.5 The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

9.13.6 The Member will then have the opportunity to make representations to support the Member's version of the facts and, with the agreement of the Committee, may call any witnesses to give evidence.

9.13.7 The Committee may allow the Investigator to challenge any evidence put forward by witnesses called by the Member.

9.13.8 If the Member disagrees with most of the facts, the Committee may ask the Investigator to start by making representations about all the relevant facts, instead of discussing each fact individually.

9.13.9 The Committee will make findings in relation to the facts *.

9.13.10 The Chair will announce the Committee's findings of fact.

9.14 Stage 4: Did the Member fail to follow the Code⁵⁰?

9.14.1 The Committee will then consider whether or not, based on the facts it has found, the Member has failed to follow the Code.

⁵⁰ In relation to a Referred Complaint this means the Code of Conduct, and in relation to a Local Complaint, the Local Code.

Standards Committee Procedure Rules

- 9.14.2 The Committee will invite the Member to give relevant reasons why the Committee should decide that the Member has not failed to follow the Code, and consider any written representations from the Member about this.
- 9.14.3 The Committee will then invite the Investigator to give relevant reasons why the Committee should decide that the Member had failed to follow the Code, and consider any written representations from the Investigator about this.
- 9.14.4 The Member will be invited to make any final relevant representations, in response to anything raised by the Investigator.
- 9.14.5 The Committee will then decide whether or not the Member has failed to follow the Code.*
- 9.14.6 The Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code.
- 9.14.7 Where the Committee decides that the Member has not failed to follow the Code, the Committee will then move on to Stage 6 of this procedure.

9.15 Stage 5: Sanctions

- 9.15.1 The Committee will consider any verbal or written representations from the Investigator and the Member about:-
 - whether or not the Committee should impose any sanction;
 - what form any sanction should take;
- 9.15.2 The Committee will take into account any guidelines it has agreed for imposing sanctions.
- 9.15.3 The Committee will then decide whether or not to impose a sanction on the Member, and if so what the sanction should be *, in accordance with Annex H to this procedure.⁵¹
- 9.15.4 The Committee will also decide how much of the information which it has considered should be made available for public inspection after the announcement of its decision in public.⁵²
- 9.15.5 The Chair will announce the Committee's decision.

⁵¹ In accordance with Regulation 7 of the Local Authorities (Code of Conduct) Local Determination Regulations 2000, in relation to Referred Complaints, the Committee must make one of the following findings:-

• that the Member had not failed to comply with the Code of Conduct; or
• that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters which were considered by the Committee; or

that the Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

⁵² The Standards Committee Protocol will be followed in relation to any dealings with the media about the Complaint.

9.16 Stage 6: Recommendations to the Authority

9.16.1 The Committee will go on to consider any verbal or written representations from the Investigator about whether or not the Committee should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

9.17 Stage 7: Making the Findings Public

9.17.1 The Chair will confirm the Committee's decision, with reasons, in public at the end of the hearing, and provide a short written decision on that day.

9.17.2 The Committee Clerk will where possible prepare the full written decision in draft on the day of the hearing.

9.17.3 In relation to a Referred Complaint⁵³, the Committee shall within 10 days, or as soon as reasonably practicable, take reasonable steps to give written notice of its findings and the reasons for the findings to:

- the Member;
- the ESO;
- the Investigator
- the Standards Committee;
- the Standards Committee of any other authority concerned⁵⁴;
- any Parish Council concerned; and
- the Complainant.

9.17.4 The decision shall be in the format set out in Annex I.

9.17.5 The Committee Clerk shall also arrange for a summary of the finding to be published in one or more newspaper circulating in the area of the Authority⁵⁵, except where the Committee has found that the Member had not failed to comply with the Code of Conduct, and the Member asks for the summary not to be published.

9.17.6 In relation to Local Complaints, the Committee shall within 10 days, or as soon as reasonably practicable, give written notice of its findings and the reasons for the findings to:

- the Member;
- the Investigator;
- the Standards Committee; and
- the Complainant.

⁵³In accordance with Regulation 8 of the Local Authorities (Code of Conduct) Local Determination Regulations 2003

⁵⁴where at the time of the complaint, the Member was a member of another authority

⁵⁵In accordance with Regulation 8 of the Local Authorities (Code of Conduct) Local Determination Regulations 2003

10.0 MONITORING

- 10.1 The Monitoring Officer will report annually to the Committee on how the “gate-keeping” role has been discharged, in respect of preliminary investigations under paragraph 3.2.
- 10.2 The Monitoring Officer will report to the Standards Committee annually on whether the arrangements set out in this procedure have been complied with, and will include any proposals for amendments in the light of any issues that have arisen during the year.

Deleted: and in respect of reports where s/he decided that no further action should be taken, under paragraph 4.1.

11.0 REVIEW OF PROCEDURE

The Standards Committee will review this procedure at the completion of each complaint determined in accordance with it.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

GENERAL PRINCIPLES GOVERNING MEMBERS' CONDUCT

1. Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2. Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

3. Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

4. Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

5. Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

6. Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

7. Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

8. Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

9. Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

10. Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

NOTE

The principles are expected to govern only the official conduct of Members and co-opted Members of the Council, except the second and eighth, which have effect on all occasions.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

MEMBERS' RIGHTS AND RESPONSIBILITIES - OUTLINE

You have the right to:

- go to the hearing and present your case;
- call a reasonable number of witnesses to give relevant evidence to the Standards Committee; and
- be represented at the hearing by a solicitor, barrister, or with the consent of the Committee, any other person. (You will, however, be responsible for meeting the cost of any representation).

Any disagreements with the findings of fact in the Investigator's report must be raised during the pre-hearing process. **The Committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.**

You do not have to go to the hearing or be represented. If you choose not to go to the hearing, the Committee may make a determination in your absence.

The hearing will be held in public and the relevant papers will be available for public inspection unless the Standards Committee is persuaded that there is good reason to exclude the public, in line with the relevant access to information and human rights legislation.

After considering the written and verbal presentations, the Standards Committee will reach and announce its findings of fact, whether or not you have failed to follow the Code of Conduct or a Local Code and whether or not a sanction should be set. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the Standards Committee will give you its full written decision within 10 working days of the end of the hearing.

Breaches of the Authority's Code of Conduct

If the Standards Committee decides that you have failed to follow the Code of Conduct and that you should be penalised, it may do any one or a combination of the following:

- censure you. This is the only form of sanction available when dealing with a person who is no longer a member of the Authority;
- restrict your access to the premises or resources of the Authority for up to three months(provided that the restrictions are reasonable and proportionate to the breach, and do not unduly restrict your ability to perform your functions as a Member);
- suspend or partly suspend you for up to three months;

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Standards Committee Procedure Rules

- require you to submit a written apology in a form specified by the Standards Committee;
- require you to undertake specified training;
- require you to undertake specified conciliation;
- suspend or partly suspend you for up to three months on the condition that the suspension or partial suspension will end if you apologise in writing, receive any training or take part in any conciliation that the Standards Committee orders you to. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Standards Committee.

Sanctions may start immediately or up to six months after the hearing, if the Standards Committee wishes.

The Standards Committee will also arrange to publish a summary of its findings, reasons for its findings and any sanction set in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the Standards Committee finds that you have not broken the Code, you can ask the Standards Committee not to have this information published.

You have the right to apply in writing to the President of The Adjudication Panel for England for permission to appeal against that finding.

Breaches of a Local Code

If the Standards Committee decides that you have failed to follow a Local Code, and that you should be penalised, it may do any one or a combination of the following:

- offer advice;
- censure you;
- restrict your access to resources of the Authority; and/or
- recommend to the Council that you are removed from a Committee.

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Leeds City CouncilProcedure for dealing with complaints of misconduct against MembersMEMBER'S INFORMATION FORM

This form is used to collect information to help plan the hearing. If you have a representative to present your case please feel free to ask them to help you complete this form.

PART 1 - GENERAL INFORMATION

<u>1</u>	<u>Name of Member subject to the complaint</u>		
<u>2</u>	<u>Do you wish to attend the hearing?</u>	<input type="checkbox"/>	<u>If you do not wish to attend the hearing please say why.</u>
	<u>Yes</u>	<input type="checkbox"/>	
	<u>No</u>	<input type="checkbox"/>	* Deleted: (Please go to Question)
<u>3</u>	<u>The Standards Committee have offered the following dates for your hearing:-</u>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<u>If you are unable to attend on any of the dates the Standards Committee may decide to continue with the hearing in your absence (see paragraph 9.8 of the Standards Committee Procedure Rules in this regard).</u> <u>Please use this space to set out the reasons why you can not attend on any of the dates offered.</u> Reason: * Deleted: 1
	<u>Please indicate on which dates you are able to attend by placing a tick in the box next to them.</u>		

4 <u>You may present your own case at the hearing or choose a representative to do it for you.</u> <u>Are you going to present your own case?</u> <u>Yes (Please go to questions 8)</u> <u>No (Please go to questions 5)</u>	<input type="checkbox"/> <input type="checkbox"/>		
5 <u>Please state the name of your representative.</u>			
6 <u>Is your representative a practising solicitor or barrister?</u> <u>Yes</u> <u>No</u>	<input type="checkbox"/> <input type="checkbox"/>	<u>If "Yes", please give his or her legal qualifications.</u>	
7 <u>Does your representative have any connection with the case?</u> <u>Yes</u> <u>No</u>	<input type="checkbox"/> <input type="checkbox"/>	<u>If "Yes", please give details</u>	

Standards Committee Procedure Rules

<p>8 <u>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)?</u></p> <p><u>Yes</u></p> <p><u>No</u></p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please give details.</p>
<p>9 <u>Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)?</u></p> <p><u>Yes</u></p> <p><u>No</u></p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please give details.</p>
<p>10 <u>Do you want any part(s) of the hearing to be held in private?</u></p> <p><u>Yes</u></p> <p><u>No</u></p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please</p> <ul style="list-style-type: none">• <u>identify which part(s);</u>• <u>give reasons.</u>

11	<p><u>Do you want any part(s) of the relevant documents to be withheld from public inspection?</u></p> <p><u>Yes</u></p> <p><u>No</u></p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please</p> <ul style="list-style-type: none">• <u>identify which documents (state clearly which parts of these documents)</u>• <u>give reasons.</u>	
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PART 2 – THE EVIDENCE

Member's response to the evidence set out in the report

Please read the report of the ESO or Investigating Officer. Then fill in Table A and B.

Table A

Please enter the number of any paragraph where you disagree with the findings of fact set out in the report by the ESO/Investigating Officer. For each paragraph briefly give your reasons for disagreeing with the finding and enter your suggested alternative. **You should note that the Committee will not allow you to raise new disagreements over findings of fact in the report at the hearing, that you have not set out on this form, unless there are good reasons for doing so.**

<u>Paragraph number of the report</u>	<u>Reasons for disagreeing with the findings of fact provided in that paragraph</u>	<u>Suggestion as to how the paragraph should read</u>

Please attach separate sheets if necessary.

Table B

Please set out below, any other evidence not contained in the report that you feel is relevant to the Complaint made about you.
Please use a different numbered line for each new piece of evidence.

	<u>Details of the evidence</u>
1	
2	
3	
4	

Please attach separate sheets if necessary.

Standards Committee Procedure Rules

PART 3 - MITIGATION

At the hearing the Committee will have to decide whether you have failed to follow the Code of Conduct/a Local Code. If, and only if, they decide that you have failed to follow the Code of Conduct/a Local Code they will then have to decide what sanction they should apply. For details of the Sanctions they might apply please see Annex A to the Standards Committee Procedure Rules which was sent to you in the letter advising you of the hearing.

Please set out below, any information that you would like the Standards Committee to take into account if it finds that you have failed to follow the Code of Conduct / a Local Code. Please note that no such finding has yet been made.

Please use a new numbered line for each new piece of information.

<u>Factors for the Standards Committee to take into account when deciding on a Sanction</u>	
<u>1</u>	
<u>2</u>	
<u>3</u>	
<u>4</u>	

Please attach separate sheets if necessary.

PART 4 - WITNESSES

<u>1</u>	<u>Do you want to call any witnesses?</u>	<input type="checkbox"/>	<u>If "Yes", please give the name of each proposed witness below:-</u>
	<u>Yes</u>	<input type="checkbox"/>	<u>Witness 1</u>
	<u>No</u>	<input type="checkbox"/>	<u>Witness 2</u>
			<u>Witness 3</u>
			<u>Witness 4</u>
<u>2</u>	<u>On a separate sheet please give brief details of the evidence to be given by each witness. The details for each witness should start with their name. You should then state whether the witness will give evidence about the complaint and give a brief description of that evidence if any. You should then state whether the witness will give evidence about information the Committee should take into account if they find that you have failed to follow the Code of Conduct/a Local Code and give a brief description of that evidence if any.</u>		

Signed(Member) Date.....

Signed.....(Representative⁴)Date.....

⁴ If you are represented

Deleted: <#>¶
 Leeds City Council¶
 Procedure for dealing with
 complaints of misconduct
 against Members of the
 Council - Annex B¶
 ¶ Member's name:¶
 ¶ FORM 1¶
 ¶ Member's response to the
 evidence set out in the report¶
 ¶ Please enter the number of any
 paragraph where you disagree
 with the findings of fact in the
 report, and give your reasons
 and your suggested alternative.
 The Committee will not allow
 you to raise new
 disagreements over findings
 of fact in the report at the
 hearing unless there are
 good reasons for doing so.¶
 ¶ Paragraph number of the
 report ... [1]

Leeds City CouncilProcedure for dealing with complaints of misconduct against Members**INVESTIGATOR'S INFORMATION FORM**

This form is used to collect information to help plan the hearing. If you have a representative to present your case please feel free to ask them to help you complete this form.

PART 1 - GENERAL INFORMATION

1	Name of Member subject to the complaint		
2	Do you wish to attend the hearing?	<input type="checkbox"/>	If you do not wish to attend the hearing please say why.
	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>	
3	The Standards Committee have offered the following dates for your hearing:- Please indicate on which dates you are able to attend by placing a tick in the box next to them.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>If you are unable to attend on any of the dates the Standards Committee may decide to continue with the hearing in your absence (see paragraph 9.8 of the Standards Committee Procedure Rules in this regard).</p> <p>Please use this space to set out the reasons why you can not attend on any of the dates offered.</p> <p>Reason:</p>

4	<p>You may present your own case at the hearing or choose a representative to do it for you.</p> <p>Are you going to present your own case?</p> <p>Yes (Please go to questions 8)</p> <p>No (Please go to questions 5)</p>	<input type="checkbox"/> <input type="checkbox"/>	
5	Please state the name of your representative.		
6	<p>Is your representative a practising solicitor or barrister?</p> <p>Yes</p> <p>No</p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please give his or her legal qualifications.</p>
7	<p>Does your representative have any connection with the case?</p> <p>Yes</p> <p>No</p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please give details</p>

Standards Committee Procedure Rules

8 Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)? Yes No	<input type="checkbox"/> <input type="checkbox"/>	If "Yes", please give details.
9 Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)? Yes No	<input type="checkbox"/> <input type="checkbox"/>	If "Yes", please give details.
10 Do you want any part(s) of the hearing to be held in private? Yes No	<input type="checkbox"/> <input type="checkbox"/>	If "Yes", please <ul style="list-style-type: none">• identify which part(s); • give reasons.

