



STANDARDS COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Tuesday, 1st July, 2008
at 2.00 pm

MEMBERSHIP

Independent Members

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

Councillors

D Blackburn
C Campbell
J L Carter
J Elliott
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> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information 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 press and public were present there would be disclosure to them of exempt information, as follows:-</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
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 14th April 2008 and consider any matters arising.</p>	1 - 6
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 19th March 2008, 23rd April 2008 and 14th May 2008.</p>	7 - 22
7			<p>COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN</p> <p>To receive a report of the Chief Officer (Customer Services) outlining that the actions of the Standards Committee's Sub-Committees now fall into the remit of the Local Government Ombudsman, and what actions may lead to a finding of maladministration. Also to outline the revised working arrangements between the Ombudsman and the Monitoring Officer in relation to these complaints.</p>	23 - 26

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>POLITICALLY RESTRICTED POSTS</p> <p>To consider a report of the Chief Officer (Human Resources) outlining the current situation in relation to politically restricted posts in Leeds, and the implications and initial proposals for the Standards Committee (subject to final regulations being published).</p>	27 - 34
9		10.4(1, 2, 7c)	<p>LOCAL INVESTIGATION INTO A COMPLAINT AGAINST A MEMBER REFERENCE SBE 19277.07</p> <p>To consider a report of the Chief Officer (Legal, Licensing and Registration) setting out the final findings of an investigation into an allegation of misconduct.</p>	35 - 68
10			<p>PROCESS FOR THE RECEIPT, REFERRAL AND MANAGEMENT OF ALLEGATIONS OF MISCONDUCT</p> <p>To consider a report of the Assistant Chief Executive (Corporate Governance) proposing final arrangements for informing the public of the new process, and receiving and logging allegations.</p>	69 - 92
11			<p>FINAL PROPOSALS FOR THE LOCAL ASSESSMENT ARRANGEMENTS</p> <p>To receive and consider a report of the Assistant Chief Executive (Corporate Governance) outlining final proposals for the Standards Committee's new role in determining allegations of misconduct, including proposed amendments to the Constitution and revised arrangements for the operation of the Committee.</p>	93 - 196
12			<p>MEMBERS INDUCTION PERIOD 2008</p> <p>To consider a report of the Assistant Chief Executive (Corporate Governance) regarding new Members' declaration of acceptance of office, Register of Members' Interests, and training for Members during the induction period.</p>	197 - 208

Item No	Ward/Equal Opportunities	Item Not Open		Page No
13			<p>REVIEW OF THE MEMBERS' REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) outlining the results of a review of the Members' Register of Interests and Gifts and Hospitality for the year 2007/08.</p>	209 - 222
14			<p>ADJUDICATION PANEL FOR ENGLAND: DECISIONS OF CASE TRIBUNALS</p> <p>To note a report of the Assistant Chief Executive (Corporate Governance) detailing recent decisions made by the Adjudication Panel's Case Tribunals in respect of allegations of misconduct, and to consider if there are any lessons to be learnt for Leeds.</p>	223 - 228
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 2008/09 municipal year.</p>	229 - 236

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Agenda Item 5

Standards Committee

Monday, 14th April, 2008

PRESENT:

Independent Members

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

Councillors

G Kirkland D Blackburn

Parish Members

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

APOLOGIES:

Councillors E Nash, J L Carter and J Elliott

91 Appeals against refusal of inspection of documents

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

92 Exclusion of public

There were no resolutions to exclude the public.

93 Late items

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

94 Declaration of interests

There were no declarations of 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.

95 Minutes of the Previous Meeting

Draft minutes to be approved at the meeting
to be held on 1st July 2008

The minutes of the Standards Committee meeting on 13th March 2008 were approved as a correct record.

Further to minute 86, it was reported that paragraph 3.4 of the report needed to be clarified. Since the meeting it had become apparent that no invitations to training sessions offered by Member Development had been extended to Parish and Town Councils during this municipal year. This was due to the Council concentrating on training that is not currently open to Parish and Town Councils, such as IT training and compulsory training for members of regulatory committees. Therefore the lack of attendance was due solely to the lack of invitations extended to Parish and Town Councils this municipal year.

96 Minutes of the Corporate Governance and Audit Committee

The minutes of the Corporate Governance and Audit Committee meeting on 12th March 2008 were received and noted.

97 Ethical Audit Action Plan 2006 - Member Development update on actions

The Head of Scrutiny Support and Member Development submitted a report updating the Committee on how he had fulfilled certain actions required by the ethical audit action plan 2006 following the previous report on this subject on December 2007.

During the discussion, Members made the following points:

- Whether Independent Members and Parish Members could have access to the Learning Pool e-learning courses mentioned in the report. It was agreed that the Head of Scrutiny Support and Member Development would establish whether this was possible; and
- That the current training provision to Parish and Town Councils needed to be reconsidered. Particularly in terms of what forms of training are open to Parish and Town Councils and the frequency of such training. It was agreed that the Head of Scrutiny Support and Member Development would work with the Parish representatives on the Committee to establish what types of training are appropriate for Parishes. The Chair of the Committee asked to be kept informed of progress on this issue.

