



STANDARDS COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Wednesday, 13th February, 2008
at 2.00 pm

MEMBERSHIP

Independent Members

Mike Wilkinson (Chair)	(Independent Member)
Rosemary Greaves	(Independent Member)
Vacancy	(Independent Member)

Councillors

D Blackburn
JL Carter
J Elliott
G Kirkland
E Nash

Parish Members

Councillor Mrs P Walker	Pool in Wharfedale Parish Council
Councillor John C Priestley	East Keswick Parish Council

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 12 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 5th December 2007 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 meetings held on 28th November 2007 and 14th January 2008.</p>	9 - 18

Item No	Ward/Equal Opportunities	Item Not Open		Page No
7		10.4(1, 2, 7c)	<p>LOCAL INVESTIGATION INTO A COMPLAINT AGAINST A MEMBER (REFERENCE: SBE 19504.07)</p> <p>To receive a report of the Chief Officer (Legal, Licensing and Registration) detailing the outcome of a local investigation into a complaint against an elected Member and the Investigating Officer's final findings.</p> <p>Appendices 1 and 2 to this report are marked as exempt under Access to Information Procedure Rules 10.4 (1, 2 and 7C)</p>	19 - 78
8			<p>LEEDS CITY COUNCIL CASE SUMMARY</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) presenting a recent case summary published on the Standards Board for England website concerning a Leeds City Councillor, and any possible lessons to be learnt.</p>	79 - 82
9			<p>LOCAL ASSESSMENT PROCESS</p> <p>To consider a report of the Assistant Chief Executive (Corporate Governance) outlining the new arrangements for the local assessment of complaints due for implementation in April 2008, including the creation of sub-committees.</p>	83 - 92
10			<p>CONSULTATION ON THE NEW ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS</p> <p>To consider a report of the Assistant Chief Executive (Corporate Governance) presenting the consultation paper produced by Communities and Local Government and the draft response from Leeds City Council.</p>	93 - 142

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11			<p>STANDARDS BOARD FOR ENGLAND LOCAL ASSESSMENT CHECKLIST</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) benchmarking the position of Leeds City Council with regard to the new local standards regime and advising Members of the Committee of the various areas requiring further work.</p>	143 - 148
12			<p>ANNUAL REPORT ON THE MONITORING OFFICER PROTOCOL</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) outlining whether the arrangements set out in the protocol have been complied with and including any proposals for amendment in light of issues arising since the last report.</p>	149 - 162
13			<p>PROTOCOL ON MEMBER/OFFICER RELATIONS - RESULTS OF CONSULTATION</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) outlining the comments received from consultees regarding amendments to be made to the protocol.</p>	163 - 188
14			<p>STANDARDS COMMITTEE ANNUAL REPORT 2007/08</p> <p>To consider a report of the Assistant Chief Executive (Corporate Governance) seeking comments on the draft Standards Committee Annual Report 2007/08.</p>	189 - 214
15			<p>STANDARDS COMMITTEE WORK PROGRAMME</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) outlining the contents of the work programme for the rest of the 2007/08 municipal year.</p>	215 - 220

Agenda Item 5

Standards Committee

Wednesday, 5th December, 2007

PRESENT:

Independent Members

Mike Wilkinson (Chair) (Independent Member)
Rosemary Greaves (Independent Member)

Councillors

E Nash J Elliott
G Kirkland D Blackburn

Parish Members

Councillor Mrs P Walker Pool in Wharfedale Parish Council
Councillor John C East Keswick Parish Council
Priestley

APOLOGIES:

J L Carter

44 Appeals against refusal of inspection of documents

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

45 Exclusion of public

The following item was identified where a resolution may be moved to exclude the public:

Review of Local Investigation into a Complaint against a Member Ref SBE16721.06, excluded under Access to Information Procedure Rule 10.4 (1,2) (minute 52 refers).

46 Late items

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

47 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 8 to 12 of the Members' Code of Conduct.

48 Minutes of the previous meetings

The minutes of the Standards Committee meetings on 10th October 2007 and 7th November 2007 were approved as correct records.

49 Minutes of the Corporate Governance and Audit Committee

The minutes of the Corporate Governance and Audit Committee meeting on 27th September 2007 were received and noted.

50 Update: Informed, Transparent Decision Making - Officer Declaration

The Assistant Chief Executive (Corporate Governance) submitted a report updating Members of the Committee of the progress achieved in ensuring transparent employee decision making which can be shown to be free from bias on the occasions when private life and public interest are linked.

The Chair commented that this most recent report was most informative and helpful and thanked relevant officers for their continuing work on this matter.

During the discussion Members made the following points:

- It was perverse that where the Council acts as a regulatory body there is no public register of officer interests, as officers take the majority of regulatory decisions. Officers should be covered by the same rules as Members;
- That the register of interests for officers requires the inclusion of third party information, whereas the Members' register does not, but a simplified officer register could be published with the third party information removed;
- Their concern regarding the granting of planning permission by officers when the Council is the applicant;
- The status of Arms Length Management companies, and whether they have sufficient governance arrangements in place regarding officer decision making;
- Whether members of the public would have the right of appeal against an officer decision, and how they could complain about an officer if there was suspected impropriety;
- That the forward plan and the delegated decision forms needed to be simplified to make them more user friendly for members of the public accessing them online;
- That amendments needed to be made to the Delegated Decision Form (Appendix B to the report) to make it clear who the decision taker was; and
- Whether Members could request to view the register of interests for an officer. It was reported that if Members had concerns over a particular officer decision, they should raise the matter with the relevant director.

RESOLVED - Members of the Committee resolved to:

- Request that a report on officer decision making as it relates to planning applications made by the Council be considered at Corporate Governance and Audit Committee;
- Request that the Assistant Chief Executive (Corporate Governance) requests further information on the governance arrangements in place in Arms Length Management companies, as part of the work being undertaken on the Council's partnerships;
- Request that formal written protocols and guidance for officers taking decisions are adopted within Planning and Licensing;
- Request that the Delegated Decision Form be amended to clearly show the name of the officer making the declaration of interest, and the name of the officer who has signed the form;
- Request that the Forward Plan be amended to make it more easily understandable to members of the public; and
- Write to the Department for Communities and Local Government to ask when the National Officer Code of Conduct will be available for consultation, and to suggest that a version of the officer register of interests with the third party information removed be considered for publication.

51 Exclusion of the public

RESOLVED – That the public be excluded from the meeting during consideration of the following parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of the exempt information so designated as follows:

The report and appendices referred to in minute 52 under the terms of Access to Information Procedure Rule 10.4 (1, 2) and on the grounds that the public interest in maintaining the information as exempt, outweighed the public interest in disclosing the information as it would prevent the disclosure of highly personal information of third parties, and would enable the Committee to openly discuss and comment on the acts and omissions of all parties the majority of whom were not at the meeting and able to respond to any comments.

52 Review of Local Investigation into Complaint Against Member Ref SBE16721.06

The Committee considered a report from the Chief Officer (Legal, Licensing and Registration) reviewing the recent local investigation, considering the general difficulties with such investigations, examining concerns raised by the Committee in respect of the specific investigation, and establishing what lessons there are to be learned in respect of future investigations.

The report was designated as exempt under Access to Information Procedure Rule 10.4 (1, 2).

During the discussion, Members made the following points:

- That an investigation which took more than 3 months was bad practice, and that twelve months was completely unacceptable. However there was no criticism of the investigator;
- That a decision to follow best practice would have financial implications for the authority;
- Whether it would be possible for the Committee to set a timescale for future investigations. It was reported that the Committee would be able to set a date for the hearing in advance, and to warn the parties that the hearing would take place on that date on the evidence available at the time; and
- That there had been discussions at the Annual Assembly regarding whether there would be a future role for the Chair of the Committee to overview the process of investigations, although the Committee would have to wait for the relevant regulations to be published in order to ascertain more details.

RESOLVED – Members of the Committee resolved to:

- note the report; and
- consider the situation again in future in light of the new local filtering arrangements.

53 Ethical Audit Action Plan: Ethical Framework and Awareness Programme for Officers

The Committee considered a report of the Chief Officer (Human Resources) addressing two actions identified in the Ethical Audit Action Plan attributed to Human Resources. These concerned the development of key competencies and behaviours for managers including appropriate reference to the ethical framework and the development of a training and awareness programme for officers.

During the discussion, Members made the following points:

- That the success of the methods identified in the report could be measured during the next Ethical Audit; and
- That they were happy with the progress made so far.

RESOLVED – Members of the Committee resolved to note the contents of the report and the progress made towards the actions identified in the Ethical Audit Action Plan.

54 Member Development issues arising from the Ethical Audit 2006

The Committee considered a report of the Chief Democratic Services Officer setting out how the Head of Scrutiny and Member Development had fulfilled certain actions required in the Ethical Audit Action Plan. The particular actions related to planning and providing training on legislation included in the

Council's ethical framework, and planning and providing training on issues of appropriate behaviour for Councillors.

During the discussion, Members made the following points:

- Whether any Members were refusing to undergo training on the Code of Conduct. It was reported that no Members had formally notified officers that they were refusing;
- Their concerns that some Members were putting themselves at risk by not undertaking training on the Code of Conduct, and that perhaps training on the Code of Conduct could be made compulsory; and
- That the governance training for Members of Planning and Licensing Panels and Committees needed to be made more relevant to Members if it was to be compulsory.

RESOLVED – Members resolved to:

- Note the report; and
- Request a further report on 2nd April 2008 regarding further progress on planning and providing training on legislation included in the Council's ethical framework.

55 Adjudication Panel for England: Decisions of case tribunals

The Committee considered a report of the Assistant Chief Executive (Corporate Governance) providing summaries of the recent decisions made by the Adjudication Panel for England regarding allegations of misconduct against Members.

RESOLVED – Members of the Committee resolved to note the recent decisions of the case tribunals.

56 Complaints referred to the Standards Board for England in the period April 2007 to October 2007

The Committee considered a report of the Assistant Chief Executive (Corporate Governance) advising them of the number of complaints referred to the Standards Board for England in relation to Members of Leeds City Council and local Parish and Town Councillors within the area under the Members' Code of Conduct, in the period 1st April 2007 and 30th September 2007.

Members discussed whether people were using complaints to the Standards Board for England to intimidate Councillors, and whether there was any recourse open to Members in this situation. It was reported that although there was no appeal process open to Members, if the intimidation amounted to criminal behaviour they would be able to report it.

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

57 Sixth Annual Assembly of Standards Committees: 'Down to Detail'

Draft minutes to be approved at the meeting
to be held on Wednesday, 13th February, 2008

The Committee considered a report of the Assistant Chief Executive (Corporate Governance) advising the Committee of the Sixth Annual Assembly of Standards Committees which took place on 15th and 16th October 2007 in Birmingham.

The Chair of the Committee reported that he had attended the recent Annual Assembly, and encouraged other Members of the Committee to attend future assemblies.

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

58 Consultation with Members regarding the addition of local provisions to the Code of Conduct

The Committee received a report of the Assistant Chief Executive (Corporate Governance) asking them to consider whether any local provisions should be added to the Members' Code of Conduct, and to note the consultation process for all other Members of Council.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report;
- Not to make any recommendations for additions to the Code of Conduct; and
- Note that a further report would be brought back to the Committee containing the results of the consultation process once that has been completed.

59 Standards Committee half year progress report

The Committee received a report of the Assistant Chief Executive (Corporate Governance) seeking comments from them on the draft report advising the Corporate Governance and Audit Committee of the work completed by the Standards Committee to date in the 2007/8 municipal year.

It was reported at the meeting that the report would have to be updated in light of the additional meeting held on 7th November 2007.

RESOLVED – Members of the Committee resolved to:

- Approve the draft report (subject to the amendments described above); and
- Agree to refer this report to the Corporate Governance and Audit Committee for further consideration at their next available meeting.

60 Standards Committee Work Programme

The Committee considered a report of the Assistant Chief Executive (Corporate Governance) notifying Members of the Committee of the work

programme for the remainder of the municipal year and seeking comments regarding any additional items.

It was reported at the meeting that the following items could be added to the work programme:

- The results of the Standards Board for England research “Public Perceptions of Ethics: Phase 2”;
- The headline results from the Ethical Audit 2007;
- The results of the consultation with Members on the addition of local provisions to the Members’ Code of Conduct; and
- The draft action plan arising from the results of the Ethical Audit 2007.

RESOLVED – Members of the Committee resolved to note the updated work programme with the addition of the items above.

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Agenda Item 6

Corporate Governance and Audit Committee

Wednesday, 28th November, 2007

PRESENT: Councillor J Bale in the Chair
Councillors D Blackburn, E Minkin,
C Campbell and G Driver

Co-optee Mike Wilkinson

Apologies Councillors B Gettings

41 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

42 Exclusion of Public

There were no resolutions to exclude the public.

43 Late Items

There were no additional items, however five late appendices, and a document making amendments to appendix 3, to the report on the review of polling districts and polling places (minute 47) were circulated after the despatch of the agenda.

These appendices were provided late as the information contained within them was only available after the agenda was despatched. The Chair admitted these late documents to the agenda.

44 Declaration of Interests

Councillor Driver declared a personal interest in item 8 (minute 48) by virtue of his membership of the Groundwork Leeds Trust board and the Neighbourhood Renewal Board - Aire Valley (both partnerships listed in the report). Councillor Bale also declared a personal interest in the same item by virtue of his membership of Community Links.

Councillor Driver declared a personal interest in item 8 (minute 49) by virtue of his membership of the Neighbourhood Renewal Board - Aire Valley.

45 Minutes

Minutes approved at the meeting
held on Monday, 14th January, 2008

Members requested an update on Minute 39 and were informed that the relevant reports back had either been circulated electronically or were scheduled for consideration at a future meeting.

RESOLVED – Members resolved that the minutes of the Corporate Governance and Audit Committee meeting held on the 27th September 2007 be approved as a correct record.

46 Minutes of the Standards Committee

RESOLVED – Members resolved to note the minutes of the Standards Committee meeting held on the 10th October 2007.

47 Review of Polling Districts, and Polling Places

The Assistant Chief Executive (Corporate Governance) submitted a report regarding the review of polling districts and polling places.

Councillor Procter and Councillor Taggart were present at the meeting for the purpose of responding to any questions.

Members noted:

- the large number of representations submitted and the extensive work that has been undertaken to respond to the submissions;
- that the current review of polling districts and places is required to be completed prior to 31st December 2007; and
- that under the Scheme at Appendix 4 there will continue to be wide disparities in the facilities for polling made available to voters in different parts of the city.

Members also particularly discussed two specific proposals in relation to 101 CAL Sheepscar WMC and KII Kirkstall Brewery site. Discussion of these proposals included consideration of the broader questions of licensed premises and gated communities.

RESOLVED – The Committee resolved to:

- approve the Scheme as set out in Appendix 4 with the following exceptions:
 - that the polling station at Sheepscar is detailed as being 'within the curtilage' of the WMC and that the Kirkstall Brewery Site is removed from the scheme; and
- instruct officers to report to the next scheduled meeting (February) of the Committee on:
 1. how the process of reviewing polling districts and places may be improved;
 2. how, within electoral law and guidance, the concern about disparities can be addressed; and
 3. their recommendations following their investigations and consultations on those polling districts and places which remain under consideration (including Kirkstall Brewery) and such further

recommendations with regard to polling districts and places as are appropriate taking into account 1. and 2. above.

48 Governance arrangements for significant partnerships

The Assistant Chief Executive (Corporate Governance) submitted a report informing Members of progress made in relation to the governance arrangements of the council's significant partnerships.

RESOLVED – Members resolved to:

- note the council has now identified its significant partnerships as set out in appendix one to the report;
- note the results of the base-line assessment of the governance arrangements for those partnerships;
- note the guidance circulated to directors (appendix three); and
- request that officers give further consideration to the relationship between the council's scrutiny function and its significant partnerships.

49 External audit risk review on EASEL regeneration project

The Director of Environment and Neighbourhoods submitted a report introducing the context for the KPMG review of open-book accounting. The report also explained how the findings of the risk reviews and an additional value-added workshop on these issues will be used to directly benefit the long term effectiveness of the EASEL initiative.

Lynsey Simenton from KPMG was also present for this item.

Members particularly discussed:

- the need to ensure a clear separation between the role of Leeds City Council officers appointed to the EASEL board and those officers responsible for monitoring performance on behalf of the council; and
- the need to balance robust governance arrangements against the risk of developing a framework which could prevent the council pursuing its priorities.

RESOLVED – Members resolved:

- to note the findings of the risk review of the EASEL regeneration project;
- to note the benefits to the council provided by the report and EASEL workshop; and
- to request a further report back regarding the developing governance arrangements for EASEL.

50 Report of KPMG: External Auditors - Children & Young People's Agenda Partnership working

The Director of Children's Services submitted a report presenting the report from the council's external auditors KPMG on the 'Children and Young People's Agenda: Partnership Working'. The report includes an action plan

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identifying the work the council will do to respond to the recommendations made in the external audit report.

Lynsey Simenton from KPMG was also present.

Members particularly discussed:

- the importance of conducting case-studies so that relevant people understand how the various elements of the Children's Trust arrangements operate in practice; and
- governance arrangements at Area level, especially with regard to the inter-agency management of complex cases and their associated risks.

RESOLVED – Members resolved to:

- note the content of the report, its recommendations and the action plan detailing the planned response; and
- request that a further report regarding the governance of children's centres within schools is received either by Corporate Governance and Audit Committee or the Childrens' Services Scrutiny Board.

51 Accessibility of Governance Information on the Leeds City Council Website

The Assistant Chief Executive (Planning, Policy and Improvement) submitted a report presenting to Members the changes that have been made to the Leeds City Council internet site to improve both the accessibility and presentation of the public facing elements of the council's democratic services information system, planning decisions and information system; and information on elections.

Members particularly discussed how the internet could be further improved to facilitate more community engagement.

RESOLVED – Members resolved to:

- note the improvements being made to the council's website in respect of governance related information; and
- request a report to a future meeting regarding the development of community websites.

52 Update Report on Risk Management Arrangements

The Director of Resources submitted a report providing a progress report on key risk management and business continuity management development across the council and its strategic partners since the previous report in June 2007.

Members particularly discussed the research that had been undertaken into the publication of corporate risk registers.

RESOLVED – Members resolved to:

- note and approve the progress report on the council's risk management and business continuity management arrangements; and
- to request that further consideration be given to the publication of Leeds City Council's risk register.

53 Update on 'Delivering Successful Change'

RESOLVED – Members resolved to defer consideration of this item to the next meeting.

54 Half-Year Internal Audit Report

RESOLVED – Members resolved to defer consideration of this item to the next meeting.

55 The Corporate Governance Statement Action Plan

RESOLVED – Members resolved to defer consideration of this item to the next meeting.

56 Work Programme

RESOLVED – Members resolved to:

- defer consideration of this item to the next meeting; and
- request that an additional meeting of the Committee is arranged for January 2008 for consideration of deferred items.

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Corporate Governance and Audit Committee

Monday, 14th January, 2008

PRESENT: Councillor J Bale in the Chair
Councillors D Blackburn, E Minkin,
C Campbell, G Driver and B Gettings

Co-optee Mike Wilkinson

Apologies None

57 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

58 Exclusion of Public

There were no resolutions to exclude the public.

59 Late Items

There were no late items submitted to the agenda for consideration.

60 Declaration of Interests

Councillor Driver declared a personal interest in Item 8 (minute 64), the half-year internal audit report, due to his membership of the board of Aire Valley Homes and that he is a Governor of South Leeds High School.