Standards Committee Procedure Rules

<p>11 Do you want any part(s) of the relevant documents to be withheld from public inspection?</p> <p>Yes</p> <p>No</p>	<input type="checkbox"/> <input type="checkbox"/>	<p>If "Yes", please</p> <ul style="list-style-type: none">• identify which documents (state clearly which parts of these documents)• give reasons.
--	--	---

Standards Committee Procedure Rules

PART 2 - WITNESSES

1	Do you want to call any witnesses?		If "Yes", please give the name of each proposed witness below:-
			<input type="text"/> Witness 1
		<input type="text"/> Witness 2	
		<input type="text"/> Witness 3	
		<input type="text"/> Witness 4	
2	On a separate sheet please give brief details of the evidence to be given by each witness. The details for each witness should start with their name. You should then state whether the witness will give evidence about the complaint and give a brief description of that evidence if any. You should then state whether the witness will give evidence about information the Committee should take into account if they find that you have failed to follow the Code of Conduct/a Local Code and give a brief description of that evidence if any.		

Signed(Member) Date.....

Signed.....(Representative⁴)Date.....

⁴ If you are represented

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

Checklist for the pre-hearing process summary

The pre-hearing process summary should include:

- the name of the Authority;
- the name of the Member;
- the name of the Complainant (unless the identity is being withheld in accordance with the Authority's Whistle Blowing Policy).
- case reference numbers of the principal Authority and the Standards Board for England¹;
- the name of the Chair;
- the name of the Monitoring Officer;
- the name of the Investigator²;
- the name of the Committee Clerk;
- the date the pre-hearing process summary was produced;
- the date, time and place of the hearing;
- a summary of the Complaint;
- the relevant section or sections of the Code of Conduct / Local Code³;
- the findings of fact in the report that are agreed;
- the findings of fact in the report that are not agreed;
- whether or not the Member or the Investigator will attend or be represented;
- the names of any witnesses who will be asked to give evidence; and
- an outline of the proposed procedure for the hearing.

¹ For Referred Complaints

² For Referred Complaints for Determination this is the name of the ESO who referred the Complaint. For Referred Complaints for Investigation, this is the name of the Monitoring Officer or nominee.

³ As applicable

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

THE USE OF RECORDING EQUIPMENT IN HEARINGS BY COMMITTEE

1.0 INTRODUCTION

- 1.1 This guidance note details the arrangements for the use of recording equipment during hearings by the Committee and the retention of the resulting tapes.

2.0 BACKGROUND

- 2.1 The Standards Committee Procedure Rules provide that all hearings shall be recorded in full by tape recording.
- 2.2 This guidance note indicates the procedures to be followed in recording hearings by the Committee, and sets out the controls on access to taped evidence.

3.0 RECORDING OF HEARINGS

- 3.1 The primary purpose of taping hearings by the Committee is to obtain a verbatim record of proceedings in order to ensure accurate information can be provided in the event of an appeal. This is important as it is possible that evidence could be heard over a number of separate sessions.
- 3.2 In addition the recording may be used by the Committee to support their determination of a complaint by enabling them to rehear any part of the hearing in the event of uncertainty in relation to any part of the evidence.
- 3.3 It will be normal practice for hearings by the Committee to be taped as a matter of course. However the Committee retain discretion over the taping of business and the Committee may decide that taping is not required for all or part of the meeting, in accordance with Rule 9.1 of the Procedure Rules.
- 3.4 The Agenda for the hearing will indicate that the proceedings may be taped.
- 3.5 It will be the duty of the Chair to inform all parties involved that the hearing is being tape recorded.
- 3.6 It is the responsibility of the Governance Services Unit to provide appropriate equipment and organise the taping of hearings.

4.0 ACCESS TO TAPES

- 4.1 Since the purpose of taping the hearing is to provide a verbatim record of the hearing and to support the process of the Committee's determination, access to the tapes will be controlled by the Monitoring Officer⁵⁶.
- 4.2 Tapes will be kept by the Monitoring Officer for 2 months from the date of the hearing and will then be erased, except in the event of an appeal in which case the tapes will be retained until the final outcome of the case is known.

⁵⁶ Access will be provided where required in accordance with the Data Protection Act 1998, or where necessary in relation to an appeal to the Adjudication Panel.

Leeds City CouncilProcedure for dealing with complaints of misconduct against Members**Excluding the public from hearings – Guidance**

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the Committee considers that "confidential information" is likely to be revealed during the hearing, the committee must exclude the public by law. "Confidential information" is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The Committee also has the power to exclude the public if it considers that "exempt information" is likely to be revealed during the hearing. The categories of "exempt information" are listed in the Access to Information Procedure Rules⁵⁷. The Committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The Committee also has a duty to act fairly and in line with the rules of natural justice. | - - Deleted: Annex E
- 3 Article 6 says that the public **may** be excluded from all or part of the hearing if it is in the interests of:
 - (a) morals;
 - (b) public order;
 - (c) justice;
 - (d) national security in a democratic society; or
 - (e) protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the Committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- 5 The Committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to "receive and impart information and ideas without interference by public authority". Any restrictions on this right must

⁵⁷ Contained within Part 4 of the Constitution

Standards Committee Procedure Rules

be "prescribed by law and ... necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary".

- 6 The Committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee) may interfere with this right unless it is:
 - (a) in line with the law; and
 - (b) necessary in a democratic society in the interests of:
 - (i) national security;
 - (ii) public safety;
 - (iii) the economic wellbeing of the country;
 - (iv) preventing crime or disorder;
 - (v) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
 - (vi) protecting people's rights and freedoms.

There is clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons, the hearing should be held in public unless the Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 7 Conflicting rights often have to be balanced against each other.
- 8 In relation to rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be "necessary in a democratic society". A measure will only be "necessary" if it meets "a pressing social need", and any restriction on people's rights must be "proportionate".
- 9 The Standards Board for England recommends that a Standards Committee should exclude the public when considering its decisions. The Board considers that this will not conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

SANCTIONS

Referred Complaints

If the Committee finds that the Member has failed to follow the Code of Conduct and that he or she should be penalised, it may do any one or a combination of the following:

- offer advice;
- censure the Member. This is the only form of sanction available when dealing with a person who is no longer a member of the Authority;
- restrict the Member's access to the premises or resources of the relevant Authority for up to three months, provided that the restrictions are reasonable and proportionate to the breach, and do not unduly restrict the Member's ability to perform his or her duties as a Member.
- suspend or partly suspend the Member for up to three months;
- require the Member to submit a written apology in a specified form;
- require the Member to undertake specified training;
- require the Member to undertake specified conciliation;
- suspend or partly suspend the Member for up to three months on the condition that the suspension or partial suspension will end if the Member apologises in writing, receives any training, or takes part in any conciliation that the Committee orders them to.
Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Committee.

Suspension or partial suspension will normally start immediately after the Committee has made its decision. However, if the Committee chooses, the sanction may start at any time up to six months following its decision. This may be appropriate if the sanction would otherwise have little effect on the Member, for example, in the case of a suspension or partial suspension, if there are no full Council or committee meetings which the Member would normally go to in the period following the conclusion of the hearing.

Local Complaints

If the Committee decides that the Member has failed to follow a Local Code, and that he or she should be penalised, it may do any one or a combination of the following:

- offer advice;
- censure the Member;
- recommend to the Authority that the Member is removed from particular responsibilities e.g. a particular Committee; or
- restrict access to resources of the Authority.

Standards Committee Procedure Rules

Deciding a sanction

When deciding a sanction, the Committee should make sure that it is reasonable and in proportion to the Member's behaviour. Before deciding what sanction to set, the Committee should consider the following questions, along with any other relevant circumstances.

- What was the Member's intention? Did the Member know that he or she was failing to follow the Code?
- Did the Member get advice from officers before the incident? Was that advice acted on in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
- What was the result of failing to follow the Code?
- How serious was the incident?
- Does the Member accept he or she was at fault?
- Did the Member apologise to the relevant people?
- Has the Member previously been warned or reprimanded for similar misconduct?
- Has the Member failed to follow the Code before?
- Is the Member likely to do the same thing again?

So, for example, if a Member has repeatedly or blatantly misused the Authority's information technology resources, the Committee may consider withdrawing those resources from the Member.

Suspension may be appropriate for more serious cases, such as those involving:

- bullying officers;
- trying to gain an advantage or disadvantage for themselves or others; or
- dishonesty or breaches of trust.

Sanctions involving restricting access to an Authority's premises or equipment should not unnecessarily restrict a Member's ability to carry out his or her responsibilities as an elected representative or co-opted member.

There may be other factors, specific to the local environment, that the Committee may also consider relevant when deciding what sanction to set.

Any conciliation process should have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Member and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.

When deciding on an appropriate sanction, the Committee may want to consider decisions made by other Standards Committees and case tribunals drawn from The Adjudication Panel for England that deal with similar types of cases.

Leeds City Council**Procedure for dealing with complaints of misconduct against Members****FULL WRITTEN DECISIONS**

For consistency and thoroughness, the Committee will use the following format for its full written decision:

The front cover of the Committee's full written decision will include:

- the name of the Authority;
- the name of the Member;
- the name of the Complainant (unless there are good reasons for keeping his or her identity confidential);
- case reference numbers of the principal authority and The Standards Board of England;
- the name of the Committee Member who chaired the hearing;
- the names of the Committee Members who took part in the hearing;
- the name of the Monitoring Officer;
- the name of the Investigator¹;
- the name of the Legal Advisor and Committee Clerk;
- the date of the hearing; and
- the date of the report.

The Committee's full written decision will include:

- a summary of the Complaint;
- the relevant section or sections of the Code of Conduct / Local Code
- a summary of the evidence considered and representations made;
- the findings of fact, including the reasons for them;
- the finding as to whether or not the Member failed to follow the Code of Conduct / Local Code, including the reasons for that finding;
- the penalties applied, if any, including the reasons for any penalties; and
- the right of appeal, including details of the postal and web site address for the Adjudication Panel. The appeal form produced by the Adjudication Panel (annex J to this procedure) will be attached to the decision.

¹ In respect of Referred Complaints for Determination, this will be the name of the ESO who referred the matter to the Monitoring Officer. In respect of Referred Complaints for Investigation, this will be the name of the Monitoring Officer or nominee.

Leeds City CouncilProcedure for dealing with complaints of misconduct against Members

Application for permission to appeal

1	Your Name and Address	
2	Local Authority or other body of which you are a Member	
3	Date of Standards Committee Decision against which you seek to appeal <i>(The decision itself should be attached to this form)</i>	
4	Do you dispute that you failed to comply with the provisions of the Code of Conduct as determined by the Standards Committee	YES/NO <i>(if yes, please give your reasons)</i>
5	Do you wish to appeal against the sanction imposed by Standards Committee?	YES/NO <i>(if yes, please give your reasons)</i>

Standards Committee Procedure Rules

6	If permission to appeal is granted do you agree to the Appeal being determined by way of written representations?	YES/NO
---	--	--------

Your signature

Print Name

Date

President's Decision:

Permission	Granted/Denied
Reason if permission refused:	

Signed

Date

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Originator: Amy Bowler

Tel: 0113 39 50261

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Consultation on Amendments to the Model Code of Conduct for Local Authority Members

Electoral Wards Affected:	Specific Implications For:
----------------------------------	-----------------------------------

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to advise Members of the Committee of the consultation document published by the Department for Communities and Local Government on amendments to the Members' Code of Conduct. This report also draws the Committees' attention to the draft initial response to the questions posed by the consultation paper by the Monitoring Officer and other stakeholders.
2. The consultation document was published on the Department for Communities and Local Government's website on 22nd January 2007. The paper represents the detailed amendments needed to put the Government's undertaking to establish a clearer, simpler and more proportionate Code of Conduct into effect.
3. The paper provides an explanatory commentary on the proposed amendments set out in the revised draft code, and asks for the views of consultees on the proposals. A revised Code of Conduct is attached at Annex A of the consultation paper. Comments need to be submitted to the Department for Communities and Local Government by 9th March 2007, so that the new Code of Conduct can be in place by May 2007.
4. Members of the Committee are asked to:
 - note the consultation document;
 - comment on and add to the draft initial responses from stakeholders at Appendix 3 (to follow); and
 - be prepared to comment on the final draft consultation response by 2nd March 2007.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Committee of the consultation document published by the Department for Communities and Local Government on amendments to the Members' Code of Conduct.
- 1.2 This report also draws the Committees' attention to the draft initial response to the questions posed by the consultation paper by the Monitoring Officer and other stakeholders.

2.0 Background Information

- 2.1 The consultation document was published on the Department for Communities and Local Government's (DCLG) website on 22nd January 2007. The paper represents the detailed amendments needed to put the Government's undertaking, to establish a clearer, simpler and more proportionate Code of Conduct, into effect.
- 2.2 The paper provides an explanatory commentary on the proposed amendments set out in the revised draft code, and asks for the views of consultees on the proposals. A draft, amended Code of Conduct incorporating the DCLG proposals, is attached at Annex A of the consultation paper.
- 2.3 Comments need to be submitted to the DCLG by 9th March 2007, the understanding is that the DCLG intend to ensure that the new Code of Conduct can be in place by May 2007.

3.0 Main Issues

Outline of proposed amendments

Unlawful discrimination

- 3.1 The Department for Communities and Local Government (DCLG) propose to replace paragraph 2(a) of the current Code with a provision proscribing Members from doing anything that would seriously prejudice their authority's statutory duties in regard to equality. This is in recognition of the fact that the Adjudication Panel has no jurisdiction to make findings of unlawful discrimination. The provision to treat others with respect will be retained which is also intended to prevent behaviour or actions which could relate to equality issues.

Bullying

- 3.2 The DCLG wish to add a provision to the Code making bullying of other Members, officers or anyone else a breach of the Code of Conduct. There will be no definition of bullying in the Code, but the Standards Board will release guidance explaining that bullying can not only refer to patterns of behaviour, but also individual incidents.

Disclosure of confidential information

- 3.3 The DCLG propose to amend paragraph 3(a) of the Code to allow Members to disclose confidential information where such disclosure is in the public interest, that it is made in good faith and is reasonable, and that the Member will not breach any reasonable requirements of the authority e.g. any relevant protocols or procedures.

Behaviour outside official duties

- 3.4 In response to the Ken Livingstone appeal decision, the DCLG have decided to amend sections 49 to 52 of the Local Government Act 2000 so that behaviour in a private capacity might be included within the remit of the Code of Conduct. This amendment is included in the Local Government and Public Involvement in Health Bill currently before Parliament¹. If the amendments are enacted Ministers are currently minded to provide that only private behaviour for which the Member has been convicted by a court should be proscribed by the Code of Conduct, and not behaviour which falls short of a criminal offence.

Commission of criminal offence before taking office

- 3.5 If the Member committed a criminal offence prior to taking office as a Member but were not convicted until after taking office, then this offence should be capable of being taken into account when considering whether the Member has brought his or her authority into disrepute.

Using or seeking to use improper influence

- 3.6 The DCLG proposes to amend paragraph 5(a) of the Code which currently provides that a Member must not in his or her official capacity or any other circumstance use his or her position as a Member improperly to confer on or secure for himself or herself or any other person an advantage or disadvantage. This will now include ‘or attempt to use’ so that the Code will also proscribe Members’ attempts to use their position even where such attempts were not successful. Paragraph 5(b)(ii) of the Code will also be clarified to show that an authority’s resources should not be used improperly for party political purposes.

Publicity code

- 3.7 In addition to the above amendment, the DCLG believe that it is a sensible complement to the Code to make it clear that Members should also have regard to the Government’s Code of Recommended Practice on Local Authority Publicity (a copy of which is attached as Appendix 2). The Publicity Code provides instructions about the content, style and distribution of promotional activity and material produced by authorities, and in Leeds some of the guidance from the Publicity Code is included in the Protocol on Member/officer Relations. However the DCLG do acknowledge that some have suggested that the Publicity Code is unnecessary and restrictive, and have invited comments on whether the Publicity Code is serving a useful purpose.