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

98 Annual report regarding the Code of Practice for the Determination of Licensing Matters for the 2007/08 municipal year

The Head of Licensing and Enforcement presented a report of the Assistant Chief Executive (Corporate Governance) proposing amendments to the Code of Practice for Determining Licensing Matters.

It was reported verbally at the meeting that a Member of the Licensing Committee had requested a further amendment to the Code of Practice in paragraph 7.1 to read "Do not take part in the licensing decision making

process but withdraw from the meeting..” in order to avoid any confusion regarding what action Members should take when they have a personal and prejudicial interest.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report; and
- Approve the revised Code of Practice as set out in Appendix A to the report (with the addition of the amendment outlined above) as part of the Council’s Constitution.

99 Recommendation for Appointment of Independent Member to Standards Committee

The Assistant Chief Executive (Corporate Governance) submitted a report informing Members of the Committee of the outcome of the appointment process for the recruitment of a new independent member and the recommendation made to Full Council, which was since approved at the Full Council meeting on 9th April 2008.

During the discussion, Members welcomed Mr Turnpenny to the Committee. A Member made the point that the length of time taken since the previous member’s resignation until the appointment of Mr Turnpenny was disappointing. It was reported that the delay was due in part to the unexpected resignation of the previous independent member, uncertainties with regard to the new regulations and how they might impact on the numbers of independent members being sought, and the limited time of officers to co-ordinate the process. In addition, it was reported that the length of time from placing the advert to making the appointment was nine weeks.

RESOLVED – Members of the Committee resolved to note the appointments process and the recommendation for appointment that had been made by the Assistant Chief Executive (Corporate Governance).

100 Annual Review of Standards Committee Procedure Rules 2007-2008

The Assistant Chief Executive (Corporate Governance) submitted a report detailing how the ‘gate-keeping’ role of the Monitoring Officer has been discharged in relation to complaints made under local codes, whether the arrangements set out in the Standards Committee Procedure Rules have been complied with, and proposing amendments to the Rules to correct errors and to provide a fair process.

During the discussion, Members made the following points:

- That there was an inconsistency in the tone between paragraphs 9.2 and 9.6.3 of the Procedure Rules regarding whether the Committee’s approach should be inquisitorial or more adversarial (allowing cross-examination of witnesses); and
- That although the Committee’s power to limit the number of witnesses to be called should be retained, it was to be hoped that this power would be

used infrequently. The Chair indicated his conviction that the Committee would always be reasonable and careful when making such decisions.

RESOLVED – Members of the Committee resolved to:

- Note the contents of the report; and
- Approve the amendments to the Procedure Rules proposed at paragraphs 3.6 and 3.7 of the report, as well as the removal of the words “or cross-examine” from paragraph 9.6.3 of the Procedure Rules.

101 Results of the consultation on the addition of local provisions to the Members' Code of Conduct

The Assistant Chief Executive (Corporate Governance) submitted a report informing Members of the Committee of the results of the consultation on the addition of local terms to the Members' Code of Conduct.

During the discussion, Members made the point that they had sympathy with representation 3 outlined in the report. Namely that there should be some protection for Members who do not want to respond to persistent/difficult complainants when it is evident that no further assistance can be provided. It was reported that officers will be providing a briefing note for Members on this issue, including pro-forma letters for Members to use when responding to persistent complainants. Members of the Committee were also advised that Members should notify officers if the complainant had arrived at their home or attempted to speak to family members.

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

102 Adjudication Panel for England: Decisions of case tribunals

The Assistant Chief Executive (Corporate Governance) submitted a report 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.

103 Standards Committee Annual Report 2007/08

The Assistant Chief Executive (Corporate Governance) submitted a report seeking the approval of Members of the Committee for the second draft of their Annual Report for 2007/08.

RESOLVED – Members of the Committee resolved to:

- Approve the second draft of the Standards Committee Annual Report 2007/08 attached as Appendix 1 to the report, with one small amendment to the biography section;
- Give authority to the Assistant Chief Executive (Corporate Governance), in consultation with the Chair, to approve the final report with the inclusion of

new membership details and an updated number of complaints (to include those received up to May 2008);

- Forward the final report to the Corporate Governance and Audit Committee to constitute the second of their six monthly update reports; and
- Forward the final report for the year 2007/08 to the first meeting of Council on 2nd July 2008 for their consideration.

104 Standards Committee Work Programme

It was outlined that the proposed meeting dates for the new municipal year may have to be amended in order to avoid meeting clashes, and that amended dates would be circulated to the Committee Members by email in due course.

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

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Agenda Item 6

Corporate Governance and Audit Committee

Wednesday, 19th March, 2008

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

Co-optee

Apologies M Wilkinson

89 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

90 Exclusion of Public

There were no resolutions to exclude the public.