61 Minutes

Members discussed Minute 48 in relation to significant partnerships. In particular:

- that the Scrutiny Boards should be made aware of this work; and
- that scrutiny be a key part of the governance required by the Council's significant partnerships.

Members also discussed Minute 52 in relation to the Council's risk management arrangements and reiterated their view that consideration needs to be given to publication, in some form, of the Council's corporate risk register.

RESOLVED - Members resolved:

Draft minutes to be approved at the meeting
to be held on Wednesday, 6th February, 2008

- that the minutes of the Corporate Governance and Audit Committee meeting held on the 28th November 2007 be approved as a correct record, subject to an amendment to Minute 48 to remove an additional 'the'; and
- that the Executive Board be asked to consider publication, in some form, of the Council's corporate risk register, taking into account the principle that information should be available and accessible to the public to ensure transparent governance.

62 Minutes of the Standards Committee

RESOLVED - Members resolved to:

- note the minutes of the Standards Committee meeting held on the 5th December; and
- express their support for the Committee's decision to write to the Minister for Communities and Local Government regarding the delay in the publication of the national officer code of conduct.

63 Standards Committee half year progress report

Members particularly discussed:

- Parish Councillors' knowledge of the new Members' Code of Conduct and their obligations within the new code; and
- officer decision making.

RESOLVED – Members resolved to note the report.

64 Half-Year Internal Audit Report

Members particularly discussed the issues raised in the report in relation to Aire Valley Homes Arms Length Management Organisation (ALMO). Officers reported that it is less likely that the ALMO will have an independent internal audit function in place for this financial year.

Members expressed the view that the ongoing work on the governance of grants to voluntary organisations should capture grants awarded by Area Committees.

Finally, in response to a question regarding the National Fraud Initiative, the Committee was updated on the actions that have been taken by Leeds City Council following the loss of data by other national bodies.

RESOLVED – Members resolved to:

- express their concern at the failure of Aire Valley Homes to implement internal audit, which has been identified as a risk to Leeds City Council and to request an urgent report back to the Committee from the Assistant Chief Executive (Corporate Governance) and the Director Environment and Neighbourhoods regarding this matter;
- request a report outlining the management / governance arrangements which are in place for all the ALMOs and other relevant arms lengths organisations; and

Draft minutes to be approved at the meeting
to be held on Wednesday, 6th February, 2008

- request that consideration is given to whether loss of data is a significant corporate risk.

65 Update on 'Delivering Successful Change'

Members were particularly interested in how far the Delivering Successful Change (DSC) methodology has been implemented across the Council. The proposed Corporate Programme Management function will in future be able to provide assurance regarding implementation. The use of the DSC methodology is now compulsory for any new projects, as defined by the DSC methodology.

Members also sought assurance that the need to keep relevant Elected Members apprised of the development and implementation of projects is built into the methodology. The stakeholder communication plan should ensure this.

RESOLVED – Members resolved to:

- note the further progress of the project and the links between DSC and the evolving Council Change Programme;
- support the requirement for officers involved in project management to adhere to Council policy and the corporate approaches and ensure that projects are subject to appropriate project assurance;
- support the request to task senior management with the responsibility for overseeing the use of DSC within directorates;
- continue to receive quarterly reports from the DSC projects, with the next report providing some evidence of the implementation of DSC; and
- receive the programme management methodology for consultation.

66 The Corporate Governance Statement Action Plan

Members discussed progress on achieving improvements identified within the 2007 Corporate Governance Statement.

Members also discussed the request of the Leader of Council that the Elected Members of the Committee be asked to form an Elected Member Constitution Working Group to develop proposals for Constitutional change. This work will be informed by a diagnostic exercise undertaken by the Deputy Chief Executive and the Assistant Chief Executive (Corporate Governance), following a resolution of Full Council in June 2007.

RESOLVED – Members resolved to:

- note the work officers have undertaken to improve the Council's corporate governance arrangements;
- agree the proposals for improving the action plan;
- request an update in the next regular risk management report regarding the implementation of business continuity plans; and

- establish an Elected Member working group, made up of the Elected Members on the Corporate Governance and Audit Committee, to formulate proposals for Constitutional change.

67 Knowledge Specification for Corporate Governance and Audit Committee Members

Members discussed a number of general issues in relation to Member development, in particular:

- the skills and knowledge, generally, that Councillors require;
- Member induction; and
- developing a career as a Councillor .

RESOLVED – Members resolved to:

- agree the knowledge specification attached at appendix one to the report, with the addition of a requirement to understand the relationship between the CGA and Standards Committee;
- undertake a self-assessment against the specification; and
- forward the specification to Group Whips, to take into consideration when making nominations to the Committee.

68 Work Programme

RESOLVED – Members resolved to request that an additional meeting be arranged for March to consider appropriate unscheduled items, any additional items arising from this meeting, and / or items deferred from the February meeting.



Originator: Amy Kelly

Tel: 0113 39 50261

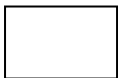
Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

**Subject: Local Investigation into a Complaint against a Member Reference SBE
19504.07**

Electoral Wards Affected:



Ward Members consulted
(referred to in report)

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 outcome of the recent local investigation into a complaint against a Leeds City Councillor.

2.0 Background Information

2.1 The attached investigator's final report and bundle of evidence are marked as exempt under the Access to Information Procedure Rules to enable the Standards Committee to decided what part of the report, if any, should be discussed in public.

2.2 Access to Information Procedure Rules 10.4.1 and 10.4.2 exempt information relating to any individual and which is likely to reveal the identity of the individual, if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2.3 Procedure Rule 10.4.7c also exempts the deliberations of a Standards Committee or subcommittee in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4), or (5) or 71(2) of the Local Government Act 2000, if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2.4 The investigator considers that it is in the public interest to maintain the exemption as the attached Report contains the opinion of the Investigating Officer, which, if the

Report is made public will be disclosed prior to the Committee having had the opportunity of discussing that opinion and forming their own view of it.

- 2.5 The Standards Board for England advises that final reports should be made available for public inspection unless they contain confidential or exempt information as defined by the Local Government Act 1972. The final report is produced at the end of the investigation and will contain the investigator's findings of fact, the investigator's reasoning, the investigator's finding as to whether there has been a failure to comply with the Members' Code of Conduct, and the documents relied on by the investigator in reaching his or her conclusions. The final report is presented to the Standards Committee for them to consider.
- 2.6 The Committee will be aware that at the meeting, they will simply consider the report and will not seek to interview witnesses or take representations from the parties. The committee's role at this stage is to decide whether, based on the facts set out in the report, it agrees with the Investigating Officer's finding or believes there is a case to answer. If the committee agrees that the Code of Conduct has not been breached, they will arrange for a notice to be published. The notice should state the committee's finding, and give reasons for it. In such cases, the member involved is entitled to ask that the notice not be passed to local newspapers. If the committee decides there is a case to answer, the full committee, or an appointed sub-group of the committee, will hold a hearing to make a final determination on whether the Code of Conduct was breached.
- 2.7 If the Standards Committee decides that there has been a breach of the Code of Conduct, the matter will be referred to a hearing. During the pre-hearing process the Standards Committee will decide whether or not any parts of the hearing should be held in private, and whether or not any parts of the report or other documents should be withheld from the public.

3.0 Main Issues

Standards Committee Procedure Rules

- 3.1 Section 5.2 of the Standards Committee Procedure Rules state that:

"Where the Committee receives a report which contains a finding of no failure, it will meet to consider the report 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.

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

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

3.2 The Investigating officer is of the opinion that there has not been a breach of the Code of Conduct in this case, although the Standards Committee must either accept this finding at the meeting or refer the matter to a hearing.

4.0 Implications For Council Policy And Governance

4.1 Considering complaints against Members is in accordance with the Council's Corporate Governance Principle 'Good Conduct and Behaviour', as it allows the Standards Committee to monitor the application of the Codes and Protocols.

5.0 Legal And Resource Implications

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

6.0 Conclusions

6.1 The Investigating officer is of the opinion that there has not been a breach of the Code of Conduct in this case, although the Standards Committee must either accept this finding at the meeting or refer the matter to a hearing.

7.0 Recommendations

7.1 Members of the Standards Committee are asked to consider:

- Whether they accept the investigating officer's finding of no failure;
- Whether they wish to make any recommendations to Leeds City Council as a result of the complaint and investigation; and
- The suggestion of the complainant that representations should be made to the Standards Board for England to issue further guidance on the relevant area of the Members' Code of Conduct.

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Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Case Summary – SBE 18979.07

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to notify Members of the Committee of a case summary regarding a Leeds City Councillor which was published on the Standards Board for England website on Monday 14th January 2008.
2. It was alleged that the Member improperly secured an advantage or disadvantage, failed to withdraw from a meeting in which they had a prejudicial interest and failed to register a gift or hospitality. The matter was investigated by an Ethical Standards Officer who found no evidence of any failure to comply with the Code of Conduct.
3. Members of the Committee are asked to note the contents of this report.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to notify Members of the Committee of a case summary regarding a Leeds City Councillor which was published on the Standards Board for England website on Monday 14th January 2008.

2.0 Background Information

- 2.1 Whilst investigating a separate matter, it came to the attention of the Ethical Standards Officer that the Councillor might have breached the Code of Conduct by his involvement in the development of Abbey and St Ann's Mills (Kirkstall Mills), and his meeting with a company which might have wished to be involved in the development.
- 2.2 It was alleged that the Councillor had improperly secured an advantage or disadvantage, failed to withdraw from a meeting in which they had a prejudicial interest and failed to register a gift or hospitality, contrary to paragraphs 5(a), 9, 12 and 17 of the Code of Conduct.
- 2.3 The matter was therefore referred for investigation on 19th June 2007, and the investigation was completed on 18th December 2007.

3.0 Main Issues

The following paragraphs are the conclusions of the Ethical Standards Officer who conducted the investigation on behalf of the Standards Board for England.

- 3.1 Until his retirement in March 2007, the Councillor was a division manager for a carpet supplier, from which Company X had bought carpets in the past.
- 3.2 On 15th December 2004, the Council's Executive Board considered the future of the Kirkstall Mills site. The Council's Executive Board agreed that the Council would keep St Ann's Mill and seek expressions of interest in a potential, undefined partnership to develop it, but that they would dispose of the Abbey Mills site.
- 3.3 On 11th March 2005 the Councillor and a senior council officer while attending a property conference in Cannes, had lunch with representatives of Company X on a yacht. The Kirkstall Mills site was not discussed and the Councillor included the lunch in his register of gifts and hospitality.
- 3.4 With support from the Councillor, Leeds City Council's chief asset manager drafted and submitted a grant application for the funding of the Kirkstall Mills development at the end of the financial year 2005/06.
- 3.5 Officers from the Council's development team met with companies including Company X to market-test the feasibility of selling or developing any part of the Kirkstall Mills site. The Councillor was not involved in these meetings.
- 3.6 When the Council's Executive Board discussed how to proceed with the site in July 2006, the Councillor declared a personal and prejudicial interest and withdrew from the room.
- 3.7 The Ethical Standards Officer concluded that the Councillor does not have a registrable interest in relation to Kirkstall Mills. While Company X was a potential buyer of the Mills, and had been a client of the Councillor's employer, the Executive

Board's discussions were too remote from the issue of any potential purchase or contract regarding the site to be capable of affecting the Councillor's well-being or financial position. The Ethical Standards Officer concluded that the Councillor did not have a personal or prejudicial interest in the matter and could not therefore have breached the Code of Conduct.

- 3.8 The Ethical Standards Officer therefore found no evidence of any failure to comply with the Code of Conduct. The case summary will remain on the Standards Board website for six months after the case closed.

4.0 Implications For Council Policy And Governance

- 4.1 The Ethical Standards Officer investigating the case noted that the Councillor had registered the hospitality received from Company X correctly, and that the Councillor had not been involved inappropriately with officer meetings to market test the feasibility of selling Kirkstall Mills.

5.0 Legal And Resource Implications

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

6.0 Conclusions

- 6.1 The Ethical Standards Officer found that there was no evidence of any failure to comply with the Code of Conduct in this case. The case summary will remain on the Standards Board website for six months after the case was closed.

7.0 Recommendations

- 7.1 Members of the Committee are asked to note the contents of this report and the lessons learnt from the case.

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Originator: Kate Feltham

Tel: 0113 247 8408

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2007

Subject: Local Assessment Process

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to outline to the Committee the proposed changes to the process for dealing with complaints of misconduct against Members, and the options available to the Committee in order to prepare for this new process.
2. The Local Government Public Involvement in Health Act 2007 and Regulations¹ require changes to the way complaints of misconduct against Members are dealt with by the Council. This report outlines those changes and outlines possible arrangements for dealing with those complaints.
3. The Standards Committee is asked to:
 1. Comment on the proposals, and
 2. Approve the following general proposals in paragraph 3 -6 to deal with complaints made under the Code of Conduct in the way set out below subject to any requirements contained the final regulations and/or the final Standards Board for England Guidance
 3. That the initial local assessment of allegations shall be carried out by a sub-committee consisting of Members of the Standards Committee
 4. That any review of the initial local assessment decision shall be carried out by a sub-committee consisting of Members of the Standards Committee

¹ The Department of Communities and Local Government has issued a consultation paper on the Orders and Regulations relating to the Conduct of Local Authority Members in England in January 2008.

5. That any hearings relating to allegations of misconduct under the Members Code of Conduct shall be carried out by the Standards Committee
6. That the membership and quorum of the Standards Committee and sub-committees should be as follows:

Member Type	Full Committee	Local Assessment Sub-Committee	Review Sub-Committee	Hearings Full Committee
Independent	3	2	1	3
Leeds CC	5	3	2	5
Parish/Town Council²	2	1	1	2
Total	10	6	4	10
Quorum	3	3	3	3

² Drawn from a larger pool of Parish/Town Council representatives from the Leeds area. Only required to attend if the Committee/Sub-Committee is dealing with a matter involving Parish/Town Councils or a Parish/Town Council Member.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to outline to the Committee the proposed changes to the process for dealing with complaints of misconduct against Members, and the options available to the Committee in order to prepare for this new process.

2.0 Background Information

- 2.1 In the Local Government White Paper “Strong and Prosperous Communities”, the Department for Communities and Local Government proposed that aspects of the conduct regime should be devolved to local councils, and that the Standards Board for England should become refocused as a light touch regulator.
- 2.2 One of the ways this is to be achieved is by amending the process for the initial receipt and assessment of complaints. Instead of complaints being received centrally by the Standards Board, and then either dismissed or referred elsewhere for investigation, this process will be handled by each individual standards committee. The legislative changes that are required to make this possible are contained in the Local Government and Public Involvement in Health Act 2007.
- 2.3 Following this legislative change, the Department for Communities and Local Government is publishing regulations for standards committees to comply with. In addition the Standards Board for England will produce detailed guidance for local authorities. The draft regulations are currently being consulted upon and the options outlined in this report are based on information contained in that consultation paper together with information provided by the Standards Board through the local filter pilot project and information from the Annual Assembly, and information in a checklist produced by the Standards Board which covers matters to consider in the run-up to the implementation of the locally managed framework.
- 2.4 Further changes to the proposals in this report may also be required when the final version of the regulations and the Standards Board guidance are published.
- 2.5 As the regulations are currently at the draft/consultation stage. It is not possible to finalise the changes that will be required to the Constitution until the final regulations are made and the final version of the Guidance is published by the Standards Board. The Standards Board may not publish Guidance until after the regulations are made final and it is expected that the earliest Leeds will be in a position to implement the new regime will be at the start of the 2008/2009 municipal year.

3.0 Main Issues

Current assessment system

- 3.1 Under the current system for assessing complaints of misconduct against Members, complaints are received centrally by the Standards Board for England. The referrals unit then aim to make an initial decision about the complaint within ten days. This decision would be based on the following criteria:
- Whether the complaint is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England or local standards committees;

- Whether the complaint is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it, short of investigation;
- and in considering this, the Board takes into account the time that has passed since the alleged conduct occurred.

3.2 If the Standards Board decides not to refer a complaint for further investigation, the complainant has the right to have this decision reviewed. The complainant should make this request, within 30 days of the referral decision, by writing to the Chief Executive of the Standards Board for England.

3.3 If the Standards Board does refer the complaint, they are able to instruct the monitoring officer of the local authority or an Ethical Standards Officer to carry out the investigation.

Proposed new assessment system

3.4 Under the new system, complaints will be received locally by each local standards committee. As complainants will write directly to the local authority to make their complaint, this process will need to be advertised. Ensuring that people are aware of this new process is also likely to be a criterion in the Audit Commission's new Comprehensive Area Assessment in future³.

3.5 Each local authority will have to decide who will receive and collate these complaints, although the actual decision on the matter must be taken by the standards committee or a sub-committee of the standards committee. The role of Customer Services in this process will need to be considered further in due course.

3.6 The consultation on the draft regulations suggests that the time scale for assessing complaints will not be dealt with by way of regulations and a statutory penalty for failing to comply. The time scale will instead be indicated in the guidance issued by the Standards Board, at this stage the consultation paper indicates that the time scale may be 20 days for dealing with the assessment process.

3.7 Whilst dealing with the complaint, the authority will be required to notify certain parties of its progress. It is expected that the regulations will require local authorities to notify both the complainant and the Member at the time the allegation is received and when the standards committee have decided how to proceed. Consideration will need to be given to issues of confidentiality, sensitivity and avoiding delay with regard to this procedure. Prior to making the decision on the matter, the standards committee will also have the power to request further clarification or evidence of a complaint, enabling them to make a fairer decision on the case.

3.8 The standards committee, or assessment sub-committee, will need to consider the same points as the Standards Board does under the current regime, regarding whether to refer a complaint for investigation. However each local authority will have to develop its own set of assessment criteria to decide whether a possible breach of the Code warrants further investigation or not based on guidance from the Standards Board. This is because local circumstances and priorities will need to be taken into account. The Standards Board will be providing guidance on developing criteria and the types of issues to be considered when considering complaints.

³ Standards Board Annual Assembly

- 3.9 Monitoring Officers will be able to acquire additional factual information which is readily available about allegations before the assessment takes place. This should not include interviews or investigations.
- 3.10 Under the new system, the vast majority of investigations would be expected to be carried out locally. Although the standards committee could still choose to refer a matter for investigation by an Ethical Standards Officer, these would only expect to deal with cases which had the following characteristics: A complaint which if true, would attract a sanction of disqualification; Complex cases involving many Members or many documents; and cases involving substantial local conflict of interests.
- 3.11 Local authorities will also need to establish a review mechanism for complainants to appeal against the local assessment decisions of the standards committee if the decision is made not to investigate and the complainant complains about this decision.

Size and make up of the Standards Committee

- 3.12 The new system for local assessment of complaints has the potential to create conflicts of interest for Members of the Standards Committee. This is because a complaint has three potential stages that need to be considered by Members of the Standards Committee.
- The local assessment of complaints to decide if they will be investigated.
 - Dealing with any possible review of a decision that a matter should not be investigated.
 - Dealing with any hearing following an investigation.
- 3.13 The Standards Board and the consultation on the regulations suggest that conflict issues can be avoided altogether if decisions on local assessment of complaints, reviews and hearings are taken by smaller sub-committees rather than the whole standards committee.
- 3.14 The Standards Board checklist does say that a Member of the Committee who dealt with the local assessment or a review hearing can deal with any subsequent hearing in relation to that complaint. This is because the initial assessment does not require deliberation of whether the conduct did or did not take place, it simply requires assessment of whether the complaint discloses something that needs to be investigated. However draft regulations indicate that a member of the standards committee who has been involved in the initial assessment cannot subsequently be involved in a review of a decision not to refer in relation to that matter.
- 3.15 The Local Government and Public Involvement in Health Act 2007 inserts section 56A into the Local Government 2000 giving the Secretary of State the power to make regulations providing that two or more authorities may establish a joint committee. The authority can then arrange for functions of the Standards Committee to be exercised by the joint committee.
- 3.16 In order to consider any issues affecting Parish Councils, including complaints regarding Parish Councillors in the Leeds area, a Parish representative of the Committee must be present. The current number of two may cause issues if there is

a review of the decision, or if a conflict of interest arises. Therefore it is suggested that a pool of Leeds parish/town council representatives be established, this would mean that the number of Parish/Town Council representatives on the full Committee would remain at two but that other representatives would be available if required to attend sub-committees or hearings.