Reporting breaches of the code and proscribing intimidation

- 3.8 The DCLG propose to delete the duty in paragraph 7 of the existing Code to report breaches of the Code by other Members, and add a proscription on the intimidation of complainants and witnesses. This will include Members, a complainant or witness, people carrying out the investigation, support staff and others involved in the case, whether or not they are Members, officers or members of the public. This would demonstrate to Members that victimising complainants or witnesses will rebound on them by making the case against them more serious, as it would be an

¹ This bill is expected to receive royal assent in Autumn 2007.

additional breach of the Code. This amendment will also assist officers required to handle more frequent local investigations.

Gifts and hospitality

- 3.9 Regarding the registration of gifts and hospitality, the DCLG recognise that there is no provision for such information to be made public at the current time. The DCLG wish to amend the Code to require that information about gifts and hospitality should be included in the register of interests. The receipt of gifts or hospitality over the value of £25 in value would be an interest that should be registered as a personal interest. This would then need to be declared in meetings, but only for five years after the gift was received (although it would remain on the register of interests after five years).

Body influencing public opinion or policy

- 3.10 Paragraph 7(b)(iv) will be clarified to ensure that the definition of bodies influencing public opinion or policy includes political parties.

Interests of family, friends and those with a close personal association

- 3.11 The DCLG wish to amend the reference in the current Code to friends and family by adding reference to any person with whom the Member has a close personal association. This would ensure that the definition of personal interest includes matters affecting a range of personal, business and professional associates, as well as people who would be specifically termed as 'friends'. The DCLG also propose to remove the definition of 'family' from the code, as guidance from the Standards Board will give assistance to Members on these definitions.

Definition of personal interests

- 3.12 Paragraph 8 of the current Code provides that Members have a personal interest if they would be affected by a matter to a greater extent than other Council tax payers, rate payers or inhabitants of the authority's area. Amending this provision would allow Members to be able more frequently to take part in Council meetings which their communities expect them to participate in or on issues, in some cases, which they have even been elected specifically to address. The DCLG propose to replace the current provision with a requirement that a personal interest would arise only where the interest might reasonably be regarded as affecting the Member to a greater extent than the majority of other Council tax payers, rate payers or inhabitants of the ward which is affected by the particular matter. As the issue in question would be likely to affect the other people in the Members' ward to a greater extent than other people in the whole Leeds area, this amendment would mean that the Member was less likely to have an interest in the matter.

Disclosure of personal interests

- 3.13 Under the current Code a Member would be in breach of the Code's provisions if they did not declare the personal interests of a relative even if they were unaware of the interest. The DCLG propose to amend the provision so that the rules surrounding the disclosure of interests as a meeting with regard to family, friends or close personal associates will only apply if the Member is aware or ought reasonably to be aware of an interest held by that person.

Public service interests

- 3.14 The DCLG propose to create a new category of interest called the ‘public service interest’. This would arise where the Member is also a member of another public body (either through appointment by the Council or in their own right), and would only need to be declared at meetings where the Member speaks on the relevant issue. Members would still need to register their membership of the body in the register of interests, but they would not need to declare the interest at the start of a Council meeting. Instead the Code would require that such interests should only be declared at such time as the Member speaks on a relevant issue. This would avoid the onerous requirement by which lengthy periods at the start of business can be spent by Members in declaring their personal interests even if they have no intention to take part in the debate on that matter.

Prejudicial interests – List of exemptions

- 3.15 The DCLG propose to increase the number of exemptions in the Code where Members can regard themselves as not having a prejudicial interest. Three new items have been added to the list. These are indemnities (for themselves and other Members of the Council), the setting of Council tax, and the consideration of whether the Member should become a freeman of the authority. The DCLG also propose to amend the Local Authorities (Code of Conduct) (Local Determination) Regulations to allow a Member to attend a hearing of a standards committee into his or her conduct in order to be able to defend himself or herself.

Overview and scrutiny committees

- 3.16 The DCLG proposes to amend the section of the Code which refers to the scrutiny function, to ensure that Members are only debarred from involvement in cases where they are scrutinising decisions they were involved in making. In addition the rules do not currently cover former executive Members sitting on a scrutiny committee considering a decision of the executive to which he or she contributed. It is proposed that Paragraph 10 is amended to indicate that the restriction will apply to former executive members who were involved in the relevant decisions.

Participation in relation to prejudicial interests

- 3.17 The DCLG wish to clarify the rules surrounding prejudicial interests arising from a public service interest and for those Members who are attending meetings to make representations. The DCLG consider the fact that an issue considered by the Council may affect another body with which the Member is involved does not necessarily mean that the Member’s judgement of the public interest will be prejudiced. The amendment specifies that the public service interest should only be considered prejudicial where the matter relates to the financial affairs of the body concerned, or where the matter relates to the determining of any approval, consent, licence or permission (e.g. in respect of planning and licensing) in relation to the body. Where a Member has a public service interest but the matter does not fall under either of those two categories they may speak and vote at the meeting. Further to this, any Member will not have a prejudicial interest where they attend a meeting to make representations, answer questions or give evidence, provided the committee agrees that the Member may do so. After Members have answered such questions or given such evidence, they must then withdraw from the room where a meeting is being held.

Sensitive information

- 3.18 The DCLG wish to provide for sensitive information in respect of private interests not to be included on the register of interests where revealing it is likely to lead to the Member or those he or she lives with being subject to violence or intimidation. The Member will have to apply to the Monitoring Officer for permission not to include the information in the register. Further to this the Member will not have to declare the sensitive information at a council meeting, although they will still need to disclose that they have a personal interest if this is the case.

Gender neutrality of language

- 3.19 Finally the wording of the Code throughout will be amended to ensure gender neutrality. This is in recognition of the fact that the principles of the Code refer to both women as well as men and to promote a more inclusive approach.

Leeds City Council stakeholders consultation

- 3.20 The consultation paper invites general comments on the amended Code of Conduct, as well as posing a series of questions on certain issue areas. The questions can be found throughout the body of the paper, and in list form at Annex B of the document.
- 3.21 In addition to general observations made by the Monitoring Officer, the following Members and officers have been asked to comment on specific areas of the consultation:
- Publicity Code – Chief Democratic Services Officer and the Head of Property, Finance and Technology.
 - Unlawful discrimination – Head of Equality.
 - Disclosure of confidential information – Head of Property, Finance and Technology.
 - Gifts and Hospitality – Chief Democratic Services Officer.
 - Overview and scrutiny committees – Head of Scrutiny and Member Development.
 - Participation in relation to prejudicial interests – Chief Planning Officer and Head of Development and Regulatory.

Their initial draft responses are attached as Appendix 3.

- 3.22 The Monitoring Officer has also taken action to raise awareness of the consultation document with all Leeds City Council Members, Political Groups and Parish and Town Councils. These groups have been asked to respond to the DCLG on an individual basis.
- 3.23 Once comments have been received on the initial response by Standards Committee Members, further and outstanding officer comments will be sought during the period 15th February to 22nd February.
- 3.24 A final draft consultation response will be issued for comment to Standards Committee Members on 23rd February 2007 via email or post. Comments will be due no later than 2nd March 2007.

3.25 A final response on behalf of the Council will be sent to the DCLG on 8th March 2007.

4.0 Implications For Council Policy And Governance

4.1 Ensuring that all Members and stakeholders have the opportunity to comment on the new draft Code of Conduct will mean that there will be greater local ownership of the Code, and that awareness of the Code will be raised.

5.0 Legal And Resource Implications

5.1 There are no specific legal or resource implications arising from this report.

6.0 Conclusions

6.1 The consultation document was published on the Department for Communities and Local Government's website on 22nd January 2007. The paper represents the detailed amendments needed to put the Government's undertaking to establish a clearer, simpler and more proportionate Code of Conduct into effect.

6.2 The paper provides an explanatory commentary on the proposed amendments set out in the revised draft code, and asks for the views of consultees on the proposals. A revised Code of Conduct is attached at Annex A of the consultation paper. Comments need to be submitted to the Department for Communities and Local Government by 9th March 2007, so that the new Code of Conduct can be in place by May 2007.

7.0 Recommendations

7.1 Members of the Committee are asked to:

- note the consultation document;
- comment on and add to the draft initial responses from stakeholders (Appendix 3); and
- be prepared to comment on the final draft consultation response by 2nd March 2007.

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Consultation on Amendments to the Model Code of Conduct for Local Authority Members



Consultation on Amendments to the Model Code of Conduct for Local Authority Members

January 2007
Department for Communities and Local Government

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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Introduction

The Local Government White Paper, *Strong and Prosperous Communities*, issued in October 2006, set out the Government's proposals to put in place a clearer, simpler and more proportionate model code of conduct, which would include changes to the rules on personal and prejudicial interests.

This announcement followed the Discussion Paper *Conduct in English Local Government: The Future*, issued by the then Office of the Deputy Prime Minister in December 2005, which set out the Government's response to the recommendations made by the Standards Board for England for amendments to the model code of conduct for local authority members. These recommendations followed extensive consultation by the Board in 2005 on amending the code, which attracted over 1,200 responses. We are grateful to the Board for the effort it put into its review and the detailed recommendations it formulated which have served as the basis of the current consultation.

Our Discussion Paper indicated that we welcomed the recommendations the Board presented. We agreed with the Board that amendments should be made to the code along the lines it proposed, including making the code clearer and more proportionate, but maintaining a rigorous approach to the identification of serious misconduct.

The decision to amend the code so as to make it more effective and proportionate formed part of the Government's wider review of the conduct regime applying to local authorities, which concluded that the regime should be amended along the lines suggested by the Committee on Standards in Public Life, ie that there should be a move to a more locally-based decision-making regime for the investigation and determination of all but the most serious of misconduct allegations, but with the Standards Board at the centre of the revised regime with a new strategic, regulatory role to ensure consistency of standards.

In advance of this current consultation, we consulted a number of key stakeholders informally on the detail of the proposals, as part of the Department's White Paper implementation plan. Our intention has been to inaugurate a new, more transparent and collaborative way of working with local government and other stakeholders. We are very grateful for the comments received from the LGA, ACSeS, SOLACE and ALACE, among others, which have assisted us in the shaping of these proposals.

This paper represents the Government's consultation on the detailed amendments needed to put our undertaking to amend the code of conduct into effect. There are four current model codes of conduct applying to various categories of local authority members. These were issued in 2001 and are as follows:

- The Local Authorities (Model Code of Conduct)(England) Order 2001
- The Parish Councils (Model Code of Conduct) Order 2001

- The National Park and Broads Authorities (Model Code of Conduct)(England) Order 2001
- The Police Authorities (Model Code of Conduct) Order 2001.

We propose to combine the current four individual codes referred to above into one consolidated code. A revised draft model code to put this into effect is enclosed at Annex A to this consultation paper. In consequence of providing a consolidated code, we have disapplied certain provisions in respect of particular types of authorities. The consultation paper provides an explanatory commentary on the proposed amendments set out in the revised draft code, and invites the views of consultees on the detailed proposals. We would welcome comments on the proposed model code, including in relation to the questions we have specifically identified in the paper. These are also listed separately at Annex B.

Please send any comments you may have on the paper to

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by 9 March 2007

Your responses may be made public by the Department for Communities and Local Government. If you do not want all or part of your response or name made public, please state this clearly in the response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your FAX cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

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The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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Commentary on Detailed Amendments Proposed

(THE BRACKETED REFERENCES TO PARAGRAPH NUMBERS CORRESPOND TO THE RELEVANT PARAGRAPHS OF THE DRAFT MODEL CODE)

Unlawful discrimination

1. To delete reference to unlawful discrimination (paragraph 2(2)(a))

Paragraph 2(a) of the model code currently provides that a member must promote equality by not discriminating unlawfully against any person. However, an Adjudication Panel finding in January 2005 concluded that the Panel has no jurisdiction to make findings of unlawful discrimination. We need therefore to ensure that unlawful discrimination is not an issue on which a Panel may be required to make a determination, so the provisions in current paragraph 2(a) will be deleted.

We propose to replace paragraph 2(a) with a provision proscribing members from doing anything that would seriously prejudice their authority's statutory duties in regard to equality. We are also retaining the provision in the current rules requiring members to treat others with respect. These provisions should allow the code to continue to support the principles of fair treatment and respect for others, including behaviour and actions which could relate to equality issues.

Bullying

2. Add a provision specifically proscribing bullying (paragraph 2(2)(b))

Currently, paragraph 2(b) of the model code states that a member must treat others with respect. Paragraph 4 of the current code provides that a member must not bring his or her office or authority into disrepute. The code makes no specific reference, however, to bullying behaviour.

We propose to add a specific provision to indicate that members must not bully any person, ie that bullying of other members, officers or anyone else is a breach of the code of conduct. We wish to ensure that it is clear that bullying behaviour should play no part in members' conduct.

We have accepted the Standards Board's view that a specific definition of bullying does not need to be included in the code, and that this should be left to guidance by the Board, which will indicate, for example, the view we take that bullying can relate not only to patterns of behaviour, but also to individual incidents.

Disclosure of confidential information

3. To allow members to disclose confidential information where such disclosure is in the public interest (paragraph 3(a)(iii))

Paragraph 3(a) of the code currently provides that a member should not disclose information given to him or her in confidence or which the member believes to be of a confidential nature. There is no explicit provision allowing members to disclose information if this is in the public interest.

An Adjudication Panel decision in 2005 confirmed, as a matter of law, that paragraph 3(a) of the code of conduct fails properly to take into account Article 10(1) of the European Convention on Human Rights. The Panel found that in order to be compatible with Article 10(1), the code should be read so as to allow for the disclosure of information of a confidential nature where it is in the public interest to do so.

We therefore wish to provide that a member may make a disclosure of information given to him or her in confidence or which he or she believes to be of a confidential nature in the public interest provided the disclosure is in good faith and reasonable, and that the member has not breached any reasonable requirements of the authority, eg in the form of relevant local protocols or procedures. We propose that the Standards Board would issue guidance on how they would expect members to interpret this. We expect that such guidance would indicate that members should be able to disclose information in the following circumstances: where they reasonably believe that the disclosure will indicate evidence of a criminal offence, where the authority is failing to comply with its legal obligations, that a miscarriage of justice has occurred or may occur, that the health and safety of anyone has been endangered, or that the environment has been damaged.

We appreciate that it is important that the public interest test does not allow members to use the defence of public interest when merely seeking to make political capital through disclosure of properly confidential information. Our aim is to strike a sensible balance which is workable in practice between the need to treat certain information confidentially and to allow the disclosure of information in appropriate circumstances.

There may be scope for the provision on confidential information to be clarified further, so as to make clear that the rules on the disclosure of information cover information received by a member in his official capacity or which relates to the work of the council. This would ensure that a member would not be able to claim that although he did disclose information, he did not receive the information in his capacity as a member, which the current drafting might potentially allow him to claim.

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Behaviour outside official duties

4. Paragraphs 4 and 5

Paragraph 4 of the current code provides that a member must not in his or her official capacity or any other circumstance conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute. In addition, paragraph 5 currently provides that a member must not in his or her official capacity or any other circumstance use his or her position as a member improperly to secure for himself or herself or any other person an advantage or disadvantage.

The Standards Board has recommended amending the code so that, in terms of a member's behaviour in private life, conduct which amounts to a criminal offence, as well as behaviour which would be regarded as criminal but for which a conviction has not been secured, could be regarded as bringing the member's office or authority into disrepute under the terms of the code.