91 Late Items

The Chair indicated that, in accordance with his powers under the Local Government Act 1972, he had agreed to accept for inclusion on the agenda one Late Item (Minute 93). The report in question was not available at the time of agenda despatch due to the recent notification from government of new regulations. The regulations which were originally published on 3 March 2008 contained an error, and were only amended after despatch of the agenda.

The report required urgent consideration to enable the authority to comply with the timescales for approving the local area agreement and referring it to the Secretary of State.

92 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.

93 Responsibility for approving Local Area Agreement

Members received a report of the Assistant Chief Executive (Planning, Policy and Improvement) asking the Committee to consider whether functions

relating to the Local Area Agreement should be the responsibility of the Executive or Full Council.

Members were assured that the process for drafting the Local Area Agreement outlined in the report had included consultation with Members.

RESOLVED – Members resolved to:

- recommend to Council that they approve an amendment to Section 1 of Part 3 of the Constitution, to allocate the following functions under the Local Government and Public Involvement in Health Act 2007 which relate to local area agreements, to the Executive:
 - the duty to prepare and submit a draft local area agreement (section 106);
 - the revision and addition of targets (section 110);
 - designated targets: revision proposals (section 111); and
 - duty to publish information about the local area agreement (section 113); and
- recommend to the Leader that these functions are reserved to the Executive Board and are not delegated to officers.

94 Comprehensive Area Assessment - Use of Resources 2009

Councillor D Blackburn arrived at the meeting at the beginning of this item.

Members received a report of the Director of Resources setting out the background and approach proposed by the Audit Commission for the new key lines of enquiry.

Members particularly discussed:

- what audit and inspection requirements in relation to use of resources are placed on the Councils key partners; and
- the need to ensure that the Council focuses resources on delivering better outcomes and does not focus only on achieving a high score in the use of resources assessment.

RESOLVED – Members resolved to note the Audit Commission's proposals for the use of resources framework for 2009, and the Council's consultation response.

95 Annual External Audit Plan - Consultation

Members received a report of the Director of Resources seeking the views of the Committee on the proposed external audit plan 2008-2009.

Adrian Lithgow and Lynsey Simenton from KPMG (the Council's external auditors) were present to respond to questions from Members.

KPMG outlined the methodology for developing the audit plan and summarised the six key areas they have identified for audit.

Members discussed each of the areas proposed for review by the auditors, in particular Health Inequalities and Scrutiny both of which they felt to be particularly important.

RESOLVED – Members resolved to request:

- that the auditors consider including a review of the current children's services arrangements in the audit plan for 2008-2009; and
- that the final plan is reported to the Committee.

96 Locality Governance Arrangements

Members received a report of the Director of Children's Services providing an overview of the current position regarding the development of locality governance arrangements and giving an indication of how such arrangements are responding to the needs of integrated service delivery.

Members particularly discussed:

- the complexity of the governance arrangements outlined in the report;
- variations across the city in terms of the effectiveness of the arrangements and the involvement of elected Members; and
- the need for greater clarity regarding accountability at a local level.

RESOLVED – Members resolved to:

- note the report; and
- request a report back to a future meeting setting out:
 - how and to whom responsibility for delivering children's services has been delegated, with specific reference to the Council's functions;
 - details regarding the commissioning arrangements that have been established and what accountability arrangements are in place where services are commissioned; and
 - how the various elements of the children's services governance arrangements (e.g. clusters, area management boards, wedge partnerships) are able to influence decision-making.

97 Leeds City Council Code of Corporate Governance - Review against CIPFA / SOLACE framework

Members received a report of the Assistant Chief Executive (Corporate Governance) providing an analysis of the implications for Leeds of the new Chartered Institute of Public Finance and Accountancy (CIPFA) and Society of Local Authority Chief Executives (SOLACE) document *Delivering Good Governance in Local Government: Framework*, which provides best practice guidance on the form and content of local authorities' Codes of Corporate Governance. The report also set out proposals for amendments to Leeds City Council's Code in light of the CIPFA / SOLACE framework.

RESOLVED – Members resolved to:

- approve the amended Code as set out in appendix one to the report subject to an amendment to Principle 6 'Engaging with local people and

Final minutes approved at the meeting
held on Wednesday, 23rd April, 2008

- other stakeholders' to emphasise that the Council will *encourage* local people to be involved in local decision making; and
- request that officers further investigate the possibility of developing codes and protocols to govern the relationship between the Leader and the Chief Executive with a view to amending the Code at a later date if such Codes are developed.

98 Amendments to Constitution – Membership / Substitution Arrangements for the Corporate Governance and Audit Committee

Members received a report of the Assistant Chief Executive (Corporate Governance) setting out a proposed amendment to Article 9 of the Constitution, regarding membership of the Corporate Governance and Audit Committee; and a proposed amendment to Council Procedure Rule 26 setting out substitution arrangements for the Committee.