- 3.17 The consultation on the draft regulations and information provided by the Standards Board therefore currently contains no issues that might lead the Authority to reconsider the size and make-up of the Standards Committee at the current time.

Organisation of the sub-committees

- 3.18 The information being provided by the Standards Board so far suggests that the best method of dealing with the local filter would be the creation of smaller sub-committees to handle some or all of the different stages of the process. This would avoid possible allegations of conflict of interests between the Members of the Committee carrying out the assessment process and those carrying out a review of the assessment.
- 3.19 The consultation on the regulations indicates that the meetings of the local assessment sub-committee and review sub-committee will be considered in closed meetings and will not be subject to the notice and publicity rules contained in Part 5A of the Local Government Act 1972. Therefore it will be possible to arrange for the local assessment sub-committee and review sub-committee meetings on an ad-hoc basis as they are required. It is envisaged that the review sub-committees and any subsequent hearings will need to be held with less frequency than the local assessment sub-committees.
- 3.20 However should the final regulations provide that the assessment sub-committee and review sub-committee are not closed meetings then Members may need to consider having scheduled assessment sub-committee meetings in place from the start of the municipal year which could then be cancelled if there was no business. This is to allow for time to comply with notice and publicity rules.
- 3.21 Members should be aware that the Local Government and Public Involvement in Health Act 2007 amends Section 53 (4) of the Local Government Act 2000 to provide that the chairman of the Standards Committee should be an independent Member. The LGPIH Act 2007 does not require that the chairman of a sub-committee should be an Independent Member. However the Standards Board checklist and consultation on the regulations indicate that it may also become a requirement that the sub-committee chairs are also independent members.
- 3.22 Members should also be aware that the current regulations provide that Standards Committees must consist of at least three Members of which one must be an Independent Member and at least two should be Members of the Council. As Leeds has Town or Parish Councils in the area there is also a requirement that there is a Town or Parish Council representative on the Committee. Independent Members should make up at least 25% of the Standards Committee. There should be no more than one Executive Member on Standards Committee however there is no requirement that the Standards Committee includes a member of the Executive. There is no requirement that Standards Committees are politically balanced.

- 3.23 Finally Members will need to consider how they wish each stage of the process to be dealt with and the size and make up of any sub-committees. The existing Parish Council Hearing sub-committee has a membership of four with the casting vote going to the chairperson. It is proposed that the existing sub-committee, which was set up to deal with Parish Council hearings, could be dissolved and replaced in the process by sub-committees to consider local assessment decisions and deal with any reviews.
- 3.24 As the current draft regulations provide that being on the local assessment sub-committee or the review committee does not preclude a Member from dealing with the final hearing of a matter it is proposed that the full Standards Committee could deal with the final hearing of allegations.
- 3.25 Members are asked to consider if the following arrangement for dealing with the three stages should be implemented.
- Initial local assessment decisions : Sub-committee
 - Review of local assessment decisions : Sub-committee
 - Hearings : Full committee

Initial local assessment decisions

- 3.26 These could be dealt with by a sub-committee consisting of two Independent Members, three Leeds Members and one Parish/Town Council Member (Parish/Town Council Member will only need to be present when dealing with a matter that involves a Parish/Town Councillor).

Review of local assessment decisions

- 3.27 These could be dealt with by a sub-committee consisting of one Independent Member, two Leeds Members and one Parish/Town Council Member (Parish/Town Council Member will only need to be present when dealing with a matter that involves a Parish/Town Councillor)

Hearings

- 3.28 These could be heard by the whole Committee as is currently the practice. This would ensure that the whole Committee is able to be involved in the final determination of any allegations of misconduct. Retaining the practice of having the full committee deal with hearings would also have the benefit of retaining the part of the process with which Members of the Committee are familiar and which is working adequately. The Hearings Procedure Rules are also regularly reviewed, both annually and after any hearings which will enable the Committee to consider regularly whether any changes to the hearings procedure are required .

Quorum

- 3.29 The current requirement that committees and sub-committees shall not be quorate unless there are at least three members present⁴ is not subject to any change under the current proposals in the consultation on the draft regulations. The Council's Procedure Rules also provide that the quorum for Standards Committee shall be three, including one independent Member, and that a Parish/Town Council member must be present when Parish/Town Council matters are being considered. The Council's Procedure Rules provide that the quorum of any sub-committee shall be determined by the appointing committee.
- 3.30 The following table summarises the possible size and make up of the Committee and Sub-Committees

Member Type	Full Committee	Local Assessment Sub-Committee	Review Sub-Committee	Hearings Full Committee
Independent	3	2	1	3
Leeds CC	5	3	2	5
Parish/Town Council ⁵	2	1	1	2
Total	10	6	4	10
Quorum	3	3	3	3

4.0 Implications For Council Policy And Governance

- 4.1 The Council is obliged to make changes to the procedures that govern the way Standards Committee deal with complaints of misconduct against Members. Those changes are required in order that the Council complies with the requirements of the Local Government Public Involvement in Health Act 2007 and the regulations made under that legislation. These arrangements will contribute to the maintenance of good governance arrangements at the Council.
- 4.2 As the regulations are currently at the draft/consultation stage. It is not possible to finalise the changes that will be required to the Constitution until the final regulations are made and the final version of the Guidance is published by the Standards Board. The Standards Board may not publish Guidance until after the regulations are made final and it is expected that the earliest Leeds will be in a position to implement the new regime will be at the start of the 2008/2009 municipal year.
- 4.3 The proposed timetable is currently as follows:
- 12 April 2008 (date to be confirmed) Standards Committee to consider the changes to the Constitution that they have the delegated authority to make,

⁴ As provided by the Relevant Authorities (Standards Committee) Regulations 2001

⁵ Drawn from a larger pool of Parish/Town Council representatives from the Leeds area see paragraph 3.16. Only required to attend if the Committee/Sub-Committee is dealing with a matter involving Parish/Town Councils or a Parish/Town Council Member.

and to recommend that the Corporate and Governance and Audit Committee consider the changes to the constitution that ultimately need to be approved by Full Council.

- 23 April 2008 (or 14 May 2008) Corporate Governance and Audit Committee to consider changes to the Constitution that need to be made by Full Council; and to make a recommendation to Full Council on those proposed amendments.
- 22 May 2008 the Annual Council Meeting to consider the recommendation of Corporate Governance and Audit Committee in relation to the Constitutional changes that must be approved by full Council.

However this timetable is dependant upon the timely publication of final regulations and guidance.

5.0 Legal and Resource Implications

- 5.1 There will be resource implications to the potential increase in membership of the Standards Committee and to the local assessment/investigation process in general. The Assistant Chief Executive (Corporate Governance) has identified additional budget required for the local filtering role and the new investigative role, as part of the budget pressures for the 2008/9 budget to be considered as part of the budget process.

6.0 Conclusions

- 6.1 The Local Government and Public Involvement in Health Act 2007 requires changes to the ways complaints about member misconduct are dealt with at a local level.
- 6.2 This will require changes to the structure of the Standards Committee. The Standards Board recommend setting up sub-committees to deal with some of the different stages of a complaint to avoid allegations of conflict.
- 6.3 The broad arrangements for dealing complaints locally need to be agreed by the Committee and the proposals are set out at paragraph 3.

7.0 Recommendations

- 7.1 The Standards Committee is asked to:

7.1.1 Comment on the proposals, and

7.1.2 Approve the following general proposals to deal with complaints made under the Code of Conduct in the way set out below in paragraph 7.1.3 – 7.1.5 subject to any requirements contained the final regulations and/or the final Standards Board for England Guidance

7.1.3 That the initial local assessment of allegations shall be carried out by a sub-committee consisting of Members of the Standards Committee

7.1.4 That any review of the initial local assessment decision shall be carried out by a sub-committee consisting of Members of the Standards Committee

7.1.5 That any hearings relating to allegations of misconduct under the Members Code of Conduct shall be carried out by the Standards Committee

7.1.5 That the membership and quorum of the Standards Committee and sub-committees should be as follows:

Member Type	Full Committee	Local Assessment Sub-Committee	Review Sub-Committee	Hearings Full Committee
Independent	3	2	1	3
Leeds CC	5	3	2	5
Parish/Town Council⁶	2	1	1	2
Total	10	6	4	10
Quorum	3	3	3	3

⁶ Drawn from a larger pool of Parish/Town Council representatives from the Leeds area see paragraph 3.16. Only required to attend if the Committee/Sub-Committee is dealing with a matter involving Parish/Town Councils or a Parish/Town Council Member.



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Consultation Response: Orders and Regulations Relating to the Conduct of Local Authority Members in England

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

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 recently published consultation document from Communities and Local Government (Appendix 1), and to seek approval for the draft Leeds City Council response at Appendix 2.
2. In order to implement the revised regime, the government now need to put in place detailed arrangements to allow standards committees and the Standards Board to undertake their new roles. These arrangements need to cover:
 - The operation of standards committees' powers to make initial assessments of misconduct allegations.
 - The operation of other functions by standards committees and the Adjudication Panel in issuing penalties and sanctions.
 - The operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime.
 - Other matters, such as the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority political assistants.
3. Members of the Committee are asked to:
 - Comment on the questions raised in the consultation paper; and
 - Approve the Leeds City Council response at Appendix 2 to this report.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Committee of the recently published consultation document from Communities and Local Government (Appendix 1), and to seek approval for the draft Leeds City Council response at Appendix 2.

2.0 Background Information

- 2.1 The consultation paper was published on 3rd January 2008 on the Communities and Local Government website and was distributed to all Members of the Committee, along with a selection of officers, on 4th January 2008.
- 2.2 The consultation paper seeks views on the detailed arrangements for putting into effect the orders and regulations to provide a revised more locally-based ethical regime for the conduct of local councillors in England.
- 2.3 Comments were requested by Monday 21st January 2008, and the comments received are shown in Appendix 2 to this report.

3.0 Main Issues

- 3.1 Part 10 of the Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000 to provide for a revised ethical conduct regime for local government based on the principle of proportionate decision-making on conduct issues by local authorities.
- 3.2 In order to implement the revised regime, the government now need to put in place detailed arrangements to allow standards committees and the Standards Board to undertake their new roles. These arrangements need to cover:
- The operation of standards committees' powers to make initial assessments of misconduct allegations.
 - The operation of other functions by standards committees and the Adjudication Panel in issuing penalties and sanctions.
 - The operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime.
 - Other matters, such as the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority political assistants.
- 3.3 The consultation paper sets out for each of these issues, the specific purpose of the provisions and the proposals for how the rules should operate via appropriate regulations and orders under the Local Government Act 2000. Particular questions on which Communities and Local Government would welcome comments are also summarised at Annex A to the paper, and are listed along with the comments received in Appendix 2 to this report.
- 3.4 The government wish to make arrangements for these provisions to come into effect in Spring 2008. Copies of the consultation paper have been sent to all principal local authorities, all Town and Parish Councils, and all other organisations who might have an interest in these matters.

Leeds City Council Response

- 3.5 Comments on the consultation paper have been requested from:
- All Members of the Standards Committee;
 - The Monitoring Officer;
 - The Deputy Monitoring Officer;
 - The Chief Democratic Services Officer;
 - The Head of Governance Services; and
 - The Principle Corporate Governance Officer.
- 3.6 The comments received by these stakeholders can be seen in Appendix 2 to this report. All comments have been included, even when these conflict. In particular Members of the Committee may wish to discuss their responses to questions 1, 2, 3, 6, 7, 10, 11 and 16 in the consultation response, in order to reach a consensus of opinion where possible.
- 3.7 It is proposed that this document is sent to Communities and Local Government as the consultation response on behalf of Leeds City Council, subject to any amendments made at the Committee meeting.
- 3.8 In addition, Members of the Committee may wish to consider the comments received by Barwick in Elmet & Scholes Parish Council, who wrote to the Council on 22nd January 2008. The elected Members of the Parish Council expressed the view that:
- “where codes of conduct are breached by Parish Council Members or they are reported to the Standards Board, the Standards Committee considering allegations should be composed of a more representative “peer” group. It is thought that in addition to independent members a minimum of 50% of the Committee should be constituted from our tier of government.”
- 3.9 Members of the Committee are also reminded that they are able to make general comments on the consultation paper, and that they are able to make individual responses to the consultation. These must be received by Communities and Local Government by 15th February 2008.
- 4.0 Implications For Council Policy And Governance**
- 4.1 The new locally-based ethical conduct regime will allow local authorities to make more proportionate decisions about conduct matters, taking any significant local factors into account.
- 4.2 By extending the Standards Committee’s functions, the new arrangements will also allow the Committee to have a greater contribution towards the good governance of the Council.
- 5.0 Legal And Resource Implications**
- 5.1 There are resource implications to the new arrangements described in the report, although these implications have already been anticipated and are being dealt with in the consideration of the Council’s budget for 2008/09.

6.0 Conclusions

- 6.1 Communities and Local Government have published a consultation paper which seeks views on the detailed arrangements for putting into effect the orders and regulations to provide a revised more locally-based ethical regime for the conduct of local councillors in England.
- 6.2 All Members of the Standards Committee and various key officers have been asked for their comments on the paper. These are shown at Appendix 2 to this report.
- 6.3 It is proposed that this document is sent to Communities and Local Government as the consultation response on behalf of Leeds City Council, subject to any amendments made at the Committee meeting.

7.0 Recommendations

- 7.1 Members of the Committee are asked to:
- Comment on the questions raised in the consultation paper; and
 - Approve the Leeds City Council response at Appendix 2 to this report.

Orders and Regulations Relating to the Conduct of
Local Authority Members in England
Consultation



Orders and Regulations Relating to the Conduct of
Local Authority Members in England
Consultation

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Chapter 1

Introduction

1. We are consulting on the detailed arrangements for putting into effect orders and regulations to provide a revised ethical regime for the conduct of local councillors in England.
2. Part 10 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) provides for a revised ethical conduct regime for local government based on the principle of proportionate decision-making on conduct issues by local authorities. We wish to make arrangements for these provisions to come into effect in Spring 2008, and to seek views on how the detailed rules should work in practice.
3. The paper also consults on other undertakings relating to the operation of the regime in respect of the political restrictions imposed on certain local government posts and the maximum pay of political assistants. We are also taking the opportunity to consult on proposals to amend the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002, with a view to resolving concerns which have been raised by some local authorities on the operation of some aspects of the current provisions.
4. This consultation follows extensive earlier consultation on the basic principles on which the revised conduct regime for local government should be based. The Discussion Paper *'Standards of Conduct in English Local Government: The Future'*, of December 2005, set out the Government's responses, regarding the reform of the regime relating to standards of conduct of local government, to the recommendations of the Committee on Standards in Public Life, the report of the then Office of the Deputy Prime Minister Select Committee and the Standards Board. The Local Government White Paper, *'Strong and Prosperous Communities'*, issued in October 2006, outlined the Government's proposals to introduce a more proportionate and locally based decision-making regime for the investigation and determination of all but the most serious of misconduct allegations against members of local authorities.
5. Our most recent consultation with regard to the conduct regime was a six week consultation between January and March this year on amendments to the model code of conduct for local authority members, which resulted in a revised model code being introduced with effect from 3 May 2007.

6. For the new, reformed ethical regime based on a devolutionary approach to become operational, we need to make regulations and orders under the Local Government Act 2000 (the 2000 Act) as amended by Part 10 of the 2007 Act to implement the proposals set out in the Local Government White Paper to deliver a more locally based conduct regime for local government members, with local standards committees making initial assessments of misconduct allegations and most investigations and determinations of cases taking place at local level.
7. We now need to put in place detailed arrangements to allow standards committees and the Standards Board to undertake their new roles under the new regime. These arrangements need to cover:
 - The operation of standards committees' powers to make initial assessments of misconduct allegations.
 - The operation of other functions by standards committees and the Adjudication Panel in issuing penalties and sanctions.
 - The operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime.
 - Other matters, ie the rules on the issue of dispensations, the issue of exemptions of posts from political restrictions and the pay of local authority political assistants.
8. The paper sets out for each of these issues in turn the specific purpose of the provisions, the proposals for how the rules should operate via appropriate regulations and orders under the 2000 Act, and seeks views on the proposals, including highlighting particular questions on which consultees' comments would be welcome (summarised at Annex A).
9. We aim to undertake a separate consultation shortly on amendments to the instruments setting out the general principles which govern the conduct of local councillors and the model code of conduct, which members are required to follow.

Position of Welsh police authorities

10. The new ethical conduct regime providing for the initial assessment of misconduct allegations by standards committees will not apply to Welsh police authorities. The initial assessment of allegations in respect of members of Welsh police authorities will therefore continue to be a matter for the Public Services Ombudsman for Wales and not local standards committees. The proposals referred to in this paper in respect of joint standards committees will also not apply to Welsh police authorities. However, the rules on the size, composition and procedures of standards committees and the proposed amendment to the dispensation regulations will apply to these authorities.

11. We are asking for comments on this paper by 15 February 2008. This effectively gives consultees six weeks to respond. This reflects the period normally allowed for consultation with local government in the Framework for Partnership between the Government and the Local Government Association. As mentioned above, significant consultation has already been undertaken about the principles underpinning the new reformed regime and the approach to be adopted in the regulations and orders under the new regime.

12. Comments should be sent to:

William Tandoh

Address: Department for Communities and Local Government

Local Democracy and Empowerment Directorate

5/G10 Eland House, Bressenden Place, London SW1E 5DU

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by **15 February 2008.**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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.

Chapter 2

New standards committee powers to make initial assessments of misconduct allegations, composition of committees and access to information

Purpose

1. Regulations will need to be made to amend and re-enact existing provisions in the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and to amend and re-enact the provisions of the Relevant Authorities (Standards Committee) Regulations 2001, to make provision:
 - with respect to the exercise of the new initial assessment functions by standards committees of relevant authorities in England;
 - as to the powers and validity of proceedings of standards committees, including notification requirements;
 - with regards to the publicity to be given to matters referred to monitoring officers of local authorities;
 - in relation to the way in which any matters referred to the monitoring officer of a local authority by a standards committee should be dealt with;
 - to enable a standards committee to refer a case to the Adjudication Panel (ie the independent body which decides whether in the more serious cases the code of conduct has been breached and what sanction, if any, should be applied to the member) where the standards committee considers that the sanctions available to it would be insufficient;
 - with respect to the size and composition of standards committees and access to meetings and information.