Separately the decision by the High Court in the case of the appeal of the Mayor of London, in October 2006, cast some doubt on the ability of the code of conduct to proscribe behaviour of members in their private capacity. The judgement commented on the interpretation of section 52 of the Local Government Act 2000. This section imposes a duty on a council member to give an undertaking to observe the code of conduct 'in performing his functions'. The Court considered that section 52 limits the scope of the code so that conduct in a member's private capacity can only come within the scope of the code where it is established that there is a direct link with the member's office, eg if the member uses his office for personal gain.

The Court judgement gave examples of cases where it did not think that the code was able to apply. These included where a member shoplifts or is guilty of drunken driving. Such action will not now be caught by the code if the offending conduct had nothing specifically to do with the member's position as a councillor.

This is a narrower interpretation than we have previously applied to the code. Up to now we have assumed it was possible to take a wider view of what private conduct could be relevant, ie including actions not necessarily to do with the member's position as a councillor but which may affect the member's reputation and electors' confidence in him or her.

In response to this case, we have decided to amend sections 49 to 52 of the Local Government Act 2000 so that behaviour in a private capacity might be included within the remit of a code of conduct. This amendment is included in the Local Government and Public Involvement in Health Bill currently before Parliament.

If the amendments are enacted, Ministers are currently minded to provide that only private behaviour for which the member has been convicted by a court should be proscribed by the code of conduct, as referred to in paragraph 4(2), and not behaviour falling short of a criminal offence.

Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in members' private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Commission of criminal offence before taking office

5. Paragraph 4(2)

We agree with the Standards Board that in the circumstances where a member's behaviour has been found to be unlawful by a court, then the member may be perceived to have brought his or her office or authority into disrepute. We also consider that where a member committed the offence before taking office as a member but where he or she was not convicted until after becoming a member, then this offence should be capable of being taken into account when considering whether the member has brought his or her authority into disrepute. A new paragraph 4(2) implements this amendment.

Using or seeking to use improper influence

6. To amend paragraph 5(a) by adding 'or attempt to use'

Paragraph 5(a) currently provides that a member must not in his or her official capacity or any other circumstance use his or her position as a member improperly to confer on or secure for himself or herself or any other person an advantage or disadvantage. A literal interpretation of this provision might mean that it does not cover unsuccessful attempts by the member to use his or her position in this way. We believe that justice would be better served if provision was made for the code to proscribe members' attempts to use their position even where such attempts were not in the event successful. To this end, we have proposed that the paragraph should provide that the member should not either use or attempt to use his or her position to confer an advantage or disadvantage for himself or herself or anyone else.

7. Paragraph 5(b)(ii)

We have sought to simplify this sub-paragraph without losing any of the intended meaning of the original provision, and specific reference is added to clarify the intention that an authority's resources should not be used improperly for party political purposes.

Publicity code

8. To add reference at paragraph 5 to the need for the member to have regard to the guidance set out in the Government's local authority publicity code

We believe it would be a sensible complement to the code to make it clear that, in addition to providing in paragraph 5 that members should not use resources improperly for political purposes, they should also have regard to the Government's Code of Recommended Practice on Local Authority Publicity.

The Code of Recommended Practice on Local Authority Publicity (a copy of which can be found at <http://www.communities.gov.uk/index.asp?id=1133867>) is issued by the Government under the Local Government Act 1986 and was last amended in 2001. The Publicity Code provides instructions about the content, style and distribution of promotional activity and material produced by authorities, supplementing the basic requirement in the 1986 Act that authorities must not use their resources for political purposes.

It has been suggested by some that the Code of Practice on Local Authority Publicity is unnecessary and restrictive. We would be grateful to hear the views of consultees on the Publicity Code and whether or not they feel it is serving a useful purpose. If people feel it should be abolished, do they think it should be replaced by any other guidance, eg issued by local authority representative bodies?

The Publicity Code does not currently apply to the Greater London Authority, fire and rescue authorities and the national parks authorities, although the code of conduct does apply to these bodies. We would also be grateful therefore for views on whether and how it might be appropriate for the Publicity Code to apply in relation to the above bodies.

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

Reporting breaches of the code and proscribing intimidation

9. To delete the duty in paragraph 7 of the existing code to report breaches of the code by other members, and add a proscription (at paragraph 2(2)(c)) on the intimidation of complainants and witnesses

Paragraph 7 of the current code provides that a member must, if he or she becomes aware of another member's breach of the code, make an allegation to the Standards Board of that breach.

We wish to delete the requirement to report other members' breaches of the code, which has been perceived by some as encouraging councillors to make trivial allegations.

At the same time, to protect members who do report serious misconduct from victimisation, we propose to add a provision at paragraph 2(2)(c) prohibiting a member from intimidating or attempting to intimidate a complainant or witness, people carrying out the investigation, support staff and others involved in the case, whether or not they are members, officers or members of the public. This would demonstrate to members that victimising complainants or witnesses will rebound on them by making the case against them more serious, since such intimidation would itself count as a breach of the code.

In addition, since it is the Government's policy to increase the proportion of cases to be investigated locally, it is important that officers who are required to handle such cases are free from inappropriate pressures from members.

Gifts and hospitality

10. Paragraphs 7(a)(vi) and 8(3)

Paragraph 17 of the code currently provides that in the case of the receipt of any gift or hospitality over the value of £25, members must notify the monitoring officer of the existence and nature of the gift or hospitality. There is no provision for such information to be made public in the register of members' interests.

We wish to reinforce the principles of accountability and openness of the conduct regime by requiring that information about gifts and hospitality should be included in the register of interests. We propose therefore to provide that the receipt of gifts or hospitality of over £25 in value should be an interest that should be registered as a personal interest. However, to ensure this provision is proportionate, we also propose that the requirement to disclose the personal interest to a meeting would cease after five years following the receipt of the gift or hospitality, although that receipt would remain on the register as a personal interest.

Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Body influencing public opinion or policy

11. Paragraph 7(b)(iv)

To clarify the fact that the existing reference to a body whose purposes include the influence of public opinion or policy in which the member may have a personal interest, includes any political party.

Interests of family, friends and those with a close personal association

12. To amend reference in the current code to friends and family by adding reference to any person with whom the member has a close personal association (paragraph 7(c)(i) and elsewhere)

Paragraph 8 of the current code provides that a member must regard himself or herself as having a personal interest in a matter if a decision on it affects to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend. We wish to ensure that the definition of personal interest includes matters affecting a range of personal, business and professional associates, as well as people who would specifically be termed as 'friends'. Reference has therefore been added to any person with whom the member has a close personal association.

13. Definition of family and friends (paragraph 7(c)(i) and elsewhere)

With the inclusion of "close personal association" it is not thought necessary to keep the definitions of 'family' or 'friend' in the code. Guidance by the Standards Board will give assistance to members on these definitions.

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

Definition of personal interests

14. To replace reference in paragraph 8 to the inhabitants of an authority's area with provision that members should not be required to register an interest in a matter unless the interest is greater than that of the majority of the inhabitants of the ward affected by the matter. For parish councils the definition would apply in respect of the council's whole area (paragraph 7(c)).

Paragraph 8 of the current code provides that members have a personal interest if they would be affected by a matter to a greater extent than other council tax payers, rate payers or inhabitants of the authority's area.

We wish the code to allow members to be able more frequently to take part in council meetings which their communities expect them to participate in or on issues, in some cases, which they have even been elected specifically to address. We therefore wish to delete the current requirement that a personal interest arises where a decision on it might be regarded as affecting the member to a greater extent than other inhabitants of the authority's area, and replace it with a requirement that the personal interest arises only where the interest might reasonably be regarded as affecting the member to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward which is affected by the particular matter. The purpose is to reduce the

number of times a personal interest may arise on matters which are not of genuine concern to the public, as a result of the broad current test relating to the whole council's area, which in effect has meant in some cases that members have felt they have to declare interests which are in fact shared with a large number of people.

Narrowing the definition will provide a more locally-based focus, and reduce the number of personal interests which arise by requiring that an interest would arise only where the interest would be higher than most people in the local area affected by the matter. This should mean that an interest would not arise where interests are shared by a substantial number of inhabitants in the authority's area.

Where members, eg elected mayors and co-opted members, do not represent wards, the relevant test would be whether the issue affected the member more than the majority of people in the ward affected by the particular matter.

In the case of parish councils, which do not usually have wards, their areas are so small that we propose to apply the definition in respect of the council's whole area.

Disclosure of personal interests

15. Paragraph 8(4)

Under the current code, a member would technically be in breach of the code's provisions in respect of the personal interests of a relative even if he or she was unaware of any interest held by a relative. It would be sensible and more proportionate to amend the provision so that the rules on the disclosure of interests at a meeting in respect of a family member, friend or a person with a close personal association will only apply if the member is aware or ought reasonably to be aware of the interest held by that person.

Public service interests

16. To create a new category of 'public service interest', which arises where a member is also a member of another public body, and for the public service interest only to be declared at meetings where the member speaks on the relevant issue (paragraph 8(2) and 8(7))

Paragraph 9 of the current code provides that a member with a personal interest must disclose the interest at the commencement of the meeting or when the interest becomes apparent.

We wish to provide a definition of what is meant by 'public service interest', ie an interest which arises where a member is also a member of another public body, to which they have been appointed or nominated by the authority, or of which they are a member in their own right. Members would be required, as now, to enter any such interest they have in the register of interests.

However, instead of, as now, requiring that public service interests are declared at the start of any relevant business, we wish to require that such interests should only be declared at such time as the member speaks on a relevant issue. The aim of this is to avoid the current onerous requirement by which lengthy periods at the start of business on a particular issue can be spent by members in declaring their personal interests in the particular issue, even if many or all of those members have no intention to take part in the debate on that subject.

Prejudicial interests – List of exemptions

17. To simplify and amend the list of exemptions where members should not regard themselves as having a prejudicial interest (paragraph 9(2)(b))

Three new items have been added to the list of interests which are not to be regarded as prejudicial. This will mean that a member will not have a prejudicial interest where the matter relates to the authority's functions in respect of:

- Indemnities. This addition arises from the Standards Board's experience of cases where, for example, members have felt unable to vote in discussions on the issue by the authority of indemnities which might relate to themselves, as well as a number of other members of the council.
- The setting of council tax. We understand that some members have been concerned that in discussing this issue, prejudicial interests may arise for them because of their connection with an organisation funded from an operational budget which is being set by the council tax settlement. We consider that such an interest is likely to be too remote to be a prejudicial interest.
- Considering whether or not the member should become a freeman of the authority.

We also propose to amend the Local Authorities (Code of Conduct) (Local Determination) Regulations to allow a member to attend a hearing of a standards committee into his or her conduct in order to be able to defend himself or herself.

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

Overview and scrutiny committees

18. To provide that members are excluded from overview and scrutiny committees where they are scrutinising decisions, including decisions made by the authority's executive, which they were involved in making (paragraph 10)

Paragraph 11 of the current code does not allow a member to scrutinise a decision of a committee, sub-committee or joint committee 'of which he may also be a member'. It does not cover the position of a member who may not now be a member of the relevant committee but was a member at the time the decision was taken. We therefore wish to make an amendment to ensure that the proscription will apply where the councillor was a member at the time of the decision or action.

A further consequence of the current paragraph 11 provision is that a member is not allowed to scrutinise decisions where he or she is a member of the committee whose decision is being scrutinised, ie the proscription applies where he or she was not involved in making the decision, for example, because he or she was absent from the committee or where he or she became a member after the decision was taken. This can have the effect of debarring members from the scrutiny function in respect of decisions in which they had no involvement. We therefore propose an amendment to provide that members should only be debarred from involvement in the scrutiny function in cases where they are scrutinising decisions they were involved in making.

In addition, the rules do not currently refer to decisions made or action taken by the authority's executive. They therefore do not cover the case where a former member of the executive sits on a scrutiny committee to scrutinise decisions of the executive to which he or she contributed. We propose therefore that paragraph 10 is amended to indicate that the restriction will apply to former executive members who were involved in making the relevant decisions.

Participation in relation to prejudicial interests

19. To provide a clearer prejudicial interest test to apply for public service interests and where members attend to make representations (paragraphs 9 and 11)

Actions which a member should take where he or she has a prejudicial interest are set out in current paragraph 12.

We wish to provide for clearer and more proportionate rules to apply in respect of participation in council meetings for those who have public sector interests, ie who are members of another authority or a charity or lobbying body, and for those who are attending meetings to make representations.

We consider that the fact that an issue considered by one body may affect another body with which the member is involved does not necessarily mean that the member's judgement of the public interest will be prejudiced. In such cases, the public service interest should only be considered prejudicial where

- (a) the matter relates to the financial affairs of the body concerned, or
- (b) where the matter relates to the determining of any approval, consent, licence or permission (eg in respect of planning and licensing) in relation to the body.

Where a member has a public service interest and (a) or (b) do not apply, then no prejudicial interest would arise and the member may speak and vote at the meeting.

Any member (including a member with a public service interest to which (a) or (b) also apply), will not have a prejudicial interest where they attend a meeting to make representations, answer questions or give evidence, provided the committee agrees that the member may do so. After members have answered such questions or given such evidence, they must then withdraw from the room where the meeting is being held.

All members with a prejudicial interest, regardless of the category of interest, would still continue to be subject to paragraph 11(1)(c), ie the requirement that members should not seek improperly to influence a decision about the matter.

Q7. Is the proposed text, relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions or give evidence, appropriate?

Sensitive Information

20. To provide for sensitive information in respect of private interests not to be included on the register of interests where revealing it is likely to lead to the member or those he or she lives with being subject to violence or intimidation (paragraphs 8(5) and 13)

Paragraph 14 of the current code requires members to register all of their personal interests.

We wish to ensure that sensitive information, for example, where members are employed in areas of sensitive employment, such as certain types of scientific research, need not be made public if to do so would threaten the safety of the member and/or his family. A member who considers that the information which he or she would need to register is sensitive, will apply to the authority's monitoring officer for the interest not to be registered. If the monitoring officer is satisfied that the information is sensitive and the risk of intimidation of the member or those he or she lives with is real, the member may not include the sensitive information on the register of interests.

Consistent with the above, we also wish to amend paragraph 8(5), so that a member with an accepted sensitive interest should not have to disclose publicly the details of that sensitive information at a council meeting, although he or she will still need to disclose that they have a personal interest if this is the case in respect of a particular matter under discussion.

National Park and Boards Authorities – prejudicial interest

21. Delete sub-paragraphs (f) and (g) from paragraph 10(2) of the current National Park and Broads Authorities (Model Code of Conduct)(England) Order 2001

Paragraph 10(2)(f) and (g) of the current model code applying to the National Park and Broads Authorities makes provision in respect of matters for which a member may regard himself as not having a prejudicial interest. At the request of DEFRA, and following earlier consultation by them with the National Parks and Broads Authorities, we wish to delete provisions allowing interest in respect of matters relating to farming, land, certain charges or navigation not to be regarded as prejudicial interests for members in certain cases. This is to address criticism that these clauses have lead to preferential treatment for some landowners and navigators, who, if it was not for the operation of the paragraph, would have been regarded as having a prejudicial interest.

Register of members' interests

22. Paragraphs 12 and 13

Opportunity has been taken to rearrange the position of various provisions within the code. Because the list of potential personal interests is now in paragraph 7, the paragraphs on the registration of personal interests have been simplified and shortened.

Gender neutrality of language

23. To amend the code throughout to ensure gender neutrality of language

To signal the fact that the principles of the code refer both to women as well as men, and promote a more inclusive approach, we propose to make the language of the code gender neutral and replace gender-specific language such as 'he', or 'him', with 'he or she', or 'him or her'.