RESOLVED – Members resolved to recommend to Council that Article 9 of the Constitution be amended to read:

“Members of the Executive; and Political Group Leaders and Whips from the administration and the major opposition Group are precluded from being members of the Corporate Governance and Audit Committee. Any member who is appointed to Chair a Committee of Council¹ is also precluded from membership of the Corporate Governance and Audit Committee.”²

Under the provisions of Council Procedure Rule 16.5, Councillor D Blackburn required it to be recorded that he voted against this resolution.

Members also resolved to recommend to Council an amendment to Council Procedure Rule 26 as set out below:

“In relation to the Corporate Governance and Audit Committee, the Council shall appoint substitute members via nominations from party Whips. Each Whip shall nominate one substitute for each member that sits on the Committee. Whips may not nominate any members that would be excluded from full membership under the provisions of Article 9 of the Constitution.”

99 Work Programme

Members received a report of the Assistant Chief Executive (Corporate Governance) notifying the Committee of the draft work programme for 2007/2008.

RESOLVED – Members resolved to:

- request officers to consider bringing forward the item on the Leeds Community Foundation for consideration in April; and

¹ Except for the Chair of the Corporate Governance and Audit Committee.

² Subsequent to the meeting, at the request of the Chair, this recommendation to Council was deferred until the implications of the proposal have been further considered.

- agree the work programme.

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Corporate Governance and Audit Committee

Wednesday, 23rd April, 2008

PRESENT: Councillor J Bale in the Chair
Councillors D Blackburn, G Driver and
N Taggart (substitute for Cllr Minkin)

Co-optee Mike Wilkinson

Apologies Councillors E Minkin, C Campbell and
B Gettings

100 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

101 Exclusion of Public

There were no resolutions to exclude the public.

102 Late Items

The Chair indicated that, in accordance with his powers under the Local Government Act 1972, he had agreed to accept for inclusion on the agenda one Late Item (Minute 113). The report in question was not available at the time of agenda despatch due to the fact that relevant information was not available.

103 Declaration of Interests

Councillor Driver declared a personal interest in Item 7 (minute 108) due to his membership of the board of Aire Valley Homes.

104 Councillor Elizabeth Minkin

Having noted that Councillor Minkin had been admitted to hospital, the Chair undertook on behalf of the Committee to wish her a swift recovery. The Committee also paid tribute to Councillor Minkin's service to the City of Leeds, having noted that she was not seeking re-election in May.

105 Standards Committee Minutes

Members resolved to note the minutes of the Standards Committee meetings held on the 13th February and 13th March 2008.¹

106 Update Report on Risk Management Arrangements

Members received a report of the Director of Resources updating the Committee with the progress of key risk management and business continuity

¹ Members consideration of the minutes was undertaken informally, the minutes were formally noted when Councillor Blackburn arrived at the meeting.

management developments across the Council and its strategic partners since the previous report in November 2007.

Councillor David Blackburn arrived during consideration of this item.

Members particularly discussed the two critical services which, at the time the report was prepared, did not have business continuity plans in place. The Committee was informed that, since the report was written:

- the vulnerable young people referral team within Education Leeds had very nearly completed a plan; and
- that Eastmoor Secure Unit had not yet developed a full, tested DCM plan, although the Unit had stated that arrangements are in place for a range of different scenarios.

Members also discussed:

- the need to ensure that Members are more engaged in identifying risks for the Council's corporate risk register;
- exemptions for critical services with regard to industrial action; and
- the challenges for risk management under the new performance and inspection regime.

RESOLVED – Members resolved to:

- note the progress report on the Council's risk management and business continuity management arrangements;
- request that the position with Eastmoor Secure Unit is brought to the attention of the appropriate Executive Member(s); and
- to receive further update reports on risk management and business continuity management with particular reference to any issues of resource management.

107 Minutes

Members resolved that the minutes of the Corporate Governance and Audit Committee meetings held on the 12th and 19th March 2008 be approved as a correct record.

108 Aire Valley Homes Leeds - Internal Audit

Members received a report of the Head of Strategic Landlord responding to the resolution of the Corporate Governance and Audit Committee meeting on 14th January and describing the current position regarding internal audit arrangements in Aire Valley Homes.

Merran McRae, the Chief Executive of Aire Valley Homes, was present at the meeting to respond to any questions from Members.

The Committee particularly discussed:

- the distinction between the Council's internal audit function carrying out audits of the Council's systems, some of which were used within Aire Valley Homes and Aire Valley Homes' need for an independent internal audit function;

- the requirement placed on local authorities to establish an independent internal audit function in order to comply with relevant legislation and that this requirement extends to companies wholly owned by the Council; and
- the role of the management agreement governing relationships between the Council and the Arms Length Management Organisations (ALMOs) in stipulating the need for an independent internal audit function.

The Committee received assurance from the Chief Executive of Aire Valley Homes that an internal audit function will be established for the forthcoming year. The Head of Strategic Landlord also reported that the management agreement governing relationships between the Council and ALMOs will be amended to require all ALMOs to have in place an independent internal audit function.