Proposals

a) Standards committee members and initial assessment

2. In order to undertake their new functions for making initial assessments of misconduct allegations and considering requests to review decisions to take no action, under powers conferred by Part 10 of the 2007 Act, as well as existing powers for standards committees to make determinations of allegations, each standards committee will need to have a clear operational structure. It is likely that there will be a need for sub-committees of standards committees to be created, so that the separate functions involved in the ethical regime for local authority members can be appropriately discharged, namely:

- The initial assessment of a misconduct allegation received by a standards committee under section 57A of the 2000 Act.
 - Any request a standards committee receives from a complainant to review its decision to take no action in relation to the misconduct allegation under section 57B of the 2000 Act.
 - Any subsequent hearing of a standards committee to determine whether a member has breached the code, and where appropriate impose a sanction on a member.
3. Standards committees will need to minimise the potential risk of failing to conduct the above processes appropriately. In order to do this and ensure fairness for all parties in the operation of the ethical regime, we propose that the regulations should prohibit a member of a standards committee who has taken part in decision-making on the initial assessment of an allegation under section 57A of the 2000 Act, or considered an allegation which has been referred back to the standards committee by a monitoring officer or ethical standards officer, from being involved in the review of any subsequent request from the complainant under section 57B of the 2000 Act for a review of the committee's decision to take no action. The most obvious way of achieving this would be to require sub-committees of the standards committee to exercise the different functions.
4. However, we are aware of the resource implications of prohibiting members of standards committees from undertaking certain functions of the ethical regime and the problems this may cause for local authorities. Accordingly, we propose that members of a standards committee who have been involved in the initial assessment of a misconduct allegation, or a review of a standards committee's previous decision to take no action, should not be prohibited from taking part in any subsequent hearing by the standards committee to determine whether that matter constituted a breach of the code of conduct and, if so, whether any sanction is appropriate.

Question

- Q1. Does our proposal to prohibit a member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?**

b) Members of more than one authority - parallel complaint procedures

5. We are aware that the introduction of the regime for the initial assessment of misconduct allegations may raise an issue with regard to what should happen if a misconduct allegation is made against an individual who is a member of more than one authority (known as a dual-hatted member) and, as such, may have failed to comply with more than one relevant authority's code. For example, an individual who is a member of a district council and a police authority, may be the subject of allegations that he or she has breached the code of both authorities. As such, it would be possible for both the standards committee of the district council and the police authority to receive allegations against the member.
6. Such a situation could lead to inconsistencies in how allegations are dealt with, as one standards committee could decide that no action should be taken with regard to an allegation, whilst another standards committee could refer the allegation for investigation. In addition, to the inconsistencies that this situation may create, there is the issue of a member being subject to an investigation in relation to the same allegation more than once. One potential option for avoiding such a situation would be for the regulations to require that where an allegation of misconduct is made to two separate standards committees, for those committees to decide which one of them should consider the matter, and in default of agreement for the allegation to be referred to the Standards Board who could then decide how it should be dealt with.
7. However, in the spirit of the new devolved conduct regime, we consider that decisions on whether to deal with a particular allegation should be taken by standards committees themselves, following discussion with each other and taking advice as necessary from the Standards Board. This would enable a cooperative approach to be adopted, including the sharing of knowledge and information about the local circumstances and cooperation in the carrying out of investigations to ensure effective use of resources.
8. Two standards committees might, for example, consider it would be appropriate for both of them to consider similar allegations or the same allegation against the same individual, and even to reach a different decision on the matter. Under the new locally based regime standards committees will be encouraged to take into account local factors which affect their authorities and communities. Allegations of misconduct constituting a particular criminal offence might, for example, be taken more seriously by a standards committee of a police authority, than of another type of authority. And this could lead to the two standards committees reaching a different decision on the matter.

Question

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

c) Publicising the new initial assessment procedure

9. In order to ensure that people are aware of the existence of the new ethical regime and the local arrangements for how to make a misconduct allegation, we propose to include in the regulations a requirement that each standards committee should publish a notice detailing where misconduct allegations should be sent after the new regime has commenced. We also propose that the regulations should require a standards committee to use its best endeavours to continue to bring to the public's attention the address to which misconduct allegations should be sent, as well as any changes in those arrangements.
10. We propose that the Standards Board for England will then issue guidance on the content of the notice, and on how the requirement for the standards committee to provide appropriate information on the regime may be met, including, for example, advertising in one or more local newspapers, a local authority's own newspaper or circular and the authority's website.

d) Guidance on timescale for making initial assessment decisions

11. In order to achieve sensible consistency in the way allegations are dealt with across local authorities, we think it is appropriate for good practice guidance by the Standards Board to indicate the time scale in which a standards committee would be expected to reach a decision on how a misconduct allegation should be dealt with, for example 20 working days, as well as to provide other guidance to assist standards committees in complying with the timescale.
12. Since it is our intention that the new ethical regime should be implemented by light-touch regulation, we do not propose that such a deadline is prescribed by regulations accompanied by any statutory penalty for failure to meet the time scale. Our proposal is that the Standards Board, in considering the operation of the ethical regime by authorities would take into account the overall compliance each authority has demonstrated with the guidance, including guidance on the timetable for action, so that lack of compliance with the timescale on its own would not of itself trigger intervention action by the Board. This kind of regime would suggest that it would be preferable if the timescale was retained as part of the guidance rather than imposed as a statutory requirement.

*Question***Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?****e) Requirement for a standards committee to provide a written summary of an allegation to the subject of the allegation**

13. To ensure that the ethical regime is fair and transparent for all parties, new section 57C(2) of the 2000 Act requires a standards committee to take reasonable steps to give a written summary of an allegation it receives to the person who is the subject of it. This will make sure that he or she knows what the allegation is. However, we consider that there may be certain circumstances where it may not be appropriate for a standards committee to provide information to the subject of an allegation at the time it receives the allegation. We wish to provide by regulation that where the standards committee forms the reasonable view that it would be in the public interest not to provide the written summary, it would have the discretion to defer doing so. We propose to provide that standards committees would be required to take into account advice on the withholding of information provided by the monitoring officer and guidance from the Standards Board. The regulations can stipulate when the duty to provide the summary must be complied with. We propose that the obligation to provide the summary should normally arise after a decision is made on the initial assessment, but in cases where the concerns referred to above apply, it should instead arise after the monitoring officer or ethical standards officer has carried out sufficient investigation, but before any substantive hearing of a case against the subject of the allegation.
14. Guidance from the Standards Board would give advice on the circumstances in which a standards committee would be entitled to operate its discretion to defer giving the written summary of the allegation. This guidance might include taking such action in the following circumstances.
- Where the disclosure of the complainant's personal details or details of the allegation to the person who is the subject of the allegation, before the investigating officer has had the opportunity to interview the complainant, may result in evidence being compromised or destroyed by the subject of the allegation.
 - Where there is the real possibility of intimidation of the complainant or witnesses by the subject of the allegation.
15. Where a standards committee is relieved of the duty to give a written summary of an allegation to a member, it might exercise its discretion to give some more limited information to the member for example by redacting certain information, if this would not prejudice any investigation.

Question

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

f) Requirement for a standards committee to give notice of decisions under section 57A and 58 of the 2000 Act

16. In addition to the requirement outlined in the above section, the 2000 Act, as amended, requires a standards committee and the Standards Board to 'take reasonable steps' to give written notice of a decision to take no further action, including the reasons for its decision, to the complainant and the subject member. In addition, a standards committee is required to notify the subject of an allegation, if it receives a request from the complainant to review its decision to take no action regarding a misconduct allegation.
17. We propose that guidance issued by the Standards Board will set out best practice for committees including practice with respect to the notification of a complainant, a subject member or any other appropriate person of the progress of the handling of the allegation. We propose that such guidance would include advice that the Standards Board or the standards committee should take reasonable steps to notify the complainant and the subject member where:
- the Standards Board decides under section 58 of the 2000 Act, to refer a matter back to the relevant standards committee or refer the allegation to an ethical standards officer for investigation;
 - a standards committee decides to refer a matter to another relevant authority under section 57A(3) of the 2000 Act, to the Standards Board under section 57A(2)(b) of the 2000 Act or the monitoring officer under section 57A(2)(c) of the 2000 Act; or
 - a monitoring officer decides to refer a matter back to a standards committee under section 57A of the 2000 Act. Such a notice may include the reasons why a monitoring officer has decided to refer the case back.

g) References to monitoring officers under section 57A(2)(a) of the 2000 Act

18. Section 57A(2)(a) of the 2000 Act, provides that a standards committee may refer an allegation it receives to the monitoring officer of the authority. We propose to provide for the monitoring officer to be able to investigate and make a report or recommendations to the standards

committee. However, in addition, we propose to provide in the regulations that when a standards committee refers a case to a monitoring officer it may also direct the monitoring officer that the matter should be dealt with otherwise than by investigation. Dealing with an allegation other than by investigation would allow the monitoring officer the discretion, assisted by guidance from the Standards Board, to tackle the problem identified in ways such as the provision of training or mediation to the particular member or making amendments to the authority's internal procedures, for example, arrangements for the provision of training to all members.

19. Enabling a standards committee to refer a case to the monitoring officer for action other than investigation is intended to address situations where the standards committee considers that a case has relevance for the ethical governance of the authority, eg where there are disagreements between members or cases of repeated poor behaviour, which do not require a full investigation, but where a committee feels that some action should be taken.

h) References to monitoring officers – procedure for referring allegations back to a standards committee

20. We propose to set out in the regulations the circumstances where a monitoring officer may refer an allegation back to the standards committee under section 66(2)(f) of the 2000 Act, and the procedure for doing so. We propose that such a referral would apply in the following circumstances:
- where, during an investigation or following a referral for action other than investigation, evidence emerges that, in the monitoring officer's reasonable view, a case is materially either more serious or less serious than originally seemed apparent, which might mean that, had the standards committee been aware of that evidence, it would have made a different decision on how the matter should be treated;
 - where a monitoring officer becomes aware of a further potential misconduct allegation which relates to the matter he or she is already investigating. In such circumstances, the monitoring officer may refer the matter back to the standards committee to decide on how the new matter should be treated;
 - where the member subject to the allegation has resigned, is terminally ill or has died.
21. With regard to the procedure which a monitoring officer must observe when referring an allegation back to a standards committee, we propose to set out in the regulations that where a monitoring officer refers back an allegation to a standards committee he or she must send written notification of his or her decision to refer a case back and the reasons for the decision to the relevant standards committee. In such

circumstances, the standards committee will then be required to undertake a further assessment of the allegation and reach a decision under section 57A(2) to (4) of the 2000 Act.

Question

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

i) Referral of matters from a standards committee to the Adjudication Panel for England for determination

22. With the introduction of the more locally based conduct regime, we consider that it is likely that standards committees will be required to make determinations in respect of more serious cases, which are currently dealt with by the Standards Board, its ethical standards officers and subsequently referred to the Adjudication Panel. We consider that providing a standards committee with the right to refer to the Adjudication Panel, where it considers that a breach of the code may merit a sanction higher than that available to the committee, will allow any sanction imposed to match the level of seriousness of the breach of the code.
23. We propose that it would be a matter for the standards committee to make a decision following the receipt of the monitoring officer's report that, if the member was found to have committed the breach, the appropriate sanction would be higher than that which the standards committee would be able to impose. Such a provision would ensure that the subject of the allegation would not be required to face both a standards committee hearing and then a separate hearing of the Adjudication Panel in respect of the same allegation.
24. In order to ensure that standards committees only refer the most serious cases to the Adjudication Panel, we propose to provide in the Regulations that the Adjudication Panel may refuse to accept a referral from a standards committee under certain circumstances, for example, where the Adjudication Panel does not consider, on the face of the evidence, that the matter would attract a sanction of greater than that currently available to standards committees.

j) Increase the maximum sanction available to standards committees

25. As stated above, with the introduction of the more locally based conduct regime, we consider that standards committees will be required to consider more serious cases. Accordingly, we propose to increase the maximum sanction which a standards committee can impose on a member who it has found to have breached the code from a three months partial suspension or suspension to six months.

Question

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

k) Composition of a standards committee and sub-committees of standards committees

26. Section 53(4) of the 2000 Act requires that a standards committee should be chaired by a person who is neither a member nor an officer of a relevant authority (“an independent member”). The existing rules relating to independent members will continue to apply so that the independent member must not have been a member or officer of the authority within the previous 5 years. As indicated earlier, committees are likely to appoint sub-committees in order to undertake the three separate functions involved in the ethical regime for local authority members:
- The initial assessment of a misconduct allegation (section 57A of the 2000 Act).
 - Any review of a decision to take no action (section 57B of the 2000 Act).
 - A hearing to determine whether a member has breached the code and whether to impose a sanction.
27. In order to maintain the robustness and independence of decision-making, we consider that it is important for an independent member to chair each of the sub-committees discharging each of the functions listed above.
28. We propose that the rules should remain as currently provided under the Relevant Authorities (Standards Committee) Regulations 2001 with regard to the size and composition of standards committees (including providing that where a committee has more than three members, at least 25% of them should be independent), and on the proceedings and the validity of the proceedings of committees and sub-committees (including that a meeting should not be quorate unless there are at least three members present).

Question

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

l) Public access to information on decisions on initial assessments of allegations under section 57A and reviews under section 57B

29. We consider that it would not be appropriate for a meeting of a standards committee to undertake its role on making an initial assessment under section 57A to be subject to rules regarding notices of meetings, circulation of agendas and documents and public access to meetings, as set out in the Relevant Authorities (Standards Committees) Regulations 2001. We take the view that it would not be appropriate for the above rules to apply to meetings which make the initial assessment decisions, as they may be considering unfounded and potentially damaging allegations about members which it would not be appropriate to make available to the general public. Currently, the Standards Board does not publish any information about cases that it does not decide to refer for investigation, which may include, for example, cases which are malicious or politically motivated. Consistent with this approach, we do not take the view that it would be appropriate to give such allegations of misconduct any publicity during the initial assessment phase.

30. For similar reasons, we also do not consider that a standards committee's function of reviewing a decision to take no action regarding a misconduct allegation should be subject to the access to information rules in respect of local government committees.

31. Accordingly, we propose that initial assessment decisions under section 57A of the 2000 Act, and any subsequent review of a decision to take no action under section 57B of the 2000 Act, should be conducted in closed meetings and should not be subject to notice and publicity requirements under Part 5A of the Local Government Act 1972. This approach was supported strongly by those authorities who participated in the Standards Board's recent initial assessment pilot schemes.

Question

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Chapter 3

The Standards Board's new monitoring function and the circumstances where it may suspend a standards committee's function of undertaking the initial assessment of misconduct allegations and for other committees or the Standards Board or joint committees to undertake this role

Purpose

32. Under the new locally based ethical regime, the Standards Board will provide guidance and support to standards committees and monitoring officers on undertaking their new roles and will monitor their performance to ensure consistency of standards across the country.
33. In order to support this role, the Standards Board will be putting in place monitoring arrangements to ensure that the local regime is operating efficiently and effectively. This will involve authorities completing periodic online returns in relation to the cases they handle and producing an annual report, which the Standards Board will monitor. The Board's monitoring will be undertaken against a series of criteria which they will set out in guidance.
34. The Board's approach has been developed in consultation with a range of local authorities and the aim is to provide support for authorities in ensuring the efficient operation of the local regime and to be easy for authorities to use. The information gathering system will enable the Standards Board to analyse the information received in order to identify and share good practice, which will assist authorities in assessing and improving their own performance. It will also allow the Standards Board to identify those standards committees and monitoring officers who are encountering difficulties in undertaking any aspect of their roles, as well as to identify how to assist them to improve their performance.

Proposals

35. Section 57D of the 2000 Act provides that the Standards Board may, in circumstances prescribed by regulations by the Secretary of State, direct that a standards committee's function of undertaking the initial assessment of misconduct allegations be suspended until the Board revokes such a suspension. The Standards Board's decision on whether to suspend a standards committee's initial assessment function will be made on a case-by-case basis and will be informed by information gathered by the Board about the performance of standards committees and monitoring officers. The Board's consideration of the suspension of a committee's powers may be triggered by one or a number of circumstances such as:

- a breakdown of the process for holding hearings;
 - a disproportionate number of successful requests to review a standards committee's decision to take no action;
 - repeated failure to complete investigations within reasonable timescales;
 - repeated failure to carry out other duties expeditiously, including repeated failures to comply with the proposed 20 working days deadline for making an initial assessment of an allegation;
 - failure to implement standards committee's decisions; or
 - repeated failure to submit periodic returns to the Standards Board under section 66B and information requests under section 66C.
36. In circumstances where a standards committee's initial assessment functions have been suspended, the standards committee must refer any misconduct allegation it receives to the Standards Board or a standards committee of another relevant authority in England, with its consent, to undertake the initial assessment function.
37. Our aim is that the Standards Board should use its power to suspend a standards committee's initial assessment functions only as a last resort, and after strenuous attempts to improve the authority's performance have failed, resulting in the committee's failure to operate an effective initial assessment process. The Standards Board will endeavour to provide support, guidance and advice to local authorities throughout.
38. As there are numerous circumstances in relation to the performance of the ethical regime which may lead the Standards Board to direct that a standards committee's initial assessment function be suspended, we propose that the regulations should allow for any circumstances where the Standards Board is satisfied that a suspension of the standards committee's functions would be in the public interest. In operating this discretion, the Board would be required to have regard to the range of factors set out in paragraph 35, above.

Question

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Arrangements for undertaking initial assessments

a) Circumstances where the initial assessment functions may be undertaken by another standards committee

39. Section 57D(2) of the 2000 Act provides that where the initial assessment function of one authority has been suspended, that function may be undertaken by the standards committee of another authority. We propose to allow for such arrangements to be made where the Standards Board and the receiving standards committee agree that it would be appropriate. Provision would also be made to allow a committee to withdraw from such an agreement if it chose to. We will make regulations as necessary, to facilitate such arrangements.

b) Possibility of providing for the Standards Board or standards committees to charge those standards committees which have had their initial assessment functions suspended for undertaking those functions on their behalf

40. Because of the impact which a transfer of responsibility for initial assessment to another standards committee could have, one option might be to allow an authority or the Standards Board to levy a charge against the authority whose standards committee has had its initial assessment functions suspended, to meet the cost of carrying out its functions.

41. There is no express provision in the 2000 Act dealing with the imposition of charges and we do not intend at this stage to make any provision to provide for any.

42. However, we would be grateful for views from consultees about whether the ability to charge a fee to recover the costs of undertaking another committee's role would contribute to the effective operation of the new ethical regime. For example, allowing a charge for the recovery of costs for undertaking the initial assessment role may help to encourage high performing standards committees to agree to undertake another standards committee's functions during the period that its functions are suspended. Such an approach may also encourage standards committees to undertake their responsibilities under the 2000 Act efficiently and effectively, in order to avoid having to pay the costs of another authority taking over their role if their functions are suspended.

Question

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

c) Proposed procedures for the suspension of a standards committee's initial assessment functions and the re-instatement of those functions

43. In relation to the procedure which the Standards Board should follow when using its power to direct that a standards committee's initial assessment function is suspended, we propose that the Regulations should set out the following requirements and procedures.
- Before a direction to suspend, the Standards Board should send the authority's chief executive a written notice of intention to suspend the functions of the standards committee. Copies of this would be sent to the person who chairs the standards committee and the monitoring officer. The notice may include any recommendations and directions aimed at improving the performance of a standards committee.
 - The Standards Board will exercise the suspension power under section 57D of the 2000 Act by written direction, sent to the relevant authority's chief executive and copied to the person who chairs the standards committee and the monitoring officer. The standards committee's functions will be suspended from the date specified in the written notice of direction from the Standards Board. Under that section, the Standards Board may direct that the standards committee must refer any misconduct allegations for action either to the Board itself or to the standards committee of another authority if that committee has consented.
 - A direction to suspend the local assessment function may be revoked where the Standards Board is satisfied that the suspension should cease based on evidence and undertakings given by the relevant standards committee. The revocation takes effect from the date specified in the notice of revocation.
 - The standards committee should be required to publicise the fact that their power to make initial assessments has been suspended and what alternative arrangements will apply for the handling of misconduct allegations, including the fact that new allegations will be dealt with elsewhere, in one or more local newspapers. Where a committee's power to make initial assessments is reinstated, the committee should similarly be required to publicise the arrangements which will apply for handling allegations following the reinstatement.