Q8. Is there a better, more user-friendly way of ensuring the text is gender neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

Annex A

STATUTORY INSTRUMENTS

[2007] No. [xxx]

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Model Code of Conduct) Order [2007]

<i>Made</i>	- - - -	<i>xxx</i>
<i>Laid before Parliament</i>		<i>xxx</i>
<i>Coming into force</i>	- -	<i>xxx</i>

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000(a).

The Secretary of State has consulted in accordance with section 50(5) of that Act.

The Secretary of State is satisfied that this Order is consistent with the principles for the time being specified in an order under section 49 of that Act.

Citation, commencement, application and interpretation

- 1.—(1) This Order may be cited as the Local Authorities (Model Code of Conduct) Order [2007] and comes into force on [xxx].
- (2) This Order applies—
 - (a) in relation to police authorities in England and Wales; and
 - (b) in relation to the following authorities in England—
 - (i) a county council;
 - (ii) a district council;
 - (iii) a London borough council;
 - (iv) a parish council;
 - (v) the Greater London Authority;
 - (vi) the Metropolitan Police Authority;
 - (vii) the London Fire and Emergency Planning Authority;
 - (viii) the Common Council of the City of London;
 - (ix) the Council of the Isles of Scilly;
 - (x) a fire and rescue authority;
 - (xi) a joint authority;
 - (xii) the Broads Authority; and

(a) 2000 c.22.

(xiii) a National Park authority,
and references to “authority” are construed accordingly.

Model Code of Conduct

2.—(1) The Secretary of State here issues a model code as regards the conduct which is expected of members and co-opted members of authorities and that code is set out in the Schedule to this Order.

(2) Subject to paragraphs (3) to (6), all the provisions of the model code in the Schedule to this Order are mandatory.

(3) The following provisions of the model code in the Schedule are not mandatory for authorities which are not operating executive arrangements—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 8(6), 8(7)(b), 10, 11(1)(b) and 11(2).

(4) The following provisions of the model code in the Schedule are not mandatory for police authorities, the Greater London Authority, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, a fire and rescue authority and a joint authority—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 5(b)(iii), 8(6), 8(7)(b), 9(2)(b)(i), 9(2)(b)(ii), 10, 11(1)(b) and 11(2).

(5) The following provisions are not mandatory for parish councils—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 6, 8(6), 8(7)(b), 9(2)(b)(i), 9(2)(b)(ii), 10, 11(1)(b) and 11(2).

(6) The following provisions are not mandatory for a National Parks authority and the Broads Authority—

- (a) sub-paragraph (b) in the definition of “meeting”;
- (b) the words “or its executive’s” and “, or area committees” in the definition of “meeting”; and
- (c) paragraphs 8(6), 8(7)(b), 9(2)(b)(i), 9(2)(b)(ii), 10, 11(1)(b) and 11(2).

Disapplication

3. Where an authority has adopted a code of conduct or such a code applies to it, the following shall, where applicable to the authority, be disapplied as respects that authority—

- (a) sections 94 to 98 and 105 to the Local Government Act 1972;
- (b) section 30(3A) of the Local Government Act 1974;
- (c) regulations made or code issued under section 19 and 31 of the Local Government and Housing Act 1989;
- (d) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995;
- (e) in section 17 of the Audit Commission Act 1998, subsections (1)(b), (3), (5)(b), (7) and (8) and in subsection (2), the words “subject to subsection (3)” and paragraphs (a) and (b);
- (f) section 18 of the Audit Commission Act 1998; and
- (g) any guidance issued under section 66 of the Greater London Authority Act 1999.

Revocation and savings

4.—(1) Subject to paragraphs (2) and (3), the following orders are revoked—

- (a) the Local Authorities (Model Code of Conduct) (England) Order 2001(a);
- (b) the Parish Councils (Model Code of Conduct) Order 2001(b);
- (c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(c);
- (d) the Police Authorities (Model Code of Conduct) Order 2001(d).

(2) The Orders referred to in paragraph (1) continue to have effect for the purposes of and for purposes connected with—

- (a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation was made before the date when, pursuant to section 51 of that Act—
 - (i) the authority adopts a code of conduct incorporating the mandatory provisions of the model code of conduct in the Schedule to this Order in place of their existing code of conduct;
 - (ii) the authority revises their existing code of conduct to incorporate the mandatory provisions of the model code of conduct in the Schedule to this Order; or
 - (iii) the mandatory provisions of the model code of conduct in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;
- (b) the adjudication of a matter raised in such an allegation; and
- (c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.

Signed on behalf of the Secretary of State for Communities and Local Government

[Date]

Name
[Minister for.....]
Department for Communities and Local Government

-
- (a) S.I. 2001/3575.
 - (b) S.I. 2001/3576.
 - (c) S.I. 2001/3577.
 - (d) S.I. 2001/3578.

SCHEDULE

THE MODEL CODE OF CONDUCT

PART 1

General Provisions

Interpretation

In this Code—

“meeting” means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member;

“the authority’s monitoring officer”, in relation to parish councils, is construed as referring to the monitoring officer of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000; and

“the authority’s standards committee”, in relation to parish councils, is construed as referring to the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(2) of the Local Government Act 2000.

Scope

1.—(1) A member must observe the authority’s code of conduct whenever he or she—

- (a) conducts the business of the authority;
- (b) conducts the business of the office to which he or she is elected or appointed; or
- (c) acts as a representative of the authority,

and references to a member’s official capacity is construed accordingly.

(2) An authority’s code of conduct does not, apart from paragraphs 2(2)(c), 4 and 5(a), have effect in relation to the activities of a member undertaken other than in an official capacity.

(3) Where a member acts as a representative of the authority—

- (a) on another relevant authority, he or she must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, he or she must, when acting for that other body, comply with the authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

2.—(1) A member must treat others with respect.

(2) A member must not—

- (a) do anything which may seriously prejudice his or her authority's ability to comply with any of its statutory duties under the equality enactments (as defined in section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) in his or her official capacity, or any other circumstance, intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) supporting the administration of any investigation or proceedings, in relation to an allegation that a member has failed to comply with his or her authority's code of conduct;
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(a) those who work for, or on behalf of, the authority are deemed to include a police officer.

3. A member must not—

- (a) disclose information given to him or her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where—
 - (i) he or she has the consent of a person authorised to give it;
 - (ii) he or she is required by law to do so; or
 - (iii) the disclosure is—
 - (aa) reasonable and in the public interest;
 - (bb) made in good faith and does not breach any reasonable requirements of the authority;
- (b) prevent another person from gaining access to information to which that person is entitled by law.

4.—(1) A member must not in his or her official capacity, or any other circumstance, conduct himself or herself in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute.

(2) The conduct referred to in paragraph (1) may include a criminal offence including one committed by the member before taking office but for which he or she is not convicted until after that date.

5. A member—

- (a) must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the authority—
 - (i) act in accordance with the authority's requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (iii) have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

6. A member must when reaching decisions—

- (a) have regard to any relevant advice provided to him or her by—
 - (i) the authority's chief finance officer; and
 - (ii) the authority's monitoring officer; and

- (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements.

PART 2

Interests

Personal interests

7. A member has a personal interest in any matter where—
- (a) it relates to—
 - (i) any employment or business carried on by the member;
 - (ii) any person who employs or has appointed the member;
 - (iii) any person, other than a relevant authority, who has made a payment to the member in respect of his or her election or any expenses incurred by him or her in carrying out his or her duties;
 - (iv) any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body (whichever is the lower);
 - (v) any contract for goods, services or works made between the authority and the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
 - (vi) any gift or hospitality over the value of £25 received by the member;
 - (vii) any land in the authority's area in which the member has a beneficial interest;
 - (viii) any land where the landlord is the authority and the tenant is the member or a firm in which he or she is a partner, a company of which he or she is a remunerated director, or a body of the description specified in paragraph (iv);
 - (ix) any land in the authority's area in which the member has a licence (alone or jointly with others) to occupy for 28 days or longer;
 - (b) it relates to his or her membership of or position of general control or management in any—
 - (i) body to which the member is appointed or nominated by the authority;
 - (ii) public authority or body exercising functions of a public nature;
 - (iii) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (iv) body whose principal purposes include the influence of public opinion or policy, including any political party; and
 - (v) trade union or professional association; or
 - (c) a decision on the matter might reasonably be regarded as affecting the well-being or financial position of—
 - (i) the member, one of the member's family or a friend, or any person with whom the member has a close personal association; or
 - (ii) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (iii) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (iv) any body listed in paragraphs (i) to (v) of sub-paragraph (b) in which such persons hold a position of general control or management,

to a greater extent than the majority of—

- (aa) in the case of authorities with electoral divisions or wards, other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
- (bb) in the case of the Greater London Authority, other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
- (cc) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of personal interests

8.—(1) Subject to sub-paragraphs (2) to (7), a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) A member with a personal interest in a matter which is a public service interest, need only disclose to that meeting the existence and nature of that interest when he or she addresses the meeting on that matter.

(3) A member with a personal interest of the type mentioned in paragraph 7(a)(vi) need not disclose the nature or existence of that interest to the meeting if the interest was registered more than five years before the date of the meeting.

(4) In relation to a personal interest of a family member, a friend, or any person with whom the member has a close personal association, sub-paragraph (1) only applies where the member is aware or ought reasonably to be aware of the interest.

(5) Where, by virtue of paragraph 13, sensitive information relating to a member is not registered in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000), a member with a personal interest must indicate to the meeting that he or she has a personal interest, but need not disclose the sensitive information to that meeting.

(6) Subject to paragraph 11(1)(b), a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph—

- (a) a member has a public service interest in a matter where that matter relates to—
 - (i) another relevant authority of which he or she is a member;
 - (ii) another public authority in which he or she holds a position of general control or management; or
 - (iii) a body to which he or she is appointed or nominated by the authority; and
- (b) “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interests

9.—(1) Subject to sub-paragraphs (2) and (3), a member with a personal interest in a matter also has a prejudicial interest in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

(2) A member does not have a prejudicial interest in a matter where—

- (a) he or she has a public service interest in the matter, unless—
 - (i) the matter relates to the financial affairs of the body to which that public service interest relates; or

- (ii) the matter relates to the determining of any approval, consent, licence, permission or registration in relation to that body;
- (b) that matter relates to the functions of the authority in respect of—
 - (i) housing, where he or she is a tenant of the authority provided that those functions do not relate particularly to the member's tenancy or lease;
 - (ii) school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority;
 - (iv) an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989;
 - (v) an indemnity given under an order made under section 101 of the Local Government Act 2000;
 - (vi) considering the bestowing of the title of freeman on the member; and
 - (vii) setting council tax under the Local Government Finance Act 1992.

(3) A member does not have a prejudicial interest in a matter where he or she attends a meeting for the purpose of making representations, answering questions or giving evidence relating to the matter, provided the meeting agrees that the member may do so and after making representations, answering questions or giving evidence, the member withdraws from the room where the meeting is being held.

(4) In this paragraph, a member has a public service interest in a matter where that matter relates to—

- (a) any of the matters referred to in paragraph 8(7)(a); or
- (b) a charity, a lobbying or philanthropic body of which he or she is a member.

Overview and scrutiny committees

10.—(1) For the purposes of this Part, a member has a prejudicial interest where he or she is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee and that consideration relates to a decision made (whether implemented or not), or action taken by—

- (a) the authority's executive;
- (b) another of the authority's—
 - (i) committees or sub-committees; or
 - (ii) joint committees or joint sub-committees,

of which he or she is, or was at the time of the decision or action, a member and he or she was present for the consideration of that matter.

(2) But sub-paragraph (1) does not apply where that member attends the meeting of the overview and scrutiny committee for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in relation to prejudicial interests

11.—(1) Subject to sub-paragraphs (2) and (3), a member with a prejudicial interest in a matter must—

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he or she has obtained a dispensation from the authority's standards committee;
- (b) not exercise executive functions in relation to that matter; and

- (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest in a matter may, unless that interest is of a financial nature or of the type described in paragraph 10, participate in a meeting of the authority's—
 - (a) overview and scrutiny committees; and
 - (b) joint or area committees,

to the extent that such committees are not exercising functions of the authority or its executive.
- (3) In this paragraph, a member has a public service interest in a matter where that matter relates to—
 - (a) any of the matters referred to in paragraph 8(7)(a); or
 - (b) a charity, a lobbying or philanthropic body of which he or she is a member.

PART 3

Registration of Members' Interests

Registration of Members' Interests

- 12.**—(1) A member must, within 28 days of—
 - (i) the provisions of an authority's code of conduct being adopted or applied to that authority; or
 - (ii) his or her election or appointment to office (where that is later),

register in the authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) any personal interest of the type mentioned in paragraph 7(a) or (b), by providing written notification to the authority's monitoring officer.
- (2) A member must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under in paragraph (1), register that new personal interest or change by providing written notification to the authority's monitoring officer.
- (3) Sub-paragraphs (1) and (2) do not apply to sensitive information in relation to which the member has made an application under paragraph 13.

Sensitive information

- 13.**—(1) Where a member considers that the availability for inspection by the public of information relating to any personal interest which, but for this paragraph, must be registered in the authority's register of members' interests creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation (in this Code "sensitive information"), the member may, where the monitoring officer considers it appropriate, not include that sensitive information on the register of members' interests.
- (2) A member must, within 28 days of becoming aware of any change of circumstances which leads him or her to believe that information excluded from the authority's register of members' interests is no longer sensitive information, notify the authority's monitoring officer of this fact and register the information concerned in the authority's register of members' interests.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. Under section 51 of the Local Government Act 2000, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the model code. Under section 51(5) of that Act, where an authority

does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the model code will apply to the members of the authority until it does.

Article 1 provides that this Order applies to relevant authorities in England and police authorities in England and Wales.

Article 2 provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

Article 3 revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001(**a**);

the Parish Councils (Model Code of Conduct) Order 2001(**b**);

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(**c**);

the Police Authorities (Model Code of Conduct) Order 2001(**d**).

These Orders continue to have effect in relation to allegations made before the date when the new code is adopted or applied to an authority.

The disapplication of certain enactments made by these Orders continues to have effect.

In the **Schedule to the Order**—

Paragraph 1 of the model code provides that the code applies whenever a member is acting in his or her official capacity, and that it does not apply in other circumstances unless otherwise indicated. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 2 provides that members must treat others with respect and not do anything which compromises the impartiality of those who work for the authority or bully anyone or intimidate persons involved in code of conduct cases.

Paragraph 3 provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 4 provides that in a member's official capacity and in other circumstances, a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 5 provides that a member must not in his or her official capacity or in other circumstances use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's requirements and must not permit those resources to be used for political purposes.

Paragraph 6 provides that in reaching decisions a member must consider advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 7 provides a list of matters which constitute a personal interest in a matter.

Paragraph 8 provides that a member with a personal interest in a matter must disclose that interest at any meeting at which the matter is considered.

(a) S.I. 2001/3575.

(b) S.I. 2001/3576.

(c) S.I. 2001/3577.

(d) S.I. 2001/3578.

Paragraph 9 provides that a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his judgement of the public interest. The paragraph provides that in the circumstances specified a member may regard himself as not having a prejudicial interest.

Paragraph 10 provides that a member who was involved in making an executive decision on a matter must not be involved in the overview and scrutiny committee's consideration of that matter, except in order to answer questions from that committee.

Paragraph 11 provides that a member with a prejudicial interest must, unless he has obtained a dispensation, withdraw from any meetings at which the matter is being considered, and must not improperly influence decisions in relation to the matter.

Paragraph 12 provides that a member must notify the monitoring officer of the personal interests and any change to those interests must also be notified.

Paragraph 13 provides that a member may notify the monitoring of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

Annex B

Your views

We would welcome your views on the issues covered by this consultation paper and any other comments and suggestions you may have.