RESOLVED – Members resolved to note the report and assurances provided by the Strategic Landlord to work with Aire Valley Homes to put in place independent internal audit arrangements for 2008/09, and to amend the management agreement for ALMOs to require each to have independent internal audit arrangements in place.

109 Governance arrangements for the EASEL regeneration project

Members received a report of the Director of Environment and Neighbourhoods providing the Committee with background information about the establishment of the joint venture partnership under the East and South East Leeds (EASEL) regeneration initiative and setting out the corporate governance and audit arrangements for the company.

Members sought clarity regarding how and by whom decisions will be taken, in particular the role of the Steering Group. The Committee was assured that many of the strategic decisions had been reserved to the Executive Board and would, therefore, be subject to the normal decision-making procedures of the Council.

Members also discussed:

- whether minutes of the Board meetings will be made available to the public; and
- the process for approving the Memorandum of Understanding and Articles of Association, in particular the role of Elected Members in that approval process.

RESOLVED – Members resolved to:

- support the designation of the EASEL joint venture company as a significant partnership of the council;
- note the information contained in the report; and
- recommend to the Executive Board that, in signing the management agreement for the EASEL project, they seek greater clarity from officers regarding which decisions will no longer be subject to the Council's constitutional arrangements, and what alternative arrangements will be in place to ensure that decisions are taken in an informed, transparent way which is open to the scrutiny of the public and Members.

110 International Financial Reporting Standards

Members received a report of the Director of Resources informing Members of the implications of the pending introduction of International Financial Reporting Standards (IFRS).

Members particularly discussed:

- the changes to accounting for PFI and the impact on the Council's balance sheet;
- the potential benefits of the changes, particularly the increased level of disclosure required by the Council regarding any financial risks (for example, rising interest rates) and the fact that the new procedures will enable the Council to have a better understanding of the true cost of maintaining its assets.

RESOLVED – Members resolved to note the implications for the Council's accounts of the introduction of IFRS.

111 Update on 'Delivering Successful Change' Project

Members received a report of the Director of Resources providing an update on the progress of Delivering Successful Change (DSC).

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 programme and project management to adhere to Council policy and the corporate approaches and use their offices to help ensure that projects are subject to appropriate project assurance; and
- continue to receive quarterly reports from the DSC project.

112 Corporate Governance and Audit Committee Draft Annual Report

Members received a report of the Assistant Chief Executive (Corporate Governance) presenting the first draft of the Corporate Governance and Audit Committee annual report.

RESOLVED – Members resolved to:

- approve the draft report; and
- authorise the Assistant Chief Executive (Corporate Governance) to make any amendments (as per suggestions from Members) and to approve the final report prior to it being received at full Council in the new municipal year.

113 LATE ITEM Leeds Community Foundation

Members received a report of the Assistant Chief Executive (Corporate Governance) providing a brief summary to the Committee on the background and role of the Leeds Community Foundation.

RESOLVED – Members resolved to:

- note the initial review of the Council's relationship with the Leeds Community Foundation; and
- request a report to a future meeting providing further detailed information regarding the Council's relationship with the Foundation and the governance of the Foundation itself.

114 Work Programme

Members received a report of the Assistant Chief Executive (Corporate Governance) notifying them of the draft work programme for the next municipal year, 2008/09.

RESOLVED – Members resolved to note the draft work programme.

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Corporate Governance and Audit Committee

Wednesday, 14th May, 2008

PRESENT: Councillor J Bale in the Chair
Councillors D Blackburn, C Campbell,
G Driver, T Leadley (substitute for B
Gettings) and N Taggart

115 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

116 Exclusion of the Public

There were no resolutions to exclude the public.

117 Late Items

In accordance with his powers under Section 100B(4)(b) of the Local Government Act 1972, the Chair admitted to the agenda two reports respectively entitled, 'Overview and Scrutiny: Proposed Changes and Amendments to the Constitution' and 'Creation of a Constitutional Proposals Committee'.

Both reports had been unavailable at the time of the agenda despatch and were considered urgent by reason of the fact that they related to the governance of the authority for the coming municipal year and therefore needed to be considered by the Corporate Governance and Audit Committee prior to their consideration at the Annual Council Meeting on 22nd May 2008 (Minute Nos. 122 and 123 refer respectively).

118 Declaration of Interests

No declarations of interest were made at this point in the meeting, however one declaration was made at a later point in the meeting (Minute No. 122 refers).

119 Apologies for Absence

Apologies for absence from the meeting were received on behalf of Councillor B Gettings and Mr M Wilkinson.

120 Minutes of the Previous Meeting

RESOLVED - That the minutes of the Corporate Governance and Audit Committee meeting held on 23rd April 2008 be approved as a correct record.

121 Changes to the Constitution - Proposals

The Committee received a report of the Assistant Chief Executive (Corporate Governance) requesting the Committee to make several recommendations to Council regarding amendments to the constitution. The amendments proposed had arisen from the annual review of the constitution, the

introduction of the Local Government and Public Involvement in Health Act 2007 and the findings of the elected Members' working group.