44. During a suspension, we envisage that the Standards Board should maintain communication with the monitoring officer and the standards committee chair, as well as other relevant people within the authority, in order to develop an action plan for improving the authority's performance. The aim of the action plan will be to set out the action which the standards committee and the monitoring officer need to take which would then justify the reinstatement of the standards committee's functions in the shortest possible time. We consider that the authority should be required to demonstrate improvement, through evidence, in its ability to discharge its functions under the Act. We propose that the Standards Board will provide various types of support throughout the process including, but not limited to, giving advice and guidance, sharing best-practice or participating in peer reviews, advising that training be undertaken or that a relevant authority enter into joint working arrangements with other local authorities.
45. In order for a standards committee's functions to be re-instated as soon as practically possible, the Standards Board will require cooperation from the suspended authority to ensure the Section 57A, 57B and 57C functions can be carried out. We propose to include within regulations governing the functions of standards committees an obligation to co-operate with the Standards Board during any period of suspension of its initial assessment functions, and to have regard to guidance issued by the Standards Board regarding the re-instatement of those functions, as a means to promote and maintain high standards of conduct, including the publication by the standards committee of a notice of any decision by the Standards Board to suspend the committee's functions or to revoke such a decision.

d) Joint working

46. In order to promote more effective ways of working, we propose to enable a standards committee to work jointly with one or more other standards committees in exercising their new functions under the local decision-making regime for allegations of misconduct, which might allow, for example, for more efficient use of common resources and aid the sharing of information, expertise, advice and experience.

i) Functions applicable for joint working

47. In common with the wishes expressed by many standards committees in recent pilot exercises on joint working run by the Standards Board, we wish all standards committees' functions to be available for joint working, but for each standards committee to decide which of the ethical regime functions it would like to operate jointly with other standards committees. For instance, the majority of those authorities involved in the pilots intended only to operate jointly the initial assessment functions under section 57A of the 2000 Act, whilst other authorities expressed an interest in extending joint arrangements to cover the holding of hearings and determinations of whether a member has breached the code.

ii) Structure and procedural rules of joint standards committees

48. Following the results from the joint working pilot, we believe relevant authorities may best establish joint standards committees within schemes which reflect the regulatory requirements, and which are agreed by each participating local authority. The regulations will specify the functions in relation to which joint working arrangements may be made. Guidance from the Standards Board will give advice on the content of these arrangements, including:

- size of joint committee, number of independent members and independent chair (ie to follow the rules on the size and composition of individual standards committees)
- residual functions retained by standards committees (if any)
- process for dissolution
- process for appointment of members of a joint standards committee, including independent members and parish representatives
- process for individual relevant authorities to withdraw from the joint standards committee
- the appointment of a lead monitoring officer for the joint standards committee or outline division of monitoring officers duties between the relevant authority monitoring officers
- payment of allowances
- arrangements for where the Standards Board suspends the functions of the joint standards committee

49. Guidance issued by the Standards Board will help local authorities decide what joint arrangements might be suitable for them. The options available would include the creation of a joint committee which would undertake all the functions of the individual committees, which could be particularly appropriate and represent a sensible use of resources for single purpose authorities, who are the source of fewer complaints than other authorities. Alternatively, agreements would be possible to allow one or more of committees' functions, ie the initial assessment of allegations, the review of a decision to take no action or the determination hearing, to be undertaken by the joint committee. In either model, it would be possible for the joint committee to establish sub-committees to deal with particular functions.

50. Regulations will make clear that joint standards committees are bound by the same rules and procedures that apply to standards committees. However, we believe an exception should be made in relation to the requirement that a parish representative be present when a matter relating to a parish council in the relevant authority's area is discussed. For joint standards committees, this requirement should be satisfied if a parish representative from any parish in the area covered by the joint standards committee is in attendance. That is, it is not necessary for the parish representative to come from the area of the particular parish a member of which is the subject of the matter being considered.

Question

Q11. Would you be interested in pursuing joint working arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Chapter 4

Adjudications by case tribunals of the Adjudication Panel

Purpose

51. To extend the range of sanctions available to case tribunals of the Adjudication Panel, to prescribe the circumstances in which a reference to the Adjudication Panel following an investigation or an interim report by an ethical standards officer may be withdrawn, and to make provision for a case tribunal to give notice of its decision that a member has breached the code to a standards committee and to prescribe the purpose and effect of such a notice.

Proposals

a) To extend the range of the sanctions available to a case tribunal of the Adjudication Panel

52. To ensure that a tribunal has a full range of sanctions available to it in cases where it has found that a member has breached the code, we intend to make available to a tribunal a wider range of less onerous sanctions equivalent to those already available to standards committees (which are contained in regulation 7 of the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003, as amended by regulation 8 of the Local Authorities (Code of Conduct)(Local Determination)(Amendment) Regulations 2004)). We consider that they should be available to a tribunal of the Adjudication Panel when reaching a decision on which sanction it should impose, so that the seriousness of the breach of the code can be matched by the level of the sanction imposed. We intend to make regulations which will enable a case tribunal to impose sanctions including the censure of the member, the restriction of the member's access to the premises of the authority and the use of the authority's resources, and a requirement for the member to undertake training or conciliation.
53. The full range of sanctions which we propose to make available to the Adjudication Panel is as follows:
- No sanction should be imposed.
 - Censure of the member.
 - Restriction for a period of up to 12 months of the member's access to the premises of the authority and the member's use of the resources of the authority, provided that any such restrictions imposed on the member –

(a) are reasonable and proportionate to the breach; and

(b) do not unduly restrict the member's ability to perform his functions as a member.

- Requirement that the member submits a written apology in a form specified by the case tribunal.
- Requirement that the member undertake training as specified by the case tribunal.
- Requirement that the member undertake conciliation as specified by the case tribunal.
- Suspend or partially suspend the member for a period of up to 12 months or until such time as he or she submits a written apology in a form specified by the case tribunal.
- Suspend or partially suspend the member for a period of up to 12 months or until such time as he or she undertakes such training or conciliation as the case tribunal may specify.
- Suspend or partially suspend the member from being a member or co-opted member of the relevant authority concerned or any other relevant authority for up to 12 months or, if shorter, the remainder of the member's term in office.
- Disqualify the member from being or becoming a member of that or any other authority for a maximum of 5 years.

Question

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

b) Withdrawing references to the Adjudication Panel

54. We propose to prescribe in the regulations that an ethical standards officer may withdraw a reference to the Adjudication Panel in certain circumstances. These would include circumstances where:

- after the ethical standards officer has determined that the case should be referred to the Adjudication Panel for adjudication, further evidence emerges that indicates that the case is not as serious as thought originally so that, in the ethical standards officer's view, there is no longer any justification for presenting the case to the Panel;
- a penalty imposed by another body meant the Adjudication Panel could do no more (for example, a sentence of imprisonment of three months or above for a related or non-related offence which would disqualify the member from office for 5 years); or

- the pursuit of the case would not be in the public interest, such as where the member accused has been diagnosed with a terminal illness or has died.
55. Before an ethical standards officer withdraws a reference to the Adjudication Panel, we propose that the regulations should require the ethical standards officer to notify the complainant, the subject of the allegation and the monitoring officer of the relevant authority of the proposed withdrawal. These people would therefore have the opportunity to make representations to the ethical standards officer in advance of the final decision of the withdrawal of the case being taken. We would also provide that the consent of the President of the Adjudication Panel would need to be obtained before a case could be withdrawn. We propose equivalent provision as regards the referral of interim reports from ethical standards officers to the Adjudication Panel.

Question

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

c) Decision notices of case tribunals of the Adjudication Panel

56. We propose to ensure, through regulations, that the rules relating to the suspension of a member who has been found to have breached the code by the Adjudication Panel are consistent with those which already apply in respect of disqualification.
57. Where a case tribunal of the Adjudication Panel decides that a member has breached his or her authority's code and that the breach warrants the suspension of that member, there is a requirement for the case tribunal to issue a notice to the relevant local authority. Currently, the effect of the suspension notice, unlike an Adjudication Panel's notice to disqualify a member, is not to put into effect the suspension of the member but instead merely to give notice to the standards committee that the person has failed to comply with the code of conduct. Accordingly, the local authority which receives a suspension notice from the Adjudication Panel must currently take action actually to suspend the relevant member. Section 198 of the 2007 Act amends the 2000 Act in respect of the decisions of case tribunals in England. This allows the Secretary of State to make regulations which provide for the effect that any notice issued by the case tribunal is to have. We propose to prescribe that in the case of the issue by the case tribunal of any notice, the effect of the notice will in future have the effect set out in the notice so that no further action is needed by the relevant authority before the notice can come into effect.

58. We also propose that a notice from the Adjudication Panel should have immediate effect, unless otherwise stated, and that the notice should give information on what breach of the code has been found and the sanction imposed. We propose that the notice should be sent to the chairman of the standards committee and copied to the monitoring officer and the member who is the subject of the notice. We propose that, consistent with current practice, the fully reasoned decision of the tribunal is provided to the above people within two weeks of the decision being taken.

Chapter 5

Issuing dispensations to allow councillors to participate in meetings so as to preserve political balance

Purpose

59. It is proposed to amend the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 (“the Dispensations Regulations”), to clarify the rules relating to standards committees granting dispensations to members of local authorities.

Proposal

60. Some local authorities have from time to time expressed concern about the current drafting of the Dispensations Regulations, the effect of which is to allow standards committees to grant dispensations from the prohibition of a member to participate in any business where: more than 50% of the members participating would otherwise be prevented from doing so, and where the political balance of the committee would otherwise be upset.
61. Some authorities have identified the following concerns in the operation of these regulations:
- Regulation 3(1)(a)(i) provides that a dispensation may be issued where the number of members of the authority prohibited from ‘participating in the business of the authority’ exceeds 50% of those entitled or required to participate. It is claimed that this reference to an entitlement to participate is ambiguous, since in some authorities all members are entitled to attend all committee meetings. The reference to the entitlement to participate in meetings could be replaced with reference to the number of members able to vote on a particular matter.
 - Regulation 3(1)(a)(ii) refers to the inability of the authority to comply with section 15(4) of the Local Government and Housing Act 1989. Since that section relates to the appointment of members to committees, and not to the attendance of members at committees it is suggested that what is meant by the term “not able to comply with any duty” under that section of the 1989 Act is ambiguous and might be clarified. Additionally, it could be clarified that the regulations are intended to deal with situations where a majority on a committee would be lost; the intention is not that they should aim to retain the precise political balance on each committee.

- The reference to section 15(4) could be interpreted as allowing dispensations to be granted in relation to committees but not in relation to full council meetings, where issues of political balance can be of concern particularly where there are hung councils or councils with small majorities.

62. To address these concerns, we propose to amend the regulations to make it more clear that they have the following effect:

- A standards committee should be able to grant dispensations if the effect otherwise would be that the numbers of members having the right to vote on a matter would decrease so that a political party lost a majority which it previously held, or if a party gained a majority which it otherwise did not hold
- It should be possible to grant a dispensation if the matter is under discussion at a committee or at a meeting of the full council.

Question

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposal to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Chapter 6

The granting and supervision of exemptions of certain local authority posts from political restrictions

Purpose

63. The purpose of the regulations is to prescribe that a local authority which is not required to establish a standards committee, should establish a committee to exercise functions in respect of the granting and supervision of exemptions from political restrictions.

Proposals

64. Section 202 of the 2007 Act inserts a new section 3A into the Local Government and Housing Act 1989 to provide that the granting and supervision of exemptions of posts from political restrictions should be a matter for relevant local authorities' standards committees. There are, however, some authorities subject to requirements with regard to politically restricted posts which are not required to establish standards committees. The only such authorities of which we are aware are waste disposal authorities.
65. In order to ensure that such authorities are able to make decisions on the exemption of certain posts from political restrictions, in accordance with section 3A of the Local Government and Housing Act 1989, we propose that those relevant authorities which are not required to have standards committees should establish committees to undertake this function. We propose to provide in the regulations that the rules regarding the minimum number of members the committee should have, the proportion of members who should be independent and the requirement to have an independent chair, which apply to standards committees, as set out in the 2000 Act, as amended, and the regulations discussed above regarding standards committees should also apply to the committees of these authorities.
66. This provision should not prevent these types of authorities from instead discharging their responsibilities with regard to the granting and supervision of exemptions from political restrictions by entering into agreements with other authorities to carry out this role on their behalf, under section 101 of the Local Government Act 1972. We propose therefore that authorities should have the option of which of the above approaches to take, so that it would only be in circumstances where the authority has not made arrangements for the discharge of this function by another authority that it would be required to set up its own committee to undertake the function itself.

Question

Q15. Do think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989, to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Chapter 7

Other Issues

(a) Maximum pay of local authority political assistants – results of earlier consultation

Purpose

67. The purpose of the proposed order is to specify the point on the local authority pay scale which will serve as the maximum pay for local authority political assistants.

Proposals

68. In August 2004, the then Office of the Deputy Prime Minister published the *Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – A Consultation Paper*. In the paper we invited views on the pay arrangements for political assistants. There was a consensus among consultees in favour of linking the maximum pay for political assistants to local government pay scales. Various spine points on the local government scale were suggested as the maximum which should apply, and many suggested spine point 49. Authorities did not suggest that further payments such as London weighting should be added on top of the proposed maximum rate.
69. Accordingly, we propose that the order should set the maximum pay for local authority political assistants at point 49 on the National Joint Council for Local Government Services pay scale (currently £39,132 pa). Local authorities will be able to pay remuneration including any allowances to their political assistants provided remuneration to any individual does not exceed the overall rate represented by spine point 49 from time to time in force.

(b) Effective date for the implementation of the reformed conduct regime

70. We propose that those arrangements referred to in this consultation paper which will implement the reformed conduct regime for local councillors will be implemented no earlier than 1 April 2008. We are aware that this is the date which many authorities have been working to, and that there is an expectation by many in the local government world that the amendments will commence on this date. Feedback from authorities to the Standards Board has suggested that many authorities wish the revised framework to be put in place as soon as practically possible.

Question

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Annex A: Summary of questions

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 our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Q11. Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Q15. Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Comments should be sent by e-mail
or post by **15 February 2008** to:

William Tandoh
Department for Communities and Local Government
Local Democracy and Empowerment Directorate
5/G10 Eland House
Bressenden Place
London SW1E 5DU
e-mail: william.tandoh@communities.gsi.gov.uk

Annex B: The Consultation Criteria

1. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form.
2. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (for example, under European Union law), they should otherwise be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.
3. The criteria are:
 - a. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
 - b. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - c. Ensure that your consultation is clear, concise and widely accessible.
 - d. Give feedback regarding the responses received and how the consultation process influenced the policy.
 - e. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
 - f. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.
4. The full consultation code may be viewed at http://www.cabinetoffice.gov.uk/regulation/consultation/consultation_guidance/the_code_and_consultation/index.asp#codeofpractice
5. Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process, please contact:

David Plant, Head of Better Regulation Unit,
Department for Communities and Local Government,
Zone 6/H10, Eland House, Bressenden Place, London SW1E 5DU

e-mail: David.Plant@communities.gov.uk

Orders and Regulations Relating to the Conduct of Local Authority Members in England: Leeds City Council Consultation Response

Specific questions posed in consultation paper

Question 1

- a) Does our proposal to prohibit a Member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a Member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach?

Yes, Leeds City Council agrees that prohibiting a Member who has been involved in a decision on the initial assessment of an allegation from reviewing that decision to take no action, provides an appropriate balance between the avoiding conflicts of interest and ensuring a proportionate approach.

It is the opinion of a Parish representative on the Committee that the only restrictions which should be placed on a standards committee should be those of proportionality. If it is ensured at all times that the sub-committees are scrupulously proportionate there should be no need for prohibitions.

It is the opinion of the second Parish representative on the Committee that in principle, yes, a review should be by an independent sub-committee who has no involvement with an initial determination. However, an initial assessment and hearing of the complaint should be capable of being conducted by the same members unless they have formed such an unfavourable view of the person complained about at the initial assessment that they feel they could not give a fair hearing to the 'defendant'. It would be for the member to disbar themselves and say why. The same committee hearing the complaint should fix the appropriate penalty if any.

- b) Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Yes, Leeds City Council believes that a system of sub-committees would be workable, but plans to use sub-committees for the first two stages only and then have the full Standards Committee conduct any subsequent hearings.

Question 2

Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Leeds City Council believes that the Standards Board for England should take on an adjudication role, as disputes may arise between authorities due to the cost of investigations.

It is the opinion of a Parish representative on the Standards Committee that it is appropriate for the decision to be matter of agreement between standards committees, providing these deliberations do not drag out the proceedings even longer than normal. The Standards Board need not be involved.

It is the opinion of the second Parish representative on the Committee that where possible, the separate committees should try to agree framework and procedure but if it can't be agreed, then the Standards Board should make a ruling.

Question 3

Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Leeds City Council agrees that the timescale for making initial decisions should be a matter for guidance, although the example of a 20 working day time limit may be onerous if dealing with more than one complaint at the same time. A 20 working day time limit would also only be acceptable if the sub-committee meetings were exempt from the rules on access to information.

Question 4

- a) Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made?

Yes, Leeds City Council agrees that the sort of circumstances listed in the consultation paper would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made.

It is also important that 'whistle-blowing' in the Council does not compromise any future police enquiry, particularly where fraud is concerned or where there is the possibility following any offence of a police enquiry.

- b) Are there any other circumstances which you think would also justify the withholding of information?

Leeds City Council is unable to think of any other circumstances which would also justify the withholding of information.

- c) Do you agree that a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Yes, Leeds City Council also agrees that the summary should be provided once the monitoring officer or ethical standards officer is satisfied that a sufficient investigation has been undertaken.

Question 5

Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

Yes, Leeds City Council agrees that circumstances should be prescribed, as proposed.

Question 6

Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three to six months suspension or partial suspension from office?

Yes, Leeds City Council is in favour of an increase in the maximum sanction that the standards committee can impose. Yes, Leeds City Council is content with the maximum sanction of six months suspension or partial suspension of office.

It is the opinion of a Parish representative on the Committee that there is an argument for the sanction being raised to 12 months.

Question 7

Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Leeds City Council acknowledges that it would be preferable if sub-committee Chairs were independent members, although it would be preferable if this was not made an absolute rule in order to allow standards committee additional flexibility when arranging meetings. Reducing the quorum from three to two members would also allow greater flexibility when calling meetings.

The Independent Chair of the Standards Committee considers that it is practicable to require that the chairs of all sub-committees be independent and this should be the case. The ancillary question is not the one to ask, rather the question should be about public perception and chairing by independent members is very important on those grounds.

A Parish representative on the Standards Committee is of the opinion that it would not be consistent with robust decision making if one or more of the sub-committee chairs were not independent.

The second parish representative on the Committee is of the opinion that both Parish representatives would be capable of chairing the sub-committees, with help from the Monitoring Officer. The only issue would be whether the members of the political parties would be happy with a Parish Councillor chairing the sub-committees, but if the Chair is right and can carry respect, then that person should be asked to preside.