Questions

The specific questions which feature throughout the text of this paper are reproduced for ease of reference:

Q1. Does the proposed text on the disclosure of confidential information strike an appropriate balance between the need to treat certain information as confidential, but to allow some information to be made public in defined circumstances when to do so would be in the public interest?

Q2. Subject to powers being available to us to refer in the code to actions by members in their private capacity beyond actions which are directly relevant to the office of the member, is the proposed text which limits the proscription of activities in a member's private capacity to those activities which have already been found to be unlawful by the courts, appropriate?

Q3. Is the Code of Recommended Practice on Local Authority Publicity serving a useful purpose? If the Publicity Code is abolished, do consultees think some or all of its provisions should be promulgated in a different way, eg via guidance issued by local government representative bodies, or should authorities be left to make their own decisions in this area without any central guidance? Should authorities not currently subject to the Publicity Code be required to follow it, or should the current position with regard to them be maintained?

Q4. Does the proposed text with regard to gifts and hospitality adequately combine the need for transparency as well as proportionality in making public information with regard to personal interests?

Q5. Does the proposed text relating to friends, family and those with a close personal association adequately cover the breadth of relationships which ought to be covered, to identify the most likely people who might benefit from decisions made by a member, including family, friends, business associates and personal acquaintances?

Q6. Would it be appropriate for new exceptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?

Q7. Is the proposed text relaxing the rules to allow increased representation at meetings, including where members attend to make representations, answer questions, or give evidence, appropriate?

Q8. Is there a better, more user-friendly way of ensuring the text is gender-neutral, for example, would consultees consider that amending the wording to say 'you' instead of 'he or she' or 'him or her' would result in a clearer and more accessible code for members?

Comments should be sent by e-mail or post by 9 March 2007 to:

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CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

INTRODUCTION

Status of the Code

1. This Code is issued by the Secretaries of State for the Environment, Scotland and Wales in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was drawn up following the consultations with interested parties in local government required by section 4(4) of the Act. It has been approved by a resolution of each House of Parliament. Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Code in coming to any decision on publicity.

Why have a Code?

2. Local authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation. Local authorities also need to tell the public about the services which they provide.

Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a council's activities, is to be welcomed. This Code is not intended to discourage such publicity.

3. Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local authorities has been significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made, in accordance with clear principles of good practice. The purpose of the Code is to set out such principles. It reflects the conventions which should apply to all publicity at public expense, and which traditionally have applied in both central and local government.

4. The principles set out below recognise the political nature of local government. They take account of the fact that some local authority publicity will deal with issues that are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, nor stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

Scope of the Code

- 5.** The Code is not concerned with the interpretation of section 2 of the Local Government Act 1986. (That section provides that a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party.) The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind in decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial, but which are not prohibited by section 2.
- 6.** Section 6 of the 1986 Act defines publicity as "any communication, in whatever form, addressed to the public at large or to a section of the public". The Code will therefore be relevant across the whole range of local authorities' work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns, and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.
- 7.** The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.
- 8.** The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based, and to apply them accordingly.
- 9.** By virtue of section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

CODE OF RECOMMENDED PRACTICE

Subject matter

- 1.** Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
- 2.** Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's

primary responsibilities. For example, section 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.

3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.

4. In considering the subject areas in which publicity is to be issued, the following matters will be important:

- (i) the publicity should be relevant to the functions of the authority.
- (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.

7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.

8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.

9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.

10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:

- (i) whether the publicity is statutorily required or is discretionary.
- (ii) where it is statutorily required, the purpose to be served by the publicity.
- (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

- 11.** Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
- 12.** Any publicity describing the council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
- 13.** Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
- 14.** Publicity relating to the provision of a service should concentrate on providing factual information about the service.
- 15.** In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.
- 16.** Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council, is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
- 17.** Publicity should not attack, nor appear to undermine, generally accepted moral standards.
- 18.** Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing

public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.

19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns, which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

21. Information and publicity produced by the council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on websites are able to reach far wider audiences than publicity available on application to the council. Councils should give particular consideration to the use of electronic and other new media communication systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.

24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.

25. there is no paragraph 25

26. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information, or facilitating consultation and can provide a means for local people to participate in debate on decisions the council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.

27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.

29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.

31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.

32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.

33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation.

Such support should be given openly through the normal grant arrangements. However,

the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.

34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.

35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.

37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.

38. Advertisements for staff should not be placed in party political publications.

Individual Councillors

39. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

40. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

Elections, referendums and petitions

41. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election.

42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to

Publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;

Assist anyone else in publishing such material; or

Influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or

group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

Assistance to others for publicity

44. The principles set out above apply to decisions on publicity issued by local authorities.

They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:

- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants;
- (b) make the observance of that guidance a condition of the grant or other assistance;
- (c) undertake monitoring to ensure that the guidance is observed.

45. It is appropriate for local authorities to help charities and voluntary organisations by arranging for pamphlets or other material produced and paid for by the organisation to be available for collection by the public in public libraries and other suitable locations. Such material should not offend against any legal provision, (authorities may be able to draw on their powers of well-being in section 2 of the Local Government Act 2000) but (subject to this) any such facility should be made available on a fair and equal basis.

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Originator: Amy Bowler

Tel: 0113 39 50261

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Membership of the Standards Committee

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Committee of the report considered by the Corporate Governance and Audit Committee on 31st January 2007 on issues surrounding the Standards Committee members, and their decision on the matter.

2.0 Background Information

- 2.1 The Corporate Governance and Audit Committee received the attached report (Appendix 1) at their meeting on 31st January 2007.
- 2.2 The Corporate Governance and Audit Committee were asked to consider the issues raised in the report and recommend to Council amendments to Article 9 of the Constitution (Appendix 3 to this report). These amendments being to extend the Elected Member representation on the Standards Committee by two, to provide for the Chair of the Standards Committee to be appointed from the Independent Members appointed to it, and to increase the number of independent members and Parish Councillors by one place each respectively.
- 2.3 The Corporate Governance and Audit Committee was also asked to recommend to Council proposals contained in the report to extend the terms of office of the two existing independent members (by two years); and appoint as full member those members currently acting as reserve members on the Committee.

3.0 Main Issues

- 3.1 Members of the Corporate Governance and Audit Committee resolved to:
- recommend to Council amendments to Article 9 of the Constitution (detailed in appendix 3 to this report) which:
 - extend Elected Member representation on the Standards Committee by two;
 - provide for the Chair of the Standards Committee to be appointed from the Independent members appointed to it; and
 - increase the number of Independent members and Parish Councillors by one place each respectively;
 - recommend to Council proposals contained in the report to:
 - extend the terms of office of the two existing Independent members (by two years); and
 - appoint as full members those members currently acting as reserve members on the committee; and
 - request a report to a future meeting of the Corporate Governance and Audit Committee to consider the question of whether a further Independent member should be appointed to the Standards Committee.

4.0 Implications For Council Policy And Governance

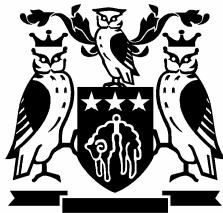
- 4.1 The changes agreed by the Corporate Governance and Audit Committee comply with the various requirements of the Local Government Act 2000 and with guidance from time to time issued by the Standards Board for England.

5.0 Legal And Resource Implications

- 5.1 Increasing, by one, the number of independent members serving on the Standards Committee will have a nominal impact on Council resources by dint of the need to pay those members of the Committee an allowance.

6.0 Recommendations

- 6.1 Members of the Committee are asked to note the attached report and the decision of the Corporate Governance and Audit Committee.



Originator: A Hodson

Tel: 43208

Report of the Director of Legal and Democratic Services

Corporate Governance and Audit Committee

Date 31st January 2007

Subject: Membership of the Standards Committee

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

This report presents proposals to extend the membership of the Standards Committee:

- To increase the Elected Member representation on the Standards Committee by two, with at least one being a representative from a political group not being one of the three largest.
- To Increase the number of Independent Members (lay people) by one
- To increase the terms of office of the two existing Independent Members by two years
- To regularize the current reserve independent member of the Standards Committee and appoint for a four year term
- To increase the number of Parish Council Members serving on the Committee (by one)
- To seek support from the Yorkshire Local Councils Association to regularize the current reserve parish member of the Standards Committee and appoint for a four year term
- To provide for the Chair of the Committee being drawn from the Independent Members appointed to the Committee

The report also considers proposals for the appointment cycle for Independent Members to facilitate a rolling programme for up to two terms of office of four years each.

1.0 Purpose Of This Report

1.1 This briefing note considers various issues related to the membership and terms of office of members of the Standards Committee. In particular the following is considered;

- The representation of Political Groups on the Committee
- The number of independent members who serve on the Committee and their respective terms of office.
- The number of Parish Councillors who serve on the Committee and their respective terms of office.

2.0 Background

2.1 The legislation underpinning the Standards Committee requires that there is a minimum of one independent member, or no less than 25% of the total membership of the Committee. However guidance indicates that there should be a minimum of 2 independent members in order to ensure that the independent member does not become isolated. The provisions for Parish Council members are that Members of the Standards Committee are appointed for a period of 4 years (subject to the member retaining their office). There are no restrictions on the number of periods of office a Parish Member may have. There are additional restrictions in that only one Executive Member¹ may serve on the Committee and that Member may not be the Chair.

2.2 These provisions are detailed in Article 9 of the Council's Constitution.

2.3 The Leeds Standards Committee was established in 2000 in response to the requirements of the Local Government Act 2000. It is chaired by an Independent Member (Mike Wilkinson) and has the following members serving.

Mike Wilkinson (Chair)	Independent
Cheryl Grant	Independent
Cllr Pat Walker	Parish Council Representative
Cllr Les Carter	Leeds City Council Councillor - Conservative
Cllr Graham Kirkland	Leeds City Council Councillor – Liberal Democrat
Cllr Elizabeth Nash	Leeds City Council Councillor – Labour

Reserve Members

Rosemary Greaves	Independent
John Priestley	Parish Council Representative

Reserve members are non-voting but may substitute for a peer member in cases where absence of the regular member may lead to an inquorate. Reserve Members attend meetings of the Committee to gain experience of the workings of the Committee and also receive training alongside Elected Members appointed to the Board.

¹ Currently Councillor J L Carter is the Executive Member on serving on the Committee

Membership: Terms of Office

- 2.4 The terms of appointment to the Standards Committee vary. For Elected Members of Leeds City Council the appointment is annual with no constraints on the number of years a member may be reappointed. For Independent Members of the Committee guidance suggests that no more than two terms of office be served. The Yorkshire Local Councils Association nominates Parish Councillors for appointment to the Committee. Each term of office is for 4 years with no constraints on the number of times a Member may be re-elected.

3.0 Main Issues

Input from all Political Groups on Council

- 3.1 Currently the three largest political groups on the Council have representation on the Committee. To help embed the ethical governance arrangements of the Council further it is proposed that the elected member representation on the Standards Committee be extended by a further two places. The intention being for at least one of these places to provide representation from other political groups on the Council.
- 3.2 The implications of this would be that additional places on the committee would need to be afforded to Independents (non elected and non political members of the Committee) and to Parish Councillors. It is proposed that this is done in the new Municipal Year by regularising all the current reserve appointments to the Committee².

The proposed make up of the Committee would therefore be as follows:

Leeds City Council Elected Member Representation	Independents	Parish and Town Councils
Labour	1 Place	3 places
Liberal Democrat	1 Place	
Conservative	1 Place	
Allocation to be determined by Party Whips	2 Places ³	
Total	5	3
Appointment Process	Via Party nominations – confirmed by Annual Council Meeting	Via Interview and selection process undertaken by officers and confirmed by Full Council
Terms of Office	Annual	4 Years
Restriction in number of terms	No	Yes two

² Removing the reserve status of these members would require consequential amendments to be made to the substitute provisions in Council procedure Rules.

³ In accordance with details in paragraph 3.1

Chairing the Committee

- 3.3 The existing guidance from the Standards Board for England is that an Independent Member should Chair the Standards Committee. Whilst the current arrangement in Leeds is that an Independent Member does indeed chair the committee, the element of Article 9 which governs this provides for any member being able to be appointed as Chair. It is suggested that this part of the Article is amended to read that an Independent Member must chair the committee.

Terms of Office

- 3.4 As outlined in paragraph 2.4 the terms of office for the different ‘categories’ of Standards Committee member vary. Of some concern is ensuring that there is some continuity, from amongst the Independent members, in terms of understanding of how Leeds City Council operates and of Local Government issues in general. Proposed at Appendix 1 is a sequence of periods of office for Independent Members for consideration which may alleviate such concerns and facilitate the increase in Independent Members proposed in the report.
- 3.5 This sequence provides for the two current Independent members of the Standards Committee to have their current terms extended by two years each. This is primarily because of the work within the Standards arena is due to change significantly in the coming months with many of the functions of the Standards Board for England being devolved to local Standards Committees and a new Member Code of Conduct being launched imminently. In view of this it is considered to be of value to the Council’s Governance arrangements to retain the existing high level of understanding (of the Council’s functions and of Standards matters) for a further period of two years.

Local Determinations

- 3.6 The Standards Board for England have, over recent months, referred more cases to be investigated and determined at a local level. The intention of the Local Government White Paper – Strong and Prosperous Communities, is to progress these initiatives further and deliver:
- A more locally based regime, with local standards committees making initial assessments of cases of misconduct allegations and most investigations and decisions made at a local level;
 - A revised strategic regulatory role for the Standards Board to provide supervision, support and guidance for local authorities and ensure consistent standards

- 3.7 The likelihood is that the work of the Standards Committee will increase, possibly with more hearings being required through hearing sub committees. With this in mind a larger pool of Standards Committee members will help enable speedier organization of these Sub Committees in the future.

4.0 Implications For Council Policy And Governance

- 4.1 The proposals outlined in this report comply with the various requirements of the Local Government Act 2000 and with guidance from time to time issued by the

Standards Board for England. A change to the current arrangements would require a change to Article 9 of the Constitution. This is detailed at Appendix 2.

5.0 Legal And Resource Implications

- 5.1 Increasing, by one, the number of Independent Members serving on the Standards will have a nominal impact on Council resources by dint of the need to pay those members of the Committee an allowance. That allowance is currently £ 528 per member.

6.0 Recommendations

- 6.1 Corporate Governance and Audit Committee is asked to consider the issues raised in this report and recommend to Council amendments to Article 9 of the Constitution detailed in appendix 2, they being: to extend Elected Member representation on the Standards Committee by two; to provide for the Chair of the Standards Committee to be appointed from the Independent Members appointed to it, to increase the number of Independent members and Parish Councillors by one place each respectively.
- 6.2 Corporate Governance and Audit Committee is also asked to recommend to Council proposals contained in the report to extend the terms of office of the two existing Independent Members (by two years); and appoint as full members those members currently acting in a reserve members on the committee.

Independent Members - Terms of Office and Appointment Schedule

Independent Member	Municipal Year												
	2007 - 2008	2008- 2009	2009- 2010	2010- 2011	2011- 2012	2012- 2013	2013- 2014	2014 - 2015	2015- 2016	2016- 2017	2017- 2018	2018- 2019	2019- 2020
Mike Wilkinson		Extension in term of office		No further terms of office									
Cheryl Grant	Extension in term of office		One further potential term to 2012/13 - will need to advertise		No further terms of office								
Rosemary Greaves	Regularise appointment (current Reserve)			One potential further term to 2014/15 - will need to advertise		No further Terms of Office							
New Independent Member 1			Need to advertise for term of office from 2008/9 - 2011/12			One further potential term to 2017/18 - will need to advertise		No further terms of office					
New Independent Member 2					Need to advertise for term of office from 20013/14 - 20016/17			One potential term to 2020/21- will need to advertise					
New Independent Member 3						Need to advertise for term of office from 20015/16 - 20018/19			potential term to 2022/23				

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Appendix 3 : ARTICLE 9 – THE STANDARDS COMMITTEE

9.1 STANDARDS COMMITTEE

The Council meeting will establish a Standards Committee.