The Committee noted that the recommendations within the report which related to the Scrutiny Procedure Rules and the delegations to the Assistant Chief Executive (Corporate Governance) had both been withdrawn since the publication of the agenda.

The Committee particularly discussed the following issues:

- With regard to the proposed lowering of the financial threshold for a key decision, Members highlighted the need to ensure that such thresholds were reviewed annually so that if necessary they could be revised in order to reflect any changes to the rate of inflation;
- Members raised concerns in relation to the proposed amendment which sought to clarify which decisions were excluded from being key and major decisions. In conclusion, it was proposed that the wording which related to this aspect of the definition of key and major decisions remained unchanged, pending a review of such wording in the future;
- Members commented upon several details relating to the schedule of council appointments to outside bodies, as detailed within the list of council functions. In response, the Head of Governance Services undertook to pursue Members' comments;
- The Committee briefly discussed the process by which any revisions to the constitution were transferred to the electronic version which appeared on the internet.

RESOLVED - That the following be recommended to Council for approval:-

- (a). The appointment of the Assistant Chief Executive (Corporate Governance), the Chief Officer (Legal Licensing and Registration) and the Electoral Services Manager as deputy electoral registration officers;
- (b). The amendments to the budget and policy framework, as referred to in paragraph 3.1 and as set out in appendix 1 to the report;
- (c). The amendments to Article 13, as referred to in paragraph 3.3 and as set out in appendix 3 to the report, with the exception of the proposed amendment relating to the clarification of those decisions which are excluded from being key and major decisions, as detailed at paragraph 3.3.15;
- (d). The amendments to the guidance notes on delegated decision making, as referred to in paragraph 3.3 and as set out in appendix 4 to the report, with the exception of the proposed amendment relating to the clarification of those decisions which are excluded from being key and major decisions, as detailed at paragraph 3.3.15;
- (e). The amendments to the summary of council functions, as referred to in paragraph 3.4 and as set out in appendix 5 to the report, but updated in relation to council appointments;
- (f). The amendments to delegations to the Chief Highways Officer, as referred to in paragraph 3.5 and as set out in appendix 7 to the report;
- (g). The deletion of the reference to best value reviews from the local function schedule, as referred to in paragraph 3.6 of the report.

122 Overview and Scrutiny - Proposed Changes to the Constitution

Members received a report of the Assistant Chief Executive (Corporate Governance) detailing recommendations in respect of amendments to the Overview and Scrutiny function following the officer annual review of the constitution, and following consideration of that review by the Administration Leaders.

In relation to the proposed terms of reference for the Scrutiny Board (Health), Members discussed the relationship which existed between the Board's responsibility to scrutinise the provision of services within its remit and its role as a consultative body.

Following a discussion relating to the processes by which decisions could be classed as urgent and thereby could become exempt from the Call In process, it was proposed that the Committee monitored the number of relevant decisions which fell into this category, with the findings being submitted to the Committee for consideration.

Having discussed several aspects and the potential impact of the recommendations relating to the proposed revisions to the Call In process, it was formally moved by Councillor Driver and seconded by Councillor Taggart

That Corporate Governance and Audit Committee recommend to Council that paragraph 22.6 of the Scrutiny Board Procedure Rules be amended to read: 'During that period, the Proper Officer shall Call In a decision for scrutiny by the relevant Scrutiny Board if:

- two non-executive elected Members (who are not from the same political group) or
- any five non-executive elected Members request him/her to do so.'

(Under the provisions of Council Procedure Rule 16.5, Councillor D Blackburn required it to be recorded that he abstained from voting on the amendment moved by Councillor Driver)

Upon being put to the vote, the amendment to the recommendation was passed and it was

RESOLVED - That the following be recommended to Council for approval:-

- (a). The constitutional amendments to give effect to the redesign of the Overview and Scrutiny function, as detailed within option 2 and as set out in appendices 1 to 7 and 8 to 9 of the report (subject to resolution (b));
- (b). The Call In arrangements, as referred to in paragraphs 3.18 and 3.19 and as set out in the Scrutiny Board Procedure Rules at appendix 9 of the report, subject to the amendment of paragraph 22.6 to read:
'During that period, the Proper Officer shall Call In a decision for scrutiny by the relevant Scrutiny Board if:
 - two non-executive elected Members (who are not from the same political group) or
 - any five non-executive elected Members request him/her to do so.';
- (c). The other incidental changes, as identified in appendix 9 of the report.

(Councillor Leadley declared a personal interest in relation to this item, due to being a former member of Overview and Scrutiny Committee)

123 Creation of a Constitutional Proposals Committee

Members received a report of the Assistant Chief Executive (Corporate Governance) requesting the Committee to consider a proposal to establish a Constitutional Proposals Committee, the membership of which would include all Leaders of political groups, which would make recommendations to Council about amendments to the constitution.

The Committee discussed the relevant requirements for the proposed Committee to be politically balanced.