Question 8

Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Yes, Leeds City Council agrees that these meetings should be exempt from rules on access to information. Regulations should encapsulate this and may also need to amend or add another paragraph to the Access to Information schedule requirements to permit this to happen as the meetings of the initial assessment and the review sub-committees will be "meetings" covered by the Local Government Act 1972 provisions.

Question 9

Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Yes, Leeds City Council considers that you have identified appropriate criteria for the Standards Board to consider when suspending a standards committee's powers. Leeds City Council can think of no other relevant criteria which the Board ought to take into account.

Question 10

Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Leeds City Council believes that there should be the ability to recover costs if undertaking work on behalf of another authority. The level should do no more than recover costs and it should be for the Monitoring Officer to make such arrangements with the neighbouring authority as appropriate.

A Parish representative on the Committee is concerned that charging in the circumstances proposed could lead to resentment between authorities. However, in the absence of a fund to be made available by the Treasury, there should be a charging regime for work done in the circumstances outlined. A tariff could be worked out by the Secretary of State and reviewed annually.

Question 11

Would you be interested in pursuing joint working arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement

for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Leeds City Council would not currently consider pursuing joint working arrangements with other authorities. There has been inconsistent advice regarding joint working so far, and local authorities require more flexibility in their arrangements.

One of the Parish representatives on the Standards Committee would be interested in considering working with other authorities, and would suggest 'clustering' in geographical areas for ease of organisation. They also believe that a representative from any parish should be able to fulfil this role.

The second Parish representative on the Standards Committee considers that the Leeds City Council Standards Committee needs to be sure that they are able to cope with their workload efficiently before looking at working jointly with others. It is sensible that any Parish Councillor could fulfil the requirements of the joint committee, but it would need to be made clear to the Parish Clerk that a Parish representative would be present and who it would be.

Question 12

Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Leeds City Council would be content with the range of sanctions available to the Adjudication Panel being expanded.

Question 13

Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there are other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

Yes, ethical standards officers should be able to withdraw references to the Adjudication Panel in the circumstances described in the paper.

Question 14

Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect if these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposal to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Yes the Standards Committee has made decisions under the existing dispensation regulations, but Leeds City Council has no view on the other points made.

Question 15

Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989, to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Not applicable.

Question 16

Do you agree with our proposal to implement the reformed conduct regime on 1st April 2008 at the earliest?

Leeds City Council will not be ready to start the new regime by 1st April 2008. This is because there has been no final guidance or regulations issued by the Standards Board for England and Communities and Local Government. Leeds City Council needs a longer lead in time to determine valid arrangements in light of the published regulations and guidance, and processes need to be followed in order for documents to be approved by the Standards Committee, the Corporate Governance and Audit Committee and the Full Council at their Annual Meeting.

We are of the view that we will be able to develop revised arrangements for consideration at the Annual Meeting of Council. Therefore commencing at the start of the municipal year would seem more appropriate than the financial year.

Any other comments on the consultation paper

One of the Parish representatives on the Committee is of the view that the Standards Board has given a huge amount of additional work to the standards committees and taken upon itself a supervisory role as regulator with not a lot to do. There is no recognition of the extra work and cost involved to standards committees (except in relation to acting as counsellor to non performing standards committees) and a tremendous amount will fall on the shoulders of the independent members of a committee.

There is also no recognition that Parish representatives (in appropriate cases) could act as Chair-people with the help of the Monitoring Officer. In standards committee terms, there is not the same degree of political bias as there may be if a representative from one of the political parties was to chair a complaint.



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Standards Board checklist for the new local assessment arrangements

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

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 article recently published by the Standards Board for England offering a 'checklist' for local authorities of things to consider in the run-up to the implementation of the locally managed framework, and to benchmark the position of Leeds City Council in relation to the checklist.
2. The Standards Board for England published the article in December 2007 to assist local authorities with preparing for the implementation of the new local assessment arrangements. However some of the checklist is subject to Communities and Local Government making appropriate orders and regulations.
3. Members of the Committee are asked to note the issues raised in the Standards Board for England checklist and the progress of Leeds City Council in relation to these issues.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Committee of the article recently published by the Standards Board for England offering a 'checklist' for local authorities of things to consider in the run-up to the implementation of the locally managed framework, and to benchmark the position of Leeds City Council in relation to the checklist.

2.0 Background Information

- 2.1 The Standards Board for England published the article in December 2007 to assist local authorities with preparing for the implementation of the new local assessment arrangements. However some of the checklist is subject to Communities and Local Government making appropriate orders and regulations.
- 2.2 The consultation exercise on the new orders and regulations is currently underway, and is on this agenda for discussion as a separate item. The regulations may be in place by the 1st April 2008 (depending upon the results on the consultation), and it is presumed that local authorities are expected to undertake their new functions regarding local assessment from Spring 2008.

3.0 Main Issues

Size of standards committee

- 3.1 Standards committees must have a minimum of:
- Three members (two elected members and one independent member).
 - 25% as independent lay members if the committee is more than three people.
 - An independent chair (from April 2008).
 - One parish or town council member if the authority has responsibilities for those councils.
- 3.2 Effective practice - the Standards Board recommends:
- At least six people as a minimum (three elected members and three independent members).
 - Two, or possibly three, parish or town council members if the authority has responsibilities for those councils.
 - Consideration of whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.
- 3.3 In Leeds, the Standards Committee is already fulfilling the requirements listed in the above paragraphs. The Standards Committee also took the decision last year to recommend a requirement within the Constitution¹ that the Chair is appointed from the Independent Members on the Committee.

Structure of standards committees

- 3.4 In addition to their role as champion and guardian of the authority's ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct:

¹ Article 9A, Part 2 of the Constitution.

- Receiving and assessing complaints.
- Reviewing local assessment decisions.
- Conducting hearings following investigation.

3.5 To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested.

3.6 Effective practice – the Standards Board recommends:

- A structure of sub-committees or the standards committee acting as a pool of members to deal with the different roles.
- As a minimum, two separate subcommittees, one for taking initial assessment decisions and one for taking decisions on reviews.
- Subject to regulations, any subcommittee should also have an independent chair.
- A member who was involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something that needs to be investigated. It does not require deliberation of whether the conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.

3.7 In Leeds proposals for a system of sub-committees have already been created. As part of these proposals, it is also recommended that each sub-committee is chaired by an independent member. These proposals are contained in the report 'Local Assessment Arrangements' also on this agenda.

Training

3.8 Effective practice – the Standards Board recommends:

- Standards committees are fully trained on the Code of Conduct.
- Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing.
- Independent chairs and vice-chairs are trained in chairing meetings.
- Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.

3.9 In Leeds, all Standards Committee Members have received training on the new Code of Conduct, either through briefings, the Standards Board DVD or e-learning. Members of the Committee have also had training on conducting hearings from an external facilitator, both in 2006 and 2007. The Standards Committee in Leeds also has a comprehensive training plan for its Members which covers chairing skills and appropriate induction events.

3.10 The Standards Committee will also be considering any training requirements arising from the new local assessment arrangements at the additional meeting in March 2008.

Local assessment criteria

- 3.11 Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints. Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness.
- 3.12 Monitoring officers will be able to acquire additional factual information which is readily available about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making. It should not include interviews or investigation. A complainant also has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit further information in support of the complaint at the appeal stage in the process.
- 3.13 In Leeds, the development of Local Assessment Criteria and the receipt, referral and management of allegations of misconduct will be considered at the additional meeting in March 2008, as they are currently subject to the publication of guidance and regulations.

Role of the monitoring officer in the new framework

- 3.14 Effective practice – the Standards Board recommends:
- A pre-meeting with the independent chair.
 - Preparing a summary of the allegation for the standards committee.
 - Highlighting what the potential Code breaches are which underlie an allegation to the standards committee.
 - Allowing case reading time for the monitoring officer and the standards committee.
- 3.15 In Leeds, it is proposed that pre-meetings between the Monitoring Officer and the Chair of the Committee take place as a matter of course, as they currently do before hearings and regular meetings of the Committee. It is also proposed that a covering report be produced for each complaint as was the case in the local filtering pilot exercise, and that agendas are distributed in good time for the Sub-Committee Members to read the complaints and any supporting documentation. Furthermore manuals of guidance could be produced (similar to those used for hearings) for the Sub-Committee Members to refer to during the meeting. All these issues will be considered during the report on Local Assessment Criteria in March 2008.

Completing existing investigations

- 3.16 Many authorities will have outstanding investigations and the Standards Board encourages authorities to clear such investigations – particularly long-standing cases – before the new framework comes into effect.
- 3.17 Any authority experiencing difficulties in completing an investigation should seek advice and support from the Standards Board.
- 3.18 In Leeds, two local investigations are currently underway. The Deputy Monitoring Officer has stated that these investigations should be completed in time for the new framework coming into effect, and therefore will not be contacting the Standards Board for assistance.

Local assessment and the corporate complaints process

3.19 Effective practice – consider:

- How will the public be informed of the new arrangements?
- Who will receive and log an allegation?
- The production of an individual information leaflet for the local assessment process, possibly combined with the corporate complaints process.

3.20 In Leeds it is proposed that the process for the receipt, referral and management of allegations of misconduct is considered in a report, also covering the publication of the new arrangements and the possibility of combining the complaints system with the corporate complaints process, in March 2008.

Future monitoring by the Standards Board

3.21 The Standards Board is consulting a sample of authorities involved in a pilot study on proposals for an online information return system, which will allow authorities to tell us about how local arrangements are working.

3.22 This system is being designed based on what standards committees need locally, and to enable authorities to provide information to the Standards Board as simply as possible.

3.23 Authorities will be able to use the system locally for their own records, to keep standards committees informed of their authority's ethical activities.

3.24 Proposals for the system include quarterly online returns on cases, which will be simple and quick to use, and nil returns if there is no activity to report.

3.25 Leeds City Council is not one of the authorities involved in the pilot study detailed above, and currently has no electronic based system for recording complaints and referrals from the Standards Board for England.

Local assessment guidance

3.26 We will help standards committees by providing guidance in 2008 on all aspects of the local assessment process, subject to the passage of the relevant regulations, with a toolkit to include:

- Template notices for publicising the authority's Code of Conduct complaint process.
- Complaint assessment flowcharts.
- A standard complaint form.
- Template letters for each stage in the process.
- Template referral and non-referral decision notices. Guidance to assist with drafting criteria and for the authority to define its threshold for referral.
- Template terms of reference for assessment and review committees.

3.27 In Leeds the Standards Committee will need to consider the new terms of reference for its assessment and review sub-committees, as well as other Constitution amendments, in April 2008. The Committee will also be considering how to notify the public of the new complaints process at its meeting in March 2008.

4.0 Implications For Council Policy And Governance

- 4.1 The new locally-based ethical conduct regime will allow local authorities to make more proportionate decisions about conduct matters, taking any significant local factors into account.
- 4.2 By extending the Standards Committee's functions, the new arrangements will also allow the Committee to have a greater contribution towards the good governance of the Council.

5.0 Legal And Resource Implications

- 5.1 There are resource implications to the new arrangements described in the report, although these implications have already been anticipated and are being dealt with in the consideration of the Council's budget for 2008/09.

6.0 Conclusions

- 6.1 The Standards Board for England published the article in December 2007 to assist local authorities with preparing for the implementation of the new local assessment arrangements. However some of the checklist is subject to Communities and Local Government making appropriate orders and regulations.
- 6.2 The position of Leeds City Council against the effective practice recommendations of the Standards Board is detailed throughout paragraph 3 above.

7.0 Recommendations

- 7.1 Members of the Committee are asked to note the issues raised in the Standards Board for England checklist and the progress of Leeds City Council in relation to these issues.



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Annual Report On The Monitoring Officer Protocol

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report is the annual report of the Monitoring Officer required under Paragraph 5 of the Monitoring Officer Protocol.
2. A copy of the Monitoring Officer Protocol is attached to this report for Members ease of reference.
3. Members are asked to:
 - Consider the performance information and issues raised within this report; and
 - Request that officers carry out a full review of the Monitoring Officer Protocol in view of the developments in the role of the Monitoring Officer and changes made under the Local Government and Public Involvement in Health Act.

1.0 Purpose Of This Report

1.1 This report is the Monitoring Officers Annual Report which is required under paragraph 5 of the Monitoring Officer Protocol.

2.0 Background Information

2.1 Members will recall that the role of the Monitoring Officer is a statutory role by virtue of Section 5 of the Local Government and Housing Act 1989. The principle duties of the Monitoring Officer are set out in the Appendix to the Monitoring Officer protocol, which for ease of reference is attached to this report as Appendix 1.

2.2 The functions carried out by the Monitoring Officer include the following:-

- Reporting on Contraventions of the 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.
- Advising on Vires issues, maladministration, financial impropriety, propriety, budget and policy framework issues for all Members.

3.0 Main Issues

3.1 Paragraph 5 of the Monitoring Officer Protocol requires that the Monitoring Officer reports annually to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and whether there are any proposals for amendments. The following paragraphs give detailed information in relation to each heading raised in the Protocol.

Resources

3.2 The Monitoring Officer considers that she has sufficient resources to discharge her statutory functions, and to address any matters concerning her functions.

3.3 The Monitoring Officer is satisfied that so far for the financial year 2007/8 she had a sufficient budget at her disposal to enable her to seek Counsel's opinion on matters concerning her functions as and when necessary during the course of the current Municipal year.

3.4 The Monitoring Officer has appointed the Chief Legal Services Officer as the Deputy Monitoring Officer and keeps him briefed on any relevant issues that he may have to deal with in her absence. The Deputy Monitoring Officer has also carried out several local investigations on behalf of the Monitoring Officer.

Access to information/ meetings

- 3.5 The Monitoring Officer is of the view that she has been alerted to any issues that may have become of concern to the authority. The Monitoring Officer has had advance notice of all relevant meetings of the authority, and has had the right to attend these meetings.
- 3.6 The Monitoring Officer has ensured that all meetings of the authority are sufficiently supported and advised. All meetings of Committees, Panels and Sub-Committees are attended by a member of Governance Services who maintains a record of the meeting and advises on procedural issues. All Committees also have a legal officer who is responsible for providing legal advice to that body, and in some cases, especially where committees are acting in a quasi-judicial capacity, the legal officer also attends the meetings throughout.
- 3.7 The Monitoring Officer, as the Assistant Chief Executive (Corporate Governance), is a member of the Corporate Leadership Team, and therefore has had advance notice of its meetings, agenda and reports, and has had the right to attend and speak.
- 3.8 As the proper officer for access to information, the Monitoring Officer is responsible for ensuring that decisions, together with reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible. The Monitoring Officer achieves this through the publication on the Council's website of minutes, delegated decision forms and the forward plan within strict deadlines.

Relationships

- 3.9 The Monitoring Officer has ensured that the other statutory officers have been kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues.
- 3.10 The Monitoring Officer has met regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues. They all attend weekly meetings of the Corporate Leadership Team, and any additional meetings are arranged as and when necessary.
- 3.11 The Monitoring Officer is the Chair of an officer group involving representatives from audit, risk, finance, governance, performance management, information governance and human resources. The Corporate Governance Board is responsible for reviewing the adequacy of the Council's Corporate Governance arrangements (including matters such as internal control and risk). This group meets every month and therefore allows the Monitoring Officer to maintain effective working relationships with these officers and retain an overview of corporate governance issues.
- 3.12 The Monitoring Officer has a close working relationship of respect and trust with the Lord Mayor, deputy Lord Mayor and the chairs of the Executive Board, Standards Committee, regulatory committees, Scrutiny Boards and Area Committees.
- 3.13 The Monitoring Officer has developed and maintained an effective working liaison and relationship with the Standards Board for England, the District Auditor and the Local Government Ombudsman.

- 3.14 The Monitoring Officer is required to make a report under Section 5 of the Local Government and Housing Act 1989 if it appears to her that any proposal, decision or omission by the Authority¹ has given rise to or is likely to give rise to a contravention by the Authority of any enactment or rule of law. The Monitoring Officer has not had reason to make any report under Section 5 of the Local Government and Housing Act 1989 or to consult in relation to making any of these formal reports.
- 3.15 The Monitoring Officer has made arrangements to ensure effective communication between her office and clerks to parish councils. The Parish Council Liaison Officer sends correspondence as and when necessary, and provides information to meetings of the Parish Council Liaison Forum. In addition there is regular contact from the Standards Committee to Parish Councils. All Clerks receive a copy of the agenda for each Standards Committee meeting together with regular correspondence sharing information and guidance from the Standards Committee and seeking the views of the Parish Councils.

Ombudsman Complaints

- 3.16 It is the duty of the Monitoring Officer under the Local Government Act 1974 and the Local Government and Housing Act 1989 to prepare reports in relation to complaints which have been the subject of investigation by the Local Government Ombudsman and which have revealed maladministration, whether or not that maladministration has been found to cause injustice. The Monitoring Officer carries out this duty by instructing the relevant director to produce a report for the Executive Board.
- 3.17 On 23rd January 2008, the Directors of Environment and Neighbourhoods and Adult Social Care submitted a report to the Executive Board detailing a finding of maladministration and injustice against the Council in relation to adaptations to a Council house to meet a disabled tenant's needs. Several actions have been taken to address the issues identified by the Ombudsman, such as increased guidance and the establishment of a working group, and the Ombudsman has reported that the action taken by the Council since her investigation provides a substantive remedy to the injustice experienced by the complainant.
- 3.18 The Monitoring Officer has prepared reports to bring to Members' attention issues of importance arising out of complaints made to the Local Government Ombudsman whether or not those complaints were investigated or maladministration found. These reports are formally considered by the Corporate Governance and Audit Committee. The Monitoring Officer has provided reports to the Corporate Governance and Audit Committee at their meetings on 27th September 2007 and 6th February 2008 showing the numbers of complaints and the departments to whom they related. An additional report on 27th September 2007 highlighted comments made by the Local Government Ombudsman in her annual letter. The Ombudsman was generally complementary towards the Council and its approach to handling complaints. However, she did draw attention to some areas for improvement, for example, improving the quality and clarity of our response to complaints. She also highlighted the importance of analysing trends and lessons learnt so that the Council can change processes/procedures where failures are identified - this is particularly important for services where the level of complaints remains high.

¹ This includes committees, sub-committees, any person holding any office or employment under the authority or joint committees.