9.2 COMPOSITION

- **Membership**

The Standards Committee will be composed of:

- (a) Three Councillors other than the leader, being representatives of the three largest political groups;
- (b) A further two Councillors, with at least one being a representative from a political group not being one of the three largest
- (c) three people who are not Councillors or officers of the Council or any other body having a standards committee (an Independent Member); and
- (d) two Members of a Parish Council wholly or mainly in the Council's area (a Parish Member).

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- **Independent Members**

Independent Members will be entitled to vote at meetings. An Independent Member shall not be appointed to serve more than two terms.

- **Parish Members**

A Parish Member must be present when matters relating to Parish Councils or their Members are being considered. The Parish Member is entitled to vote.

- **Parish Councils sub-committee**

The Standards Committee may include appoint a sub-committee to exercise the general functions set out in Article 9.3 below in relation to parishes. The sub-committee will include at least one Independent Member and one Parish Member.

- **Parish and Town Council Hearings Sub-Committee**

The Standards Committee has appointed a hearings sub-committee to exercise the function of determining any allegations of misconduct made against Parish and Town Council Members and to determine any sanction to be imposed on a finding of misconduct.

- **Chairing the Committee**

The Chair of the Committee will be appointed from the Independent Members appointed to it.

Deleted: Any Member of the Committee may be appointed as Chair, but in making the appointment, regard will be had to Standards Board guidance that an Independent Member should chair the Committee.¶

9.3 FUNCTIONS

The general functions of the Standards Committee are:

- (a) promoting and maintaining high standards of conduct by Members and co-opted members; and
- (b) assisting Members and co-opted members to observe the Code of Conduct.

The Terms of Reference for the Standards Committee, and for the Parish and Town Council Hearings Sub-Committee are set out in Part 3, Section 2B of the Constitution.

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Originator: Amy Bowler

Tel: 0113 39 50261

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Standards Committee Annual Report 2006-2007

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to seek the Committee's comments on the first draft of the Standards Committee Annual Report 2006-2007. This report provides a summary of the content of the Annual Report at Appendix 1.
2. Members of the Committee are asked to:
 - Note the contents of the report;
 - Review their biographies in the membership section of the report and make any necessary amendments; and
 - Comment on the draft report and make any suggestions for additional content.

1.0 Purpose Of This Report

- 1.1 To seek the Committee's approval of the first draft of the Standards Committee Annual Report 2006-2007. The report is attached at Appendix 1.

2.0 Background Information

- 2.1 It has been proposed that an Annual Report be submitted to the Council to outline the achievements of the previous year and plans for the year 2007/08.
- 2.2 Last year's Annual Report was well received by the Corporate Governance and Audit Committee and full Council, was published on the Council's website and was advertised with a Council press release.
- 2.3 The Annual Report now forms part of the reporting arrangements with the Corporate Governance and Audit Committee and will be submitted to them at their first meeting of the 2007/08 municipal year as the second of the six monthly updates.

3.0 Main Issues

Format of the report

- 3.1 Last year Members of the Committee requested that pages be inserted regarding the Parish and Town Councils in the Leeds area and the Monitoring Officer. As this information has not changed it is proposed that these pages remain in the report, as it cannot be assumed that people will have read the previous report. However as this information will have been included before, it is proposed that it is moved to the end of the report.
- 3.2 The pages regarding the standards committee membership and the terms of reference for the committee will remain in their original place at the start of the report. However, Members of the Committee are asked to check their biographies from last year, in case they wish to make any additions or amendments.

The Work of the Committee 2006 - 2007

- 3.3 The section regarding the work of the Committee in the previous year is categorised in a similar way to last year's annual report, which was split into four issue areas which reflected the Committee's terms of reference. However a fifth issue area has been added this year to incorporate the specific work the Committee has undertaken this year to improve its relationship with the Parish and Town Councils in Leeds and to ensure they are being supported appropriately.
- 3.4 The content is also broadly similar to the first 6 monthly report to the Corporate Governance and Audit Committee approved on 21st December 2006, although additions have been made and some of the finer details removed.

Issues for 2007 - 2008

- 3.5 The potential work of the Committee for the next municipal year is summarised at the end of the report.

These issues are outlined below:

- New Codes of Conduct
- Implementation of the Ethical Audit action plan
- Implementation of Parish Council training
- Changes in the role of the Standards Board

4.0 Implications For Council Policy And Governance

- 4.1 There are no implications for Council policy.
- 4.2 Producing a report which details the Committee's work throughout the year and the key decisions it has taken promotes transparency in the Committee's actions.
- 4.3 The annual report is also a method by which Members and officers can be informed of the Committee's role and its inputs and outputs. This is an objective of the communication plan which seeks to cascade regular information to Members and officers. The annual report will therefore have a fundamental contribution to the corporate governance arrangements of the Council.

5.0 Legal And Resource Implications

- 5.1 There are no legal or resource implications.

6.0 Conclusions

- 6.1 This report summarises the contents of the draft annual report for the year 2006-2007.
- 6.2 The publication of this Annual Report will support the Council's governance arrangements by promoting transparency in the Committee's actions and help fulfill the Corporate Governance Communication Plan.

7.0 Recommendations

- 7.1 Members of the Committee are asked to:
- Note the contents of the report;
 - Review their biographies in the membership section of the report and make any necessary amendments; and
 - Comment on the draft report and make any suggestions for additional content.

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Standards Committee

Annual Report 2006 – 2007



Introduction

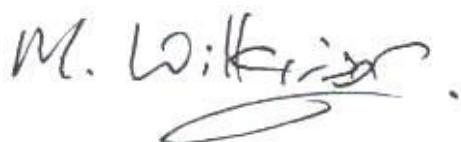
The Local Government Act 2000 requires councils to set up a standards committee. Standards committees have a proactive role in creating an ethical framework which governs the relationship between high standards of conduct and transparency and openness in decision making.

This is the Committee's second Annual Report and it presents a summary of the Leeds City Council Standards Committee's work during 2006/2007 and supports the Corporate Governance arrangements of the Council by promoting good conduct and cascading information.

Foreword from the Chair

This is the second Annual Report to be prepared by the Standards Committee. Its content illustrates the range and depth of our work during the year 2006-2007. We are particularly pleased with the work that has been undertaken with conducting the ethical audit. The action plan included within the Annual Report identifies an extensive program of further activities, together with the agenda identified in the report under "Issues for 2007-2008" this constitutes a challenging schedule of work for the Committee in the coming year.

When I introduced last year's report I noted the impending significant changes arising from redefinition of the national framework. Progress at a national level has been slower than anticipated and the local impact will now be felt in 2007-2008.



Members of the Committee

The Standards Committee is composed of two independent members, three City Councillors, and one Parish Councillor. There are also two reserve members; an independent reserve member and a parish reserve member.

Mike Wilkinson

has been an independent member and Chair of the Committee since 2002. Until 2001 he was a University Secretary and Clerk to the Board at Leeds Metropolitan University. He is a magistrate on the Leeds Bench and also acts as an Independent Assessor to the Student Loans Company. He is a Director of UNIPOL Student Homes.



Cheryl Grant

joined the Standards Committee in 2003 as a reserve independent member, and was appointed as a full independent member in 2004. Cheryl currently works at the Leeds Metropolitan University as Associate Senior Lecturer in the School of Film, Television and Performing Arts. She also works as a freelance producer.



Rosemary Greaves

joined the Standards Committee in 2004 as a reserve independent member. Rosemary currently works for BT as a Business Manager specialising in business development and strategy which includes developing significant new business propositions or identifying potential acquisition requirements.



Councillor Les Carter

is a member of the Conservative Group and has been a Leeds City Councillor since 1974. He represents the Adel and Wharfedale ward on Leeds City Council and is also an Executive Board Member with responsibility for Neighbourhoods and Housing. Councillor Carter's areas of responsibility include housing policy and strategy, community safety, regeneration, homelessness and environmental health.



Councillor Elizabeth Nash

is a member of the Labour Group and has been a Leeds City Councillor since 1973. She represents the City and Hunslet ward on Leeds City Council, has been a member of the Committee since 2003, and is also a member of the City Centre Plans Panel.



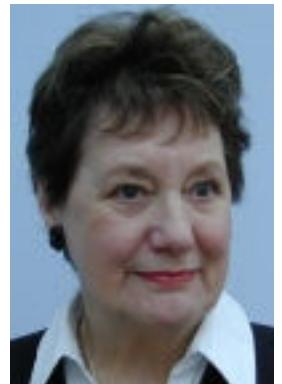
Councillor Graham Kirkland

is a member of the Liberal Democrat Group and represents the Otley and Yeadon ward on Leeds City Council. He has been a Councillor for a total of 39 years, and was Lord Mayor from 1998-1999. Councillor Kirkland is also a member of the Environment and Community Safety Scrutiny Board.



Councillor Mrs Pat Walker

is a member of Pool-in-Wharfedale Parish Council which she was elected to for the first time 6 years ago. She is lead member on conservation matters. Previously a Harrogate District Councillor, she has been involved in politics at local, national and European levels. A business manager in Leeds and Harrogate for 25 years, she is now an active member of the Ruskin Society and is presently a Foundation Governor of Prince Henry's Grammar School, Otley.



Councillor John C Priestley

joined the Committee in 2005 as a reserve parish member. He is a retired (litigation) solicitor and was a senior partner of Booth & Co. Leeds. He retired in 2002 and is now an elected Parish Councillor with East Keswick Parish Council and a member of the Wetherby and District Crime Prevention Committee. He is also a Trustee of the W.W. Spooner Charitable Trust.



Introduction to the Standards Committee

The general functions of the Standards Committee are:

- ▶ Promoting and maintaining high standards of conduct by Members and co-opted members; and
- ▶ Assisting Members and co-opted members to observe the Code of Conduct.

The terms of reference for the Committee are:

- ▶ Promoting, monitoring and reviewing the rules controlling the behaviour of Councillors and Officers (Code of Conduct);
- ▶ To consider any complaints made about the behaviour of Councillors and decide whether their behaviour has broken the rules described above. If the Councillor is found to have broken the rules, the Committee decide what punishment to impose;
- ▶ To make suggestions to and work with other agencies about standards issues and the different codes of conduct. This involves taking part in research projects and consultation exercises, as well as letting the Standards Board for England know about things the Committee are doing well;
- ▶ To provide advice and guidance to Members and officers and to make arrangements for training them on standards issues;
- ▶ To advise the Council about changes which need to be made to the code of conduct for Officers and to promote, monitor and review this code.

To carry out the above functions the Committee works closely with the Parish and Town Councils in the Leeds area and with the Authority's Monitoring Officer. You can find out more about them on pages 20 and 21 of this report.

The Work of the Committee 2006 – 2007

Promoting, monitoring and reviewing the Codes of Conduct

The Standards Committee exists to promote and maintain high standards of conduct within the Council, and has considered several important standards issues over the past year. The Committee has also sought to promote awareness of its existence and its functions amongst other Members of the Council.

- ▶ **Ethical Audit** - The Standards Committee has been involved in launching and championing an ethical audit carried out with the Audit Commission testing the level of ethical awareness in the authority amongst Members and officers. Although the audit covered all elements of the ethical framework, a large proportion of the questions related to Member's awareness and understanding of the requirements of the Code of Conduct, as well as the contents of the protocol on Member/officer relations. The Committee will be using these results to inform future training and guidance on these issues. The Standards Committee took a decision to include Parish and Town Councillors and Clerks in the recent ethical audit too. This meant that the Committee was also able to learn more about how it is perceived at a Parish level and how useful the current training is to Parish and Town Councillors. These results have been used to contribute to the ethical audit action plan (Appendix 1 to this report).
- ▶ **Reviewing the Codes and Protocols** - The Standards Committee has responsibility for several codes and protocols in the Constitution. To ensure that these are operating effectively, are being complied with, and are fit for purpose the Standards Committee has added regular reports regarding these codes and protocols to the work programme for the municipal year. The Standards Committee has reviewed the Protocol on Member/officer Relations, the Protocol on Member/Education Relations, and has received an annual report

from the Monitoring Officer. In particular further guidance has been included regarding publicity and press releases, and the specific roles of Members and officers. After consideration and consultation on these documents, the Standards Committee believes that they are fit for purpose. The Standards Committee has also approved a new set of guidelines for the use by Members of their Council supplied ICT facilities.

- ▶ **Promoting the local codes and protocols** - In order to promote the local codes and protocols and to ensure that Members are aware of them, the Standards Committee has produced a plain English guide to the local codes. This guide will be reissued at the start of every municipal year to ensure it remains as up to date as possible.
- ▶ **Monitoring compliance with the Code of Conduct** - In order to monitor compliance with the Members' Code of Conduct the Standards Committee receives 6 monthly reports on the number and types of complaints that have been referred to the Standards Board regarding Leeds City Council Members and Parish and Town Councillors in the Leeds area. The report also identifies any trends in the information so that the Committee can seek to address these matters through guidance and training.

The table below shows the number of complaints which have been made about Councillors in Leeds during this municipal year, and the number which have been referred for further investigation. The Committee did not identify any widespread problems or trends in the complaints before them.

Authority	Number of Complaints	Number referred for further investigation
Leeds City Council	9	1
Parish and Town Councils	0	0

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- ▶ **Register of Interests and Gifts and Hospitality** - The Standards Committee also seeks to reassure itself that the Members' register of interests is being reviewed and updated by Members on a regular basis and that the register of gifts and hospitality is being used appropriately. The Committee does so by considering annual reports on these subjects.
 - ▶ **Local Hearings** - The Standards Committee carried out its first local hearing into an allegation of misconduct this year. The hearing was a result of a local investigation. The Standards Committee determined that the Member had breached the Code of Conduct as alleged, and sanctioned him accordingly. The Standards Committee also sought to make improvements to the process of preparing for a local hearing as a result of the feedback received from the Member concerned and Members of the Committee, during an additional informal meeting. To this end, the Procedure Rules of the Committee were amended in order to clarify the deadlines in the pre-hearing process and to offer a wider choice of dates for the Member. The pre-hearing forms which have to be completed by the Member and the investigator have also been reviewed to make them clearer and more user friendly.
 - ▶ **Officer Code of Conduct** - The Standards Committee has monitored compliance with the officer code of conduct, particularly the requirement to register interests and offers of gifts and hospitality, through regular reports from Human Resources. The Committee has considered a further report which outlines the steps that have been taken so far to embed the existing arrangements for officers to make declarations of interests and declarations of offers of gifts and hospitality. This will be an area the Standards Committee will continue to support the Council in addressing.
 - ▶ **Raising the profile of the Committee** – In order to raise the profile of the Standards Committee and the profile of the ethical framework, the Chair of the Standards Committee attends regular meetings with

the Leader of the Council. The Chair is a co-opted member of the Corporate Governance and Audit Committee and also attends full Council meetings when he is able to. Other members of the Committee have also attended Parish and Town Council training sessions during this year. The Committee also features heavily in the regular bulletin 'Governance Matters'.

Providing Guidance and Training

The Standards Committee has a special responsibility for ensuring that Members are trained in matters relating to the code of conduct and arranging for appropriate training to be provided. During the previous year, the Standards Committee has both reviewed and recommended training for City Councillors and Parish and Town Councillors.