RESOLVED - That the following be recommended to Council for approval:-

- (a). The establishment of a new Constitutional Proposals Committee with terms of reference as detailed at appendix 1 to the report;
- (b). The revision to the terms of reference for the Corporate Governance and Audit Committee as detailed at appendix 2 to the report.



Originator: Wendy Bowes
Tel: 0113 37 60037

Report of the Chief Customer Services Officer

Standards Committee

Date: 1st July 2008

Subject: The Local Government and Public Involvement in Health Act 2007 and its Implications for the Local Government Ombudsman

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 provide the Committee with information regarding the Local Government and Public Involvement in Health Act 2007 and the implications of this for Local Government Ombudsman complaints.
2. The Committee is asked to note the provision of the Act and the potential implications that this will have.

1.0 Purpose Of This Report

- 1.1 To provide the Committee with information regarding the Local Government and Public Involvement in Health Act 2007 and the implications of this with regards to Local Government Ombudsman complaints.

2.0 Background Information

- 2.1 The Local Government and Public Involvement in Health Act 2007 received Royal Assent on 30th October 2007.
- 2.2 From a date to be announced (currently the Standards Committee are due to approve the new process on the 1st of July) the Standards Committee (SC) of a council will act as a local filter and take over the role of the Standards Board (SB) becoming the gateway for allegations of misconduct against council members or co-opted members.

3.0 Main Issues

- 3.1 Contained within the Local Government and Public Involvement in Health Act 2007 is an amendment to the Local Government Act 2000 and states that the Local Government Ombudsman (LGO) may consult the SC (as well as the SB) about a case if he/she believes that the LGO case that he/she is considering relates partly to a matter which may be of concern to the committee.
- 3.2 In addition the action of a SC, as a committee of the council, will be within the Ombudsman's jurisdiction.
- 3.3 The SB will no longer receive complaints centrally nor take the decision whether to refer them for investigation. Local SCs will receive and assess new allegations, decide whether they appear to reveal a breach of the code and if so whether they merit investigation, informal procedure or no action.
- 3.4 SCs must have a review mechanism for complainants to use if they wish to appeal against a decision not to investigate.
- 3.5 The SB will oversee the performance of the new statutory framework in order to assess its effectiveness and present to local government a record of progress. This will be achieved through a requirement for SCs to report to the SB on a quarterly basis to include quantitative information about how many allegations handled and how many referred to investigation. In addition there will be an annual report to include qualitative information about the SC such as what training was undertaken or mediation carried out.
- 3.6 Through this monitoring by the SB it is expected to identify authorities that are having problems or failing in their obligations and offer help. Ultimately the SB can suspend the local filter power.
- 3.7 Regulations have yet to be finalised on the process and following this the SB will issue guidance to councils. The regulations will, in part deal with a Monitoring Officer's (MO) role in the new process. Many MO duties are personal to the MO and the Regulations may follow this model. If this is the case then a MO's action would not be action taken on behalf of the Council and therefore outside the Ombudsman's jurisdiction.

4.0 Implications For Council Policy And Governance

4.1 The power for the Ombudsman to consult Standards Committee may be discharged by the full committee or delegated to a sub committee or the Monitoring Officer.

5.0 Legal And Resource Implications

5.1 None other than those contained in this report.

6.0 Conclusions

6.1 The Committee will be actively involved in the introduction of the new act and this report seeks to provide background information on the new provisions of the act for the Local Government Ombudsman.

7.0 Recommendations

7.1 The Committee note the provision of the Act and the potential implications that this may have.

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Originator: Alex Watson

Tel: 0113 22 43077

Report of Chief Officer (Human Resources)

Standards Committee

Date: 1st July 2008

Subject: Politically Restricted Posts

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. Under the Local Government and Public Involvement in Health Act 2007, Local Standards Committees will be able to grant and specify exemptions for Politically Restricted Posts (PRPs). Regulations allowing this are likely to come into force later this year.
2. PRPs have been in place in local government since 1990, however, this is a new function for Standards Committees; transferring responsibility from an Independent Adjudicator, appointed by the Secretary of State.
3. This report provides the background to PRPs and outlines the current situation in Leeds. Implications and recommendations for Standards Committee surrounding the new role are put forward and can be refined according to final regulations.

1.0 Purpose of this Report

- 1.1 The purpose of this report is to provide Members of the Standards Committee with background to Politically Restricted Posts (PRPs), and to outline the current situation in Leeds. This report also raises implications and recommendations for Standards Committee surrounding this new role which can be refined according to final Regulations.