Standards matters

- 3.19 The Monitoring Officer has provided advice to Members of the City Council and Members of Parish Councils. The Monitoring Officer has done so through correspondence, in meetings, and through the provision of guidance and briefing notes on specific issues.
- 3.20 The Monitoring Officer has arranged a programme of training for Members on ethical standards and Code of Conduct Issues. This is set out and delivered through the Member Development Strategy 2006-08. Briefings on the Code of Conduct are delivered through the induction programme, which is delivered to all newly elected Members of Council. In this municipal year, the Monitoring Officer has personally delivered Code of Conduct training to all Members who were newly elected in May 2007. In addition, a programme of training was offered to all Members of the Council as well as some officers on the new Members' Code of Conduct.
- 3.21 Several compulsory training sessions relating to governance and conduct issues have taken place for Members of Plans and Licensing panels this year. These sessions have been well attended and received.
- 3.22 The Monitoring Officer has been involved in drafting the extended programme of training for Parish and Town Clerks and Councillors on the new Code of Conduct, in conjunction with the Standards Committee. In addition, the Monitoring Officer has arranged for an induction toolkit to be issued to assist Parish and Town Clerks through the process of the elections.
- 3.23 In this municipal year Members of a total of 17 Parish and Town Councils have already received training from Leeds City Council on the Code of Conduct and these include Arthington, Bardsey cum Rigton, Barwick-in-Elmet and Scholes, Bramham cum Oglethorpe, Clifford, East Keswick, Gildersome, Horsforth, Kippax, Ledston with Ledston Luck, Morley, Otley, Pool-in-Wharfedale, Shadwell, Thorner, Thorp Arch, and Wetherby Town and Parish Councils. Many Parish and Town Councils in Leeds have also had access to training from other sources, for example the Yorkshire Local Councils Association and the Standards Board for England.
- 3.24 The two part Code of Conduct e-learning course called "Cracking the Code" has been redrafted and updated in line with the new Members' Code of Conduct in this municipal year. The course was launched on 16th January 2008 and has been made available to all Members of Leeds City Council. The course will be edited to be relevant to parishes, and then made available to them in due course.
- 3.25 An investigation has been carried out and concluded this municipal year on behalf of the Monitoring Officer. The investigation involved allegations that a Councillor failed to comply with Leeds City Council's code of conduct. The investigating officer was satisfied that he had access to all necessary information and all officers who could assist in the discharge of his functions.
- 3.26 The Monitoring Officer is responsible for ensuring that Leeds City Councillors and voting Co-opted Members complete and maintain a register of interests and register any gifts or hospitality that they have received. The Monitoring Officer has delegated responsibility for these matters to Governance Services, but remains updated through regular reports on these matters.
- 3.27 The Monitoring Officer has delegated responsibility to the Parish Clerks for maintaining the Members' register of interests and the register of gifts and

hospitality for their Parish Council. The Monitoring Officer seeks confirmation on an annual basis that these registers are being regularly reviewed by the Clerks, and that they are being completed by new Councillors through the annual audit process.

- 3.28 The Monitoring Officer is also responsible for receiving and acting on reports from Ethical Standards officers and decisions of case tribunals. The Monitoring Officer has ensured that the Standards Committee has been made aware of any case summaries published on the Standards Board website as quickly as possible. She has also reported to the Standards Committee on the number of complaints received regarding Leeds City Councillors and Parish and Town Councillors in Leeds and the outcome of those complaints twice a year, as well as reporting on Adjudication Panel case tribunal decisions at every meeting.
- 3.29 The Monitoring Officer is also responsible for supporting the Standards Committee. Through her support to the Committee the Monitoring Officer promotes and maintains high standards of conduct. The Monitoring Officer has ensured that the Committee are supported through attending nearly every meeting of the Committee, ensuring they are able to carry out their functions effectively by the provision of reports and information, and through ensuring that their training needs are met by enabling Committee members to attend internal and external training sessions. In the past two municipal years, Committee members have attended training on conducting successful hearings, attended Standards Board for England Annual Conferences, been provided with an e-learning module of the Code of Conduct, and watched Standards Board DVDs on conducting investigations and hearings and the new Code of Conduct. The Committee have also been regularly briefed on changes and developments to the Members' Code of Conduct as well as the development of case law.

Constitution

- 3.30 The Monitoring Officer has kept the Constitution under continuous review and where necessary reports are taken to Corporate Governance & Audit Committee, Standards Committee and Full Council for approval in respect of proposed amendments to the constitution. The Monitoring Officer has consulted with the Chief Finance Officer and the Head of Paid Service when required. Attached at appendix 2 is a table summarising those changes which have been implemented during this municipal year.
- 3.31 In addition to this the Monitoring Officer has sought to improve awareness and understanding of the Constitution through the creation of a new e-learning module for Members.

Members and Officer Responsibilities

- 3.32 The Monitoring Officer is satisfied that Members and Officers have reported any suspected breaches of statutory duty or council policies or procedures and other vires or constitutional concern to her as soon as practicable.

Advice

- 3.33 The Monitoring Officer has been available for Members and Officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements.

Future role of Monitoring Officer

- 3.34 The new standards arrangements referred to in the recent Local Government and Public Involvement in Health Act, such as local filtering of complaints, will mean changes to the role of the Monitoring Officer. We will complete a review of the protocol, taking into account these developments when more information becomes available.

4.0 Implications For Council Policy And Governance

- 4.1 The Monitoring Officer is a statutory role which underpins the Ethical Framework of the council. Annual reporting on the Monitoring Officer's performance of the protocol supports the ethical framework and ensures good governance.

5.0 Legal And Resource Implications

- 5.1 This report is not considered to have any specific legal or resource implications.

6.0 Conclusions

- 6.1 This is the annual report of the Monitoring Officer required under paragraph 5 of the Monitoring Officer Protocol. This report confirms that the arrangements set out in the Protocol are being carried out satisfactorily.

7.0 Recommendations

- 7.1 Members are asked to:
- Consider the performance information and issues raised within this report; and
 - Note that officers are to carry out a full review of the Monitoring Officer Protocol in view of the developments in the role of the Monitoring Officer and the changes highlighted in the Local Government and Public Involvement in Health Act.

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MONITORING OFFICER PROTOCOL

1.0 INTRODUCTION TO STATUTORY RESPONSIBILITIES

- 1.1 The Monitoring officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged.
- 1.2 The role of the Monitoring Officer rests with the Assistant Chief Executive (Corporate Governance)
- 1.3 A summary list of the Monitoring Officer's responsibilities appears in the Annex attached. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
- (a) complying with the law (including any relevant Codes of Conduct);
 - (b) complying with any general guidance, codes or protocols issued from time to time, by the Standards Committee and the Monitoring Officer;
 - (c) making lawful and proportionate decisions: and
 - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

2.0 WORKING ARRANGEMENTS

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
- 2.2.1 Resources
- (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions,
 - (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
 - (c) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions.

Monitoring Officer Protocol

- (d) appoint a deputy and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer.

2.2.2 Access to information/meetings

- (a) be alerted by Members and officers to any issue(s) that may become of concern to the authority, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise:
- (b) have advance notice, (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend (including the right to be heard) any meeting of the authority (including meetings at which officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken).
- (d) be a member of the Corporate Management Team and will have advance notice of those meetings, agenda and reports and the right to attend and speak.
- (e) in carrying out any investigation(s), have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his/her functions:

2.2.3 Relationships

- (a) ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (c) have a close working relationship of respect and trust with the Lord Mayor, Deputy Lord Mayor and the chairs of the Executive Board, Standards and Regulatory Committees, Scrutiny Boards and Area Committees with a view to ensuring the effective and efficient discharge of Council business;
- (d) develop effective working liaison and relationship with the Standards Board for England, the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information,

whether confidential or otherwise, through appropriate protocols, if necessary);

- (e) in consultation, as necessary, with the Leader, Executive Board, Standards Committee and the Standards Board for England, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (f) make arrangements to ensure effective communication between his/her office and clerks to parish councils on Monitoring Officer and Standards Committee issues.

2.2.4 Ombudsman Complaints

- (a) prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 in relation to complaints which have been the subject of investigation by the Local Government Ombudsman and which have revealed maladministration whether or not that maladministration has caused injustice.
- (b) prepare reports to Members where considered necessary to bring to their attention issues of importance arising out of complaints made to the Local Government Ombudsman whether or not investigated or maladministration found."

2.2.5 Standards Matters

- (a) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Standards Board for England) and, if appropriate, make a written report to the Standards Committee (unless the Chair of Standards Committee agrees a report is not necessary) or to the Standards Board for England if, in the opinion of the Monitoring Officer, there is a serious breach of the Members Code of Conduct,
- (b) subject to the approval of the Standards Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues.

2.2.6 Constitution

Review and monitor the Constitution in accordance with the Protocol set out at Article 15.1 of the Constitution and consult with the Chief Finance Officer and Head of Paid Service before taking any report to the **Corporate Governance and Audit Committee**.

3.0 **MEMBER AND OFFICER RESPONSIBILITIES**

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and officers will report any breaches of statutory duty

Monitoring Officer Protocol

or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

4.0 ADVICE

The Monitoring Officer is also available for Members and officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Council Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc).

5.0 MONITORING THE PROTOCOL

Annually, 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.

6.0 SANCTIONS FOR BREACH OF PROTOCOL

Complaints of a breach of this Protocol by an Officer will be referred to the relevant Director and/or the Chief Executive for appropriate action to be considered, including disciplinary investigation.

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish and maintain registers of Members' interests and gifts and hospitality.	Section 81 Local Government Act 2000, and Members' Code of Conduct
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Support the Standards Committee - key role in promotion and maintenance of standards of conduct.	Local Government Act 2000 Part III and DETR guidance paragraph 8.20
9	Receive reports from ethical standards offices and decisions of case tribunals	Local Government Act 2000 Part III.
10	Conduct investigations into misconduct.	Local Government Act 2000 Section 66
11	Perform ethical framework functions in relation to Parish Councils.	Section 83(12) Local Government Act 2000
12	Proper Officer for access to information	Constitution - Article 12, and DETR guidance.
13	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
14	Advise on vires issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance

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Originator: Kate Feltham

Tel: 0113 247 8408

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13 February 2008

Subject: Report on the result of consultation on the Protocol for Member/Officer Relations

<p>Electoral Wards Affected:</p> <input type="checkbox"/> Ward Members consulted (referred to in report)	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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Executive Summary

1. The Committee considered the Annual Report on the Protocol for Member/Officer Relations at its meeting on 10th October 2007. As part of that Annual Report proposed amendments were made to the Protocol which were subject to consultation with Members and Officers. The committee resolved that a further report should be brought back to Committee containing the results of that consultation.
2. This report advises Members of the outcome of the consultation which has taken place in relation to the proposed changes to the Protocol on Member/Officer Relations.
3. Members are asked to consider the contents of the report, to approve the amended version of the Protocol on Member/Officer Relations and to ask the Assistance Chief Executive(Corporate Governance) to make the necessary amendments to the Constitution.

1.0 Purpose Of This Report

- 1.1 On 10th October 2007 The Committee considered the Annual Report on the Protocol for Member/Officer Relations at it's meeting. The annual report to the Committee in relation to the monitoring requirements of the Protocol on Member/Officer Relations. As part of that Annual Report proposed amendments were made to the Protocol which were subject to consultation with Members and Officers. The committee resolved that a further report should be brought back to Committee containing the results of that consultation. This report details the outcome of the consultation process.
- 1.2 Members are asked to consider the contents of the report, to approve the amended version of the Protocol on Member/Officer Relations and to ask the Assistance Chief Executive (Corporate Governance) to make the necessary amendments to the Constitution

2.0 Background Information

- 2.1 Members will recall receiving a report detailing proposed changes to the Protocol on Member Officer Relations on 10th October 2007. The proposed changes were subject to consultation with Members and Officers. At that meeting Members resolved that the results of the consultation should be brought back to them.

3.0 Main Issues

- 3.1 The Protocol on Member/Officer Relations is contained within part 5 of the Council's Constitution. The Standards Committee has the authority to amend the Protocol.
- 3.2 Consultation has taken place with both officers and Members of Leeds City Council.

Consultation with Officers

- 3.3 Officers have been consulted through the Corporate Governance Board, Human Resources Leadership Group and Corporate Joint Consultative Committee. The December edition of the "Governance Matters" Newsletter also contained information about the annual review and proposed changes.
- 3.4 The Corporate Governance Board raised a number of issues. Firstly they requested that that paragraph 2.16 be amended in relation to the position of Members involvement in commercial transactions to simplify the guidance in this respect and refer to other relevant guidance. Paragraph 2.16 has therefore been further amended in this respect.
- 3.5 Secondly they requested that references to bullying are consistent with the new Member Code of Conduct and that the term is understood. Footnote number 6 has therefore been added to paragraph 4.11 to refer to the Members Code of Conduct. Paragraphs 10.10 and 11.6 also refer to bullying and have been cross referred to footnote 6.
- 3.6 Thirdly they requested that Governance Services consider how to make this protocol more accessible and ensure all officers are aware of it's relevance to them. Governance Services has done this by highlighting the consultation process in the "Governance Matters" newsletter. Awareness of the Protocol among Officers is

also an issue that will be looked at as part of the Ethical Framework Training and Awareness programme being compiled as a result of the 2006 Ethical Audit.

- 3.7 Finally the group requested that the reference in paragraph 17.6 to the Protocol for responding to members correspondence is removed and replaced with the paragraph "Officers should respond promptly to Member correspondence".
- 3.9 The Human Resources Leadership Group supports the changes proposed to the Protocol.
- 3.10 The Corporate Joint Consultative committee raised an issue relating to paragraph 4.11 of the protocol. They stated that the "bullying" required definition. The union representatives commented that there were occasions when their members did not feel protected by the existing codes and protocols and that the protocol was important. The relationship between this protocol and the Members Code of Conduct was discussed. The addition of a footnote to paragraph 4.11 will provide guidance on what bullying means.
- 3.11 In addition the Head of Governance Services requested that the Protocol be amended to the meaning of "Director" throughout the Constitution as defined by footnote 1 of Article 12. Namely that any reference to a "Director" within the Constitution shall be deemed to include references to the Chief Executive, Deputy Chief Executive and the Assistant Chief Executives unless the context requires otherwise. This has been done by adding footnote 7 to paragraph 4.11.

Consultation with Members

- 3.12 Consultation with Members has taken place through the Whips, who have been invited to consult with Members in their group, with support from Group Support Managers where necessary.
- 3.13 Comments have been received from one Member requesting that the term bullying be clarified within the protocol. This has been done by the addition of footnote 6 as detailed in paragraph 3.5 of this report.

Further Amendment

- 3.14 A further amendment to paragraph 2.12 is also proposed to correct a footnote reference to another paragraph. The correct reference is to paragraph 7.4.

4.0 Implications For Council Policy And Governance

- 4.1 It is in the interests of good governance that the Council's Codes and Protocols are kept up to date with the changing and developing role of Members and Officers within the Council.

5.0 Legal and Resource Implications

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

6.0 Conclusions

- 6.1 Both Members and officers have been given full opportunity to comment in relation to the revised Protocol.
- 6.2 Where appropriate further amendments have been made to the Protocol. These are shown on the amended version of the Protocol on Member Officer Relations shown at Appendix 1.
- 6.3 With these amendments it is considered that the Protocol now represents an up to date and accurate reflection of the roles and relationship between officers and Members.

7.0 Recommendations

- 7.1 Members are asked to adopt the amended Protocol and to ask the Assistance Chief Executive (Corporate Governance) to make the necessary amendments to the Constitution.

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.

Protocol on Member/Officer Relations

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 7.4
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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.

2.16 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and note the guidance in Briefing Note No. 6 “Guide for Elected Members Involvement in Commercial Transactions”.⁵

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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.

⁵ See Briefing Note No. 6 “Guide for Elected Members Involvement in Commercial Transactions” for further guidance.

- 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 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.
- 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 or has been bullied⁶ by a Member, s/he should raise the matter with his/her Director⁷, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, 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 Assistant Chief Executive (Corporate Governance) in the context of the Standards Committee/Board considering the complaint.

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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.

⁶ Bullying is prohibited by the Members Code of Conduct paragraph 3 (2) (b). Guidance from the Standards Board for England defines bullying as "Offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health." Further guidance on the meaning of bullying is available in the Code of Conduct - Guide for Members – May 2007.

⁷ "Director" is defined by footnote 1 to Article 12 of the Constitution.

- 5.2 Both Members and officers have responsibility for decision making within the scheme of delegation for both Council⁸ and Executive⁹ functions.
- 5.3 Members and officers will comply with the advice and guidance set out in the Guidance Notes on Delegated Decision Making¹⁰ and the Protocol for the Respective Roles of Members and Officers in Decision Making¹¹, 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.
- 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 merit¹²;
 - 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, Assistant Chief Executive (Corporate Governance) as the Monitoring Officer and the Chief Finance Officer as the S151¹³ 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;

⁸ See part 3 Section 2 of the Constitution

⁹ See part 3 Section 3 of the Constitution

¹⁰ Part 3 Section 5 of the Constitution

¹¹ Part 5 of the Constitution

¹² (other than in the case of political assistants where political consideration may apply)

¹³ S151 Local Government Act 1972

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- 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 are accountable to a Director. 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 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.

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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 officers¹⁴.

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.

¹⁴ See further paragraph 14 in respect of correspondence.

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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;
 - 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:
- (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 EXECUTIVE¹⁵

¹⁵ References to the term *Executive* refers to the Leader and Cabinet

Protocol on Member/Officer Relations

- 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.
- 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 do¹⁶.

- 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.
- 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 BOARDS¹⁷

- 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.

¹⁶ 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.

¹⁷ 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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- 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 or bullying¹⁸.
- 10.11 Scrutiny proceedings must not be used to question the capability or competence of officers. Members need to make a distinction 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.

¹⁸ [See footnote 6](#)

- 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 functions¹⁹. These are set out in the Terms of Reference for Area Committees.
- 11.2 The Area Committee Procedure Rules set out how meetings of 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

¹⁹ The Executive functions are well being functions and other Area functions which are determined by the Executive Board.

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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 **or bullying**²⁰. 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 Forum²¹ for members of the public to make representations or ask questions on matters within the terms of 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 PANELS²²**
- 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.

²⁰ See footnote 6

²¹ See rules 6.24 and 6.25

²² For the purposes of this Protocol only, any reference to "Regulatory Panels" includes a reference to the Licensing Committee and its sub-committees

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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 Dignitaries²³.

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:-

- 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.²⁴

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

²³ Copies of the Guidelines for Civic Dignitaries may be obtained from the Chief Democratic Services Officer or from the Lord Mayor's secretary.

²⁴ 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.

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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 Rules²⁵ 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 Members²⁶.

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 Correspondence²⁷ 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 Legislation²⁸.
- 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

²⁵ See Part 4 of the Constitution

²⁶ Copies of the Guidelines For Democratic Services Support To Members may be obtained from the Chief Democratic Services Officer or from Group Support Managers.

²⁷ "Correspondence" in this context means letters, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Member

²⁸ For details please see Access to Information Procedure Rules

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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 promptly to ~~correspondence from Members~~.
- 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.

Deleted: Members'

Deleted: in accordance with the Protocol for responding to Member correspondence²⁸.

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'.

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 Assistant Chief Executive (Corporate Governance). Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Assistant Chief Executive (Corporate Governance) 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 nature³⁰;

- 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 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.

³⁰ 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.

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 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 Equipment³¹.
- 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;

³¹ Copies of the Guidelines for Members Using ICT Equipment may be obtained from the Chief Democratic Services Officer or Group Support Managers.

- 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 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 Assistant Chief Executive (Corporate Governance) 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 Assistant Chief Executive (Corporate Governance) 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 the Assistant Chief Executive (Corporate Governance), 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 available³².
- 26.3 Questions of interpretation of this Protocol will be determined by the Assistant Chief Executive (Corporate Governance).

³² See Articles 2 and 16 of the Constitution.
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Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Standards Committee Annual Report 2007/08

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

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 2007/08. This report provides an outline of the content of the first draft 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 The purpose of this report is to seek the Committee's comments on the first draft of the Standards Committee Annual Report 2007/08. 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 2008/09.
- 2.2 Last year's Annual Report was well received by the Corporate Governance and Audit Committee and full Council, and was published on the Council's website.
- 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 2008/09 municipal year as the second of the six monthly updates.