- ▶ **Induction for City Councillors** – The Standards Committee supported the induction training programme for new Members; all new Members received the required training on the Code of Conduct and had completed their Acceptance of the Code of Conduct and Register of Interests forms. The Committee has also contributed to the new Member Development Strategy for 2006-2008.
- ▶ **E-learning Modules** - The Standards Committee have also sought to make training on the Code of Conduct and local codes and protocols more accessible and convenient for Members by supporting the creation of the new e-learning module called "Cracking the Code". Part 1 covers the requirement for Members to make declarations of interest during meetings and to complete their register of interests. This initiative has been well received by Leeds' Members. The e-learning module has also been published on the IDeA's Learning Pool site; this has resulted in feedback from other local authorities and the Standards Board for England. The Standards Board for England have also stated that they were very impressed with the e-learning module and may reference the project as an example of good practice in future. The second part of the module covers the general obligations of the Code and the requirement to declare acceptance of gifts and hospitality.
- ▶ **Training on the new Code of Conduct** – In anticipation of a new model code of conduct being published by the Department for Communities and Local Government, the Standards Committee has been proactive in considering how to address the training needs of City Councillors and Parish and Town Councillors. The Committee has

approved a plan of action for this eventuality, including the provision of more local and centrally held training sessions and re-drafting and re-issuing existing guidance and training materials.

- ▶ **Parish Council Training** – The Standards Committee have sought to improve the training offered to Parish and Town Councils in the Leeds area. The Standards Committee keeps the training available and received by Parishes under review through 6 monthly reports on the work programme. In response to requests by Parish Clerks that training could be carried out in group sessions, two locally based training sessions have taken place. These were also attended by representatives from surrounding Parishes, and a total of 8 Parish and Town Councils took part. In order to make the training even more accessible to Parishes, the Chair of the Committee and the Parish representatives on the Committee held an informal meeting to discuss the training offered and how take up could be improved. Following this meeting...

However the Committee is continually seeking to improve the services it offers to Parish and Town Councils, and build on its relationship with the Parishes (see the next section for details).

- ▶ **Case Reviews** - By receiving reports on high profile standards cases and judicial reviews, the Standards Committee is able to monitor the development of case law. The Committee has received reports on the issue of bias and predetermination, the result of the Ken Livingstone High Court appeal, and lessons from cases which have been considered by the Adjudication Panel case tribunals. Through these reports the Standards Committee has been able to provide more thorough guidance and training to Members. For example, the Committee recently became aware through a case tribunal decision that the rules surrounding bankruptcy and elections had altered, and were able to contact the Department for Constitutional Affairs and request them to update their national guidance to local authorities.

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- ▶ **Insurance arrangements** - The Standards Committee have been considering the issue of insurance arrangements for Members throughout this municipal year. The Standards Committee were concerned that Members may be unaware of the provisions in place to assist them during an investigation or hearing, and have sought to address this by providing additional guidance in the form of a briefing note to all Members on insurance arrangements at the Council.
 - ▶ **Governance Matters** - The Standards Committee also features heavily in the regular bulletin 'Governance Matters' which is distributed to all Members of the Council and selected officers. This bulletin contains a 'spotlight on' section which provides advice on specific standards or governance issues, front page news and feedback from the Council's governance committees. There have been ten issues so far, they are published on a bi-monthly basis and are available to download from the Council's website¹.

¹

http://www.leeds.gov.uk/Council_and_democracy/Councillors_democracy_and_elections/Council_documents/page.aspx?pageID=55b2fa06-5680-44f1-a190-a9110910cbb5

Relationship with Parish and Town Councils

The Standards Committee has sought to develop its relationship with the Parish and Town Councils in the Leeds area during this municipal year.

- ▶ **Register of Interests and Gifts and Hospitality** - The Standards Committee has corresponded with Parish Clerks to remind them of the need to review their register of interests and register of gifts and hospitality. The letter included guidance that Parish Clerks should aim to carry out this exercise quarterly, and the majority of Clerks replied to say that they would endeavour to do so. This letter is sent out annually to ensure that the Parish registers are also kept up to date.
- ▶ **Improving awareness** - The Standards Committee are continuing to work with Parish and Town Councils to ensure that information is available for people who wish to make complaints about the conduct of Parish Councillors, either through Parish and Town Council websites or through the Standards Board leaflet on the subject. The Committee have also sought to encourage Parish and Town Councils to create their own websites if they have not already done so, and have provided guidance as to where help can be found.

Corporate Governance Issues

The Standards Committee shares responsibility for Corporate Governance issues with the Corporate Governance and Audit Committee. The Chair of the Standards Committee is a co-opted member of that Committee. The Committee has considered the following corporate governance issues during the year:

- ▶ **Comprehensive Performance Assessment** – The Committee has considered how the Council has performed against the criteria in relation to ethical standards and the Use of Resources Key Lines of Enquiry, and any improvements which could be made to the ethical framework.
- ▶ **Corporate Governance Statement** – The Standards Committee and its work regarding the conduct of Members and officers feature in the Council's Corporate Governance Statement. In particular the Committee's monitoring of complaints about Members and compliance with the codes of conduct.
- ▶ **Corporate Governance and Audit Committee** – The Standards Committee has further developed its relationship with the Corporate Governance and Audit Committee during this municipal year. The Chair of the Standards Committee remains a co-opted member of the Corporate Governance and Audit Committee, and the minutes of each Committee are received by the other. The Corporate Governance and Audit Committee have also approved new reporting arrangements which involve the Standards Committee submitting a report on its work every six months.

Working with Other Agencies

During the year, the Standards Committee has taken part in research and policy development on a national scale through various consultation exercises. The Independent Members of the Standards Committee are involved in the Standards Committee Independent Members' Regional Forum of Yorkshire and Humberside.

- ▶ **Consultation and research** – The Standards Committee has taken part in research projects during this municipal year, both locally and nationally. Several Standards Committee Members were approached by BMG to take part in a research project commissioned by the Standards Board for England on the size and make up of Standards Committees.
- ▶ **Independent Members' Regional Forum** – The Independent Members of the Committee have also maintained their involvement with the Standards Committee Independent Members Forum for the Yorkshire and Humberside Region this year, with the Chair of the Standards Committee acting as Chair of the Forum at the last meeting in Hull on 24th October 2006. The Forum enables the sharing of good practice between local authorities and consultation and discussion on the various codes and protocols. Further discussions concerning the direction of the regional forum are currently taking place.
- ▶ **Standards Board for England** - The Chair of the Standards Committee has attended the Sixth Annual Assembly of Standards Committees held by the Standards Board for England on 15th and 16th October 2006, which provided opportunity for training and guidance and also feedback to the Standards Board on their work. The Standards Committee is kept up to date on national conduct issues by receiving regular Standards Board Bulletins through the agenda and issues of the Town and Parish Standard. The Standards Committee

also received and considered the Standards Board Annual Report this year.

- ▶ **Adjudication Panel for England** – The Standards Committee is able to monitor the way in which the Code of Conduct is being interpreted and how sanctions are applied at a national level through the regular reports it receives on Adjudication Panel for England cases. The Committee also considered the Adjudication Panel's second annual report this year. This report contained a statement made by the President of the Adjudication Panel that there should be a requirement for the hearings by standards committees to be chaired by a lawyer who is familiar with the Competency Framework for Chairmen and Members of Tribunals. After discussion of this point the Standards Committee decided to write a letter to the President outlining their concerns and to copy to the letter to the Standards Board for England, and the Committee for Standards in Public Life.
- ▶ **Association of Independent Members of Standards Committees in England (AIMScE)** - One of the various fringe sessions at the Annual Assembly hosted the launch of the new Association for Independent Members of Standards Committees in England (AIMSce), of which the Chair of the Standards Committee and the Independent Member are now members. The Chair was also a member of the steering committee for this new association and has now been appointed to the position of Director without Portfolio. The Association will provide support and guidance to independent members in carrying out their statutory responsibilities, and will also act as a forum for exchanging views and ideas with other organisations and stakeholders.

Issues for 2007 – 2008

The Standards Committee will have many important issues to address in the coming the year, including the following:

- ▶ **New codes of conduct** – The Standards Committee is anticipating the release of the new national code of conduct for officers and a new model code of conduct for Members from the Department for Communities and Local Government and has reports on these subjects on the future work programme. The Committee may also have to consider how to aid the implementation of these revised codes of conduct, for example through updated guidance and training.
- ▶ **Implementation of the Ethical Audit action plan** – the action plan formulated by the Standards Committee during this municipal year will be implemented and monitored by the Standards Committee throughout the new municipal year. The action plan is attached as an appendix to this report.
- ▶ **Implementation of Parish Council Training** – The plan for extending the training provision for Parish and Town Councils agreed by the Standards Committee this municipal year will be implemented at the beginning of the new municipal year.
- ▶ **Changes in the role of the Standards Board** – as a result of the review of the Standards Board's performance, the Standards Board will be altering its role to become more of a strategic regulator. This will mean that complaints against Members are more likely to be referred to the Leeds Standards Committee for local investigation and determination.

Useful Links

If you would like to find out more about standards issues and the work of the Committee, as well as keep up to date with national issues, you may find the following links useful:

- ▶ **The Standards Board for England** (for guidance on standards issues, standards committees and outcomes of recent cases)
www.standardsboard.co.uk
- ▶ **The Adjudication Panel for England** – www.adjudicationpanel.co.uk
- ▶ **The Audit Commission** – www.audit-commission.gov.uk
- ▶ **Department for Communities and Local Government** –
www.dclg.gov.uk
- ▶ **Leeds City Council** – www.leeds.gov.uk
- ▶ **National Association of Local Councils** – www.nalc.co.uk
- ▶ **Yorkshire Local Council Association** –
www.visionwebsites.co.uk/Contents/Text/Index.asp?SiteId=490&SiteExtra=13134021&TopNavId=459&NavSideId=5536
- ▶ **The Countryside Agency** – www.countryside.gov.uk
- ▶ **Chartered Institute of Public Finance and Accountancy** –
www.ipf.co.uk
- ▶ **Association for Independent Members of Standards Committees in England** – www.aimsce.org.uk

Parish Councils

The Standards Committee has a special responsibility to the Parish and Town Councils in Leeds. The Standards Committee is responsible for ensuring high standards of conduct are met within the parishes and that every Member is aware of their responsibilities under the code of conduct.

The Parish and Town Councils in the Authority's area are:

Aberford & District	Drighlington	Otley
Allerton Bywater	East Keswick	Pool-in-Wharfedale
Arthington	Gildersome	Pudsey
Austhorpe	Great and Little Preston	Scarcroft
Bardsey Cum Rigtion	Harewood	Shadwell
Barwick in Elmet & Scholes	Horsforth	Swillington
Boston Spa	Kippax	Thorner
Bramham cum Oglethorpe	Ledsham	Thorp Arch
Bramhope and Carlton	Ledston	Walton
Clifford	Micklefield	Wetherby
Collingham with Linton	Morley	Wothersome

The Monitoring Officer

In Leeds City Council, the role of the Monitoring Officer rests with the Director of Legal and Democratic Services. The Monitoring officer has a key role in promoting and maintaining standards of conduct.

As well as acting as legal advisor to the Standards Committee, the Monitoring Officer carries out the following functions:

- ▶ reporting on contraventions or likely contraventions of any enactment or rule of law;
- ▶ reporting on any maladministration or injustice where the Ombudsman has carried out an investigation;
- ▶ establishing and maintaining registers of Members' interests and gifts and hospitality;
- ▶ maintaining, reviewing and monitoring the Constitution;
- ▶ supporting the Standards Committee;
- ▶ receiving reports from Ethical Standards Officers and decisions of case tribunals;
- ▶ conducting investigations into misconduct;
- ▶ performing ethical framework functions in relation to Parish Councils;
- ▶ acting as the proper officer for access to information;
- ▶ advising whether executive decisions are within the budget and policy framework; and
- ▶ advising on vires issues, maladministration, financial impropriety, probity, and budget and policy issues to all Members.

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Originator: Amy Bowler

Tel: 0113 39 50261

Report of the Director of Legal and Democratic Services

Standards Committee

Date: 14th February 2007

Subject: Standards Committee Work Programme 2006/07

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

- 1.1 To notify Members of the Committee of the work programme for the remainder of this municipal year and to seek comments from the Committee regarding any additional items.

2.0 Background Information

- 2.1 The work programme provides information about future items for the Standards Committee agenda, when reports will be presented to the Committee and who the responsible officer is.

3.0 Main Issues

- 3.1 The work programme for the year 2006/7 is attached at Appendix 1.

4.0 Implications For Council Policy And Governance

- 4.1 There are no implications for Council policy.

- 4.2 By ensuring the codes and protocols of the Constitution are reviewed and fit for purpose, the Standards Committee is supporting the Council's governance arrangements.

5.0 Legal And Resource Implications

- 5.1 There are no legal and resource implications.

6.0 Conclusions

- 6.1 The work programme is attached at Appendix 1 for the Committee's information.
- 6.2 The work programme contains information about future agenda items for the Committee.

7.0 Recommendations

- 7.1 Members of the Committee are asked to note the work programme and advise officers of any items they wish to add.

STANDARDS COMMITTEE - WORK PROGRAMME 2006/7

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES	DATE ENTERED INTO WORK PROGRAMME / SOURCE
Meeting date: 11th April 2007 – The deadline for reports for this meeting is 19th March 2006			
Final Standards Committee Annual Report 2006/2007	To seek Member's approval for the final draft of the Standards Committee Annual Report 2006/2007.	Corporate Governance Officer Amy Bowler	
Adjudication Panel Decisions/Notable Cases	Regular report detailing the most recent Adjudication Panel decisions and any other notable standards cases.	Corporate Governance Officer Amy Bowler	
Register of Gifts and Hospitality	To receive a report detailing the arrangements in place for Members to declare receipt of gifts and hospitality.	Corporate Governance Officer Amy Bowler	
Informed, Transparent Decision Making	To receive an updated report on the steps the Council has taken to embed existing arrangements for Officers to make declarations of interests and declarations of offers of gifts and hospitality.	Head of Human Resources Strategy Helen Grantham	
Annual report on the Monitoring Officer Protocol	The Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.	Principal Corporate Governance Officer Kate Sadler	

STANDARDS COMMITTEE - WORK PROGRAMME 2006/7

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES	DATE ENTERED INTO WORK PROGRAMME / SOURCE
Final draft of ethical audit action plan	To approve the final ethical audit action plan which the Committee will monitor throughout the 2007/2008 municipal year.	Principal Corporate Governance Officer Kate Sadler	
E-learning module – “Cracking the Code” Part 2	To receive a report detailing the contents of the new e-learning module, the feedback regarding Part 1 and the take-up amongst Members.	Corporate Governance Officer Amy Bowler	
Feedback on amendments to Member / Education Leeds Relations Protocol	To receive a report outlining the feedback received on the proposed amendments to the Member/Education Leeds Relations Protocol.	Principle Corporate Governance Officer Kate Sadler	

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
<u>Unscheduled Items</u>		
Draft Code of Practice for the Determination of Licensing and Planning Matters	Consideration of a new draft code of practice for the determination of licensing and planning matters, to replace the two separate codes and to include provisions in relation to the Gambling Act.	Lead Officer: Robert Wade
Officer Code of Conduct	Approval of a revised Leeds City Council Officer Code of Conduct following receipt of the Model Code.	Lead Officer: Stuart Turnock

STANDARDS COMMITTEE - WORK PROGRAMME 2006/7

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Partnerships Survey	To receive a report detailing the outcome of the partnerships survey and the Corporate Governance arrangements in place within the Council's partnerships.	Lead Officer: Liz Davenport

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