3.0 Main Issues

Format of the report

- 3.1 Members of the Committee will note that some further information has been added to the membership section of this year's annual report. This seeks to explain the roles of the different Members of the Committee. As before, 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 2007 - 2008

- 3.2 The section regarding the work of the Committee is categorised in the same way as last year's annual report, into five issue areas which reflect the Committee's terms of reference. The content is also broadly similar to the 6 monthly report to the Corporate Governance and Audit Committee approved on 14th January 2008, although additions have been made and some of the finer details removed.
- 3.3 Members of the Committee will note that significant additions may need to be made to the report in light of the local assessment arrangements, and these will be reflected in the final report which will come to the Committee for approval in April 2008.
- 3.4 Promoting, monitoring and reviewing the codes of conduct
- Members Code of Conduct 2007
 - Reviewing the Codes and Protocols
 - Ethical Audit 2006
 - Ethical Audit 2007
 - Monitoring compliance with the Code of Conduct
 - Register of Interests and Gifts and Hospitality
 - Officer Code of Conduct
 - Raising the profile of the Committee

- 3.5 Providing guidance and training
- Induction for City Councillors
 - Training on the Members' Code of Conduct 2007
 - E-learning Modules
 - Parish Council Training
 - Governance Matters
- 3.6 Relationship with Parish and Town Councils
- Annual Audit
 - Training on the new Code of Conduct
 - Parish and Town Council Induction Pack
- 3.7 Corporate Governance issues
- Comprehensive Performance Assessment
 - Corporate Governance Statement
 - Corporate Governance and Audit Committee
- 3.8 Working with other agencies
- Consultation and Research
 - Standards Board for England
 - Adjudication Panel for England
 - Association of Independent Members of Standards Committees in England (AIMSce)

Issues for 2008 - 2009

- 3.9 The potential work of the Committee for the next municipal year is summarised at the end of the report.

These issues are outlined below:

- Implementation of the Ethical Audit 2007 action plan
- Changes in the role of the Standards Board for England

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 Standards Committee 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 2007-2008.
- 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 Standards Committee 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.

Standards Committee

Annual Report 2007 – 2008



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 third Annual Report and it presents a summary of the Leeds City Council Standards Committee's work during 2007/2008. This report supports the Corporate Governance arrangements of the Council by promoting good conduct and cascading information.

Foreword from the Chair

I am pleased to provide the foreword to this third Annual Report of the Leeds Standards Committee. Readers will gain a good insight to our work during municipal year 2007/08.

We have accomplished a good deal during the year and the section on "Issues for 2008-09" indicates the important new responsibilities that will fall to the committee in the coming year. The Standards Committee welcomes comments or questions arising from this Annual Report.

M. Wilkison

Members of the Committee

The Standards Committee is composed of three independent members (there is currently one vacancy), five City Councillors, and two Parish Councillors.

Independent Members

The purpose of independent members is to help increase public confidence in ethical standards and provide a clear signal that the Standards Committee is fair. Independent members also bring a wider perspective to the Standards Committee from outside experiences. Independent members are not Members or officers of the Council, and are not actively engaged in local party political activity. They are appointed by the Full Council for terms of four years, and can serve two terms overall. This is to prevent them losing their independence from the authority.

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. His final term of office runs until the Annual Meeting in 2010.



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. Rosemary became a full independent member in 2007 and her current term of office runs until the Annual Meeting in 2011.



Cheryl Grant

joined the Standards Committee in 2003 as a reserve independent member, and became a full member in 2004. Cheryl resigned from the Standards Committee in October 2007. A replacement for her is currently being sought.

Leeds City Councillors

The Councillors on the Standards Committee are representatives of all five political groups within the Council. The Standards Committee is not politically balanced, this is because the standards committee should be above party politics and its members need to have the respect of the whole authority, regardless of their political party.

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 40 years, and was Lord Mayor from 1998-1999. Councillor Kirkland is also a member of the Health and Adult Social Care Scrutiny Board, and is the Chair of the Personnel and Training Committee of West Yorkshire Fire and Rescue Authority.



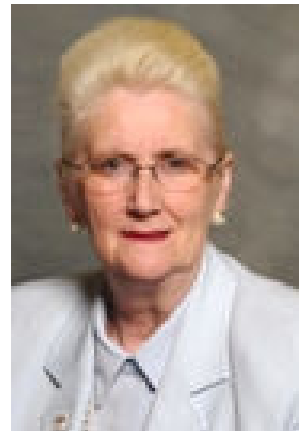
Councillor David Blackburn

is the Leader of the Green Group and represents the Farnley and Wortley ward on Leeds City Council. Councillor Blackburn is also a member of the Corporate Governance and Audit Committee, Development Plans Panel and the City Centre Plans Panel.



Councillor Judith Elliott

is a member of the Morley Borough Independent Group and represents the Morley South ward on Leeds City Council. Councillor Elliott is also a member of the Children's Services Scrutiny Board and a member of Morley Town Council.



Parish Councillors

The role of the Parish Councillors on the Standards Committee is to make sure that the parish and town councils in Leeds are represented throughout discussions. At least one of the Parish Councillors must sit on the Standards Committee at all times when parish matters are being discussed. As the Standards Committee also has responsibility for the Parish and Town Councillors in the Leeds area, the Parish Councillors on the Standards Committee demonstrate that parish issues are going to be dealt with fairly.

They also bring an additional independent perspective to the Committee as they are not able to be members of Leeds City Council.

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 Walker’s current term of office runs until the Annual Meeting in 2009.



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 and a Trustee of Yorkshire Rural Community Council. Councillor Priestley’s current term of office runs until the Annual Meeting in 2011.



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 making suggestions for improvement and best practice to the Standards Board for England;
- ▶ 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 21 and 22 of this report.

The Work of the Committee 2007 – 2008

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.

- ▶ **Members Code of Conduct 2007** - The Standards Committee met on 1st May 2007 to recommend to Full Council that they adopt the new Members' Code of Conduct as published by the government. The Standards Committee also agreed a model version of the Code of Conduct for Parish and Town Councils to adopt, and considered the training which should be offered to all Members on the Code. The Standards Committee have also consulted Leeds City Council Members regarding any additions they wish to make to the Code of Conduct, although no necessary additions have been identified.
- ▶ **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 its work programme. The Standards Committee has reviewed:
 - the Protocol on Member/officer Relations;
 - the Code of Practice for the determination of planning matters; and
 - has received an annual report from the Monitoring Officer reviewing compliance with the Monitoring Officer Protocol.

In particular further guidance has been added to the Protocol on Member/officer Relations on the issue of bullying and the extent of Members' involvement in commercial transactions. After consideration

and consultation on all these documents, the Standards Committee believes that they are fit for purpose. The Committee will also be extensively reviewing its own Procedure Rules and the Media Protocol once the new regulations for local filtering are implemented.

- ▶ **Ethical Audit 2006** – Further to the ethical audit aimed at elected members and senior officers with management responsibilities carried out in conjunction with the Audit Commission in 2006, the Standards Committee approved an action plan to address the shortfalls identified in the results on 12th July 2007. Since then the Standards Committee has monitored the Council’s progress towards the actions identified very closely. The Committee has received individual reports on those pieces of work which fall within their terms of reference, and has received six monthly progress reports on the other actions. It is anticipated that the success of these actions will be measured through another Ethical Audit carried out in 2008.
- ▶ **Ethical Audit 2007** - The Standards Committee has been involved in launching and monitoring another local ethical audit this year, which tested the level of ethical awareness in the authority amongst those officers not covered by the 2006 audit. Although the audit covered all elements of the ethical framework, a large proportion of the questions related to 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. These results will be used to formulate the Ethical Audit 2007 action plan, due to be approved by the Committee at their first meeting of the 2008/09 municipal year.
- ▶ **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	5	2
Parish and Town Councils	5	1

- ▶ **Register of Interests and Gifts and Hospitality** - The Standards Committee seeks to reassure itself that the Members' register of interests is being reviewed and updated by Members on a regular basis and that the new rules surrounding the registration of gifts and hospitality are being observed. The Committee receives annual reports to this effect, the last report on this subject having been considered on 10th October 2007. The Committee were satisfied that the review arrangements in place are fit for purpose. The Committee also reviewed the register of gifts and hospitality from 2002 to May 2007 during this year, and noted any trends in this information. A report on this subject was received by the Committee on 10th October 2007, which noted no adverse trends.
- ▶ **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 Standards Committee has monitored compliance with the officer code of conduct, particularly the requirement to register interests and offers of gifts and

hospitality, through reports from the Chief Officer (Human Resources). The Committee have received several updates on 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. The Committee have also suggested that a redacted version of the register of interests (with the third party information removed) for certain senior officers should be a public document, and have written to the Department for Communities and Local Government to request that they consider this as an option when drafting the new national code of conduct for officers. 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. In addition the Standards Committee has reviewed and amended its communications plan, and will seek to implement some of the actions identified in the new municipal year.

All members were recently asked to provide suggestions to the Head of Governance Services on how their roles could be developed and their profiles raised. The following suggestions have been received:

- Regular attendance by independent members at meetings of Full Council (on a rotational basis).
- Meetings between members of the Committee and representatives from the most significant Council's partnerships to discuss the importance of ethical good governance and share information on each others' current arrangements.

-
- Periodic meetings between the Chair of the Committee and the Council's Chief Executive.
 - A short session during a Corporate Management Team meeting for the independent members of the Committee.
 - An annual 'open forum' meeting of the Standards Committee where officers or public could attend and raise issues.
 - An annual meeting between the Chairs of the Corporate Governance and Audit Committee and the Standards Committee with relevant officers to consider the overall good governance practice and identify areas for improvement.
 - Interviews with and profiles of various members of the Standards Committee in Governance Matters and other (possibly external) media.
 - A session on the Standards Committee at a meeting of the Joint Consultative Committee (where the trade unions and Council officers are represented).
 - Visits to meetings of Parish and Town Councils in Leeds, and to meetings of Area Committees.
 - An annual meeting between the Chair of the Standards Committee and the Leaders of the opposition groups.

These suggestions will be considered and possibly implemented during the 2008/09 municipal year.

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 this 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.
- ▶ **Training on the Members’ Code of Conduct 2007** – Following the Council’s adoption of the new Members’ Code of Conduct on 24th May 2007, the Standards Committee supported an extensive programme of training for all Members and certain officers of Leeds City Council. A total of 91 Councillors attended training sessions or briefings between May and October 2007, the remaining eight receiving the training materials by post. All those officers working in Governance Services and Legal Services with responsibility for advising Members on Code of Conduct issues have also been provided with training and guidance.
- ▶ **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 an updated version of the e-learning module “Cracking the Code”. Part 1 covers the general obligations of the Code and Part 2 covers the requirement to declare and register interests. The updated module was launched prior to the Full Council meeting on 16th January 2008. This initiative has been well received by Leeds’ Members.
- ▶ **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 regular reports on the work programme. In response to requests by Parish Clerks that training could be carried out in group sessions, five grouped sessions were offered on the new Code of Conduct in June and July 2007. Some of these were also attended by representatives from the Standards Committee. 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).

- ▶ **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 sixteen 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.

- ▶ **Annual Audit** - The Standards Committee has asked each Parish Clerk to complete a questionnaire this year, which asked questions about their register of interests, how interests are declared and recorded and what training the Parish Councillors had received on the new Code of Conduct. The results of the audit showed that some Parishes would like further training on the Code of Conduct from Leeds City Council and that more guidance may be needed on personal and prejudicial interests. The Committee will address these issues with the provision of further training sessions and additional guidance to Clerks.
- ▶ **Training on the new Code of Conduct** – The Standards Committee arranged for eight training sessions to take place for Parish and Town Councillors since the new Code was introduced. There were also two separate sessions organised for Parish Clerks to explain to them the practical implications of the new Code of Conduct, for example how to advertise its adoption. Overall 110 Parish and Town Councillors have received training from Leeds City Council, and 19 Clerks from 21 Parishes, with the prospect of further local training sessions being organised as a result of the Annual Audit. Through the work carried out on the Annual Audit it is also clear that some Parishes have taken advantage of training from other sources, including the Yorkshire Local Councils Association.
- ▶ **Parish and Town Council Induction Pack** – In order to assist Parishes with preparing for the election period, all Clerks were provided with information packs which included model forms and guidance on the Code of Conduct, such as how to complete a register of interests form. This assisted Parishes with complying with the relevant deadlines, and will be revised and reissued each election period.

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 also receives a report on the Standards Committee’s 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** – Members of the Standards Committee have responded to the consultation paper published by Communities and Local Government on the new Orders and Regulations relating to the conduct of Local Authority Members. The Committee provided their own comments and collated comments from several senior officers, to form a Council response. The Orders and Regulations were implemented in April 2008.

The Standards Committee has also taken part in a research project on local filtering during this municipal year. Several Standards Committee Members took part in this exercise where ten real cases were provided to the Committee to consider. Their answers were then analysed by the Standards Board to assist them with preparing for the new arrangements, in particular what could be done to ensure some level of consistency in the decisions made by individual standards committees. The Standards Committee has also considered the results of previous research projects commissioned by the Standards Board for England which they have been involved in, such as the study on the effectiveness of the Standards Board for England.

- ▶ **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 2007, which provided opportunity for training and guidance and also feedback to the Standards Board on their work. In addition, the Chair of the Standards Committee was a member of the steering

committee for this year's conference, and was a speaker on the issue of independence. This presentation, called the 'State of Independence', was one of the most successful at the Annual Assembly, receiving 98% 'good' or 'very good' feedback from delegates. The Chair has also been asked to be a member of the steering group for the seventh annual assembly to be held on 13th and 14th October 2008. 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's Annual Report at their meeting in October 2007.

▶ **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 third annual report at their meeting in October 2007.

▶ **Association of Independent Members of Standards Committees in England (AIMSce)** - The Chair of the Standards Committee was a member of the steering committee for this association and is now a Director without Portfolio. The Association provides support and guidance to independent members in carrying out their statutory responsibilities, and also acts as a forum for exchanging views and ideas with other organisations and stakeholders.

Issues for 2008 – 2009

The Standards Committee will have many important issues to address in the coming the year, including the following:

- ▶ **Changes in the role of the Standards Board** – From April 2008 all complaints about the behaviour of Members of Leeds City Council or Parish and Town Councillors in Leeds will be received by Leeds City Council rather than the Standards Board. These will then be assessed by a sub-committee of the Standards Committee to decide whether any further action is necessary. The Committee will also be able to carry out reviews of these decisions through a separate sub-committee, and will have more powers of sanction available to it when conducting hearings.

The Standards Board will monitor the Standards Committee's progress by receiving regular reports on the number of complaints and the outcomes of those complaints, as well as other information such as how much training has been provided by the Committee.

- ▶ **Implementation of the Ethical Audit 2007 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.

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.gov.uk
- ▶ **The Adjudication Panel for England** – www.adjudicationpanel.co.uk
- ▶ **The Audit Commission** – www.audit-commission.gov.uk
- ▶ **Department for Communities and Local Government** –
<http://www.communities.gov.uk/corporate/>
- ▶ **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
- ▶ **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 Rigton	Harewood	Shadwell
Barwick in Elmet & Scholes	Horsforth	Swillington
Boston Spa	Kippax	Thorner
Bramham cum Oglethorpe	Ledsham	Thorp Arch
Bramhope and Carlton	Ledston with Ledston Luck	Walton
Clifford	Micklefield	Wetherby
Collingham with Linton	Morley	Wothersome (Parish Meeting)

The Monitoring Officer

In Leeds City Council, the role of the Monitoring Officer rests with the Assistant Chief Executive (Corporate Governance). 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.



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Standards Committee Work Programme

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

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 remainder of the municipal year 2007/8 is attached at Appendix 1.

3.2 Members of the Committee may particularly wish to note the additional meeting proposed in March, and the change of date for the final meeting of the year in April.

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 2007/08

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Meeting date: 13th March 2008 – the deadline for reports for this meeting is 27th February 2008		
Adjudication Panel Decisions/Notable Cases	Regular report detailing the most recent Adjudication Panel decisions and any other notable standards cases.	Corporate Governance Officer Amy Kelly
Ethical Audit 2007 Headline Results	To receive and consider a report regarding the headline results of the Ethical Audit 2007.	Corporate Governance Officer Amy Kelly
Ethical Audit 2006 Action Plan – Progress Report	To receive a report outlining the progress so far against the Ethical Audit Action Plan.	Principal Corporate Governance Officer Kate Feltham
Local Assessment Criteria	Subject to the publication of guidance; to receive and consider a report presenting local assessment criteria (for adoption by the Committee) to guide the consideration of allegations of misconduct.	Principal Corporate Governance Officer Kate Feltham
Parish Council Training	To receive and consider a report detailing the outcome of the annual review of available governance and other related training for Parish Council Members and Clerks and the extent of take up within Parishes in Leeds.	Corporate Governance Officer Amy Kelly
Parish Council Audit	To receive and consider the results of the Parish Council audit carried out following the adoption of the new Code of Conduct.	Corporate Governance Officer Amy Kelly
Training requirements for the new local determination arrangements	To receive and consider a report to consider the training requirements for committee members and awareness needs of local authority and town and parish council members.	Principal Corporate Governance Officer Kate Feltham

STANDARDS COMMITTEE - WORK PROGRAMME 2007/08

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Process for the receipt, referral and management of allegations of misconduct	To consider a report on the arrangements to: <ul style="list-style-type: none"> • Inform the public of the new arrangements • Receive and log allegations (possibly combined with the corporate complaints process) 	Principle Corporate Governance Officer Kate Feltham
Public Perceptions of Ethics: Key research findings	To consider a brief report outlining the key findings of the Public Perception of Ethics Research published by the Standards Board for England.	Corporate Governance Officer Amy Kelly
Satisfaction with the Standards Board for England and attitudes to the ethical environment	To consider a brief report comprising any comments received from Committee Members following circulation of the full research report.	Corporate Governance Officer Amy Kelly
Meeting date: 14th April 2008 – The deadline for reports for this meeting is 20th March 2008		
Final proposals for local determination arrangements	To receive and consider final proposals for the Standards Committee's new role in determining allegations of misconduct; specifically making recommendations to the Corporate Governance and Audit Committee (for recommendation thereafter to Full Council) regarding amendments to relevant parts of the Constitution; and approving, where permitted revised arrangements for the operation of the Committee.	Principle Corporate Governance Officer Kate Feltham
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 Kelly
Adjudication Panel Decisions/Notable Cases	Regular report detailing the most recent Adjudication Panel decisions and any other notable standards cases.	Corporate Governance Officer Amy Kelly

STANDARDS COMMITTEE - WORK PROGRAMME 2007/08

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Review of Members' Register of Interests from October 2007	To receive a report on the arrangements in place for reviewing the Members' Register of Interests, and the results of the recent review.	Corporate Governance Officer Amy Kelly
Standards Committee Procedure Rules	The Monitoring Officer will report to the Committee on how the "gate-keeping" role has been discharged, in respect of preliminary investigations under paragraph 3.2, and in respect of reports where s/he decided that no further action should be taken, under paragraph 4.1.	Assistant Chief Executive (Corporate Governance) Nicole Jackson
Recommendation for appointment of Independent Member	To receive a report for information detailing the outcome of the appointment process for the recruitment of a new independent member and the recommendation being made to Full Council.	Corporate Governance Officer Amy Kelly
Member Development Issues arising from the Ethical Audit 2006	To receive and consider a report outlining the further progress on planning and providing training on legislation included in the Council's ethical framework.	Head of Scrutiny and Member Development Peter Marrington
Results of the consultation with Members regarding the addition of local provisions to the Code of Conduct	To receive and consider the results of the consultation process and to make any recommendations to Full Council regarding the addition of local provisions.	Principle Corporate Governance Officer Kate Feltham

STANDARDS COMMITTEE - WORK PROGRAMME 2007/08

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: Lorraine Hallam
Ethical Arrangements in Partnerships	To receive a report detailing the draft ethical components of the toolkit for partnerships.	Principle Corporate Governance Officer Kate Feltham