2.0 Background Information

- 2.1 Politically Restricted Posts were introduced under the Local Government and Housing Act in 1990. They prohibit Local Government Officers from:
- a. Candidature for public elected office (other than to a Parish, Town or Community Council)
 - b. Holding office in a political party
 - c. Canvassing at elections
 - d. Speaking or writing publicly (except in an official capacity) on matters of party political controversy
- 2.2 The introduction of PRPs was controversial as many office holders who were Councillors in other Authorities resigned their position. Over time, however, issues have abated somewhat, and PRPs have become a more accepted safeguard of political independence amongst officers. This is akin to similar arrangements required in the Civil Service.
- 2.3 Specifically, in 1990, staff were informed if their post was restricted and informed of their right to appeal this. Records from 18 years ago suggest 20 postholders were granted exceptions; the majority being Educational Psychologists who subsequently transferred to Education Leeds. The last recorded exception was granted was in 1994 and this post also no longer exists. As part of this process LCC was asked to give an opinion about these posts and the degree to which they were involved in advising members or taking decisions on behalf of the authority.
- 2.4 Since then the maintenance of the PRP list has not been widely questioned. Although informal enquiries are occasionally made to HR teams about PRPs, these tend to be staff new to local government seeking clarification.

3.0 Main Issues

What is a Politically Restricted Post ?

- 3.1 A summary of the definition of Politically Restricted Posts, according to regulations, is given below. Different post categories have different rights to apply for exemption, and this is also indicated.

Post type	Overview	Exemption from list ?
Category A <i>Senior manager posts</i>	Head of paid service and Directors Chief Officers and their Deputies – including Officers who are not designated Deputies but, in respect of all or most of their duties of their post,	No right to seek exemption

<i>automatically subject to restriction</i>	are required to report directly to, or are directly accountable to, a Service Director Officers having specified delegated authority to carry out certain functions of the Local Authority e.g. Monitoring Officer (who in Leeds is the Assistant Chief Exec – Corporate Governance)	
Category B <i>Posts subject to restriction based on remuneration level</i>	Full time posts equal to or above spinal column point 44 or equivalent – currently £35,852 per annum Part time posts (which would be equal to or higher than £35,852 per annum if FT) Where an Officers grade range includes spinal column point 44, the regulations only come into effect once point 44 is reached.	Right exists to seek exemption
Category C <i>Posts subject to restriction because of duties related criteria</i>	Posts that are remunerated below spinal column point 44, but are considered politically sensitive, that is: Posts that give advice on a regular basis to the authority, to any committee or sub committee, or to any joint committee on which the authority are represented. Posts that speak on behalf of the authority on a regular basis to journalists or broadcasters	Right exists to seek exemption

- 3.2 Officers in category B and C may seek exemption only on grounds that they do not regularly advise the Authority, any Committee, Sub Committee or Joint Committee and do not speak regularly on the Authority's behalf to journalists or broadcasters. There is no time limit on appeals and a further application for exemption can be made if duties change.
- 3.3 Any member of the public could also complain if they believe that a post had wrongly been omitted from the list of Politically Restricted Posts.
- 3.4 Teachers, Headteachers and lecturers are all exempt from political restrictions, and will not be regarded as holding Politically Restricted Posts whatever their role or remuneration level.
- 3.5 Finally, in terms of employment law, a consequence of the legislation means any violations of the restrictions are a breach of contract.

The current situation in Leeds

- 3.6 The person responsible for maintaining the PRP list is the Chief Officer (Human Resources), and a review of the list is performed periodically. The Council's HR and payroll system provides the core information by which we maintain and demonstrate our PRP list is up to date. Additional staff identified under Category C are added to this list as required.

- 3.7 The PRP list was last updated in spring 2008 and following that review, 1,100 posts were identified on the Leeds list.
- 3.8 Staff are informed on appointment if they are subject to PRP requirements and this is detailed in contracts. Given changes in duties and given that earnings may fluctuate above the £35,852 threshold, staff who may temporarily fall into this category are routinely tracked.
- 3.9 If staff who are on the list were identified as taking part in any political activity, as defined under the Regulations, this would be reported to the Monitoring Officer.

Implications for the Standards Committee

- 3.10 Section 202 of the Local Government and Public Involvement in Health Act 2007 outlines a new responsibility for the Standards Committee. In summary:

The Standards Committee shall:

Consider applications for exemption from the 'politically restricted post list' – by the post holder – and make decisions whether they should be on the list or not.

Consider concerns from any member of the public who believes that a post has been wrongly omitted from the 'politically restricted post list'

- 3.11 Appendix 1 outlines Section 202 of the Local Government and Public Involvement in Health Act 2007 in full.
- 3.12 Applications can only be made for posts on the list, or being proposed to go onto list held by the authority. The standards committee must give priority to those applications which are linked to people applying for exemption because of candidacy for elections.
- 3.13 The regulations also reaffirm the role of the local authority as follows:

The local authority shall:

Give its standards committee all information that it may reasonably require to make decisions

Comply with any direction from the standards committee

Notify the post holder about the decision taken by the standards committee

- 3.14 Subject to final Regulations, further advice will also be sought to establish how previous mechanisms were applied and how information is gathered to support decisions. For example, this would include:
- a. understanding what would be reasonable grounds for exempting posts from politically restrictions, and;

- b. evidence and opinions that a local authority would present regarding the functions of a post.

3.15 Based on an assessment of these, the Standard Committee would be asked to agree a more a detailed procedure for considering cases.

4.0 Implications for Council Policy and Governance

4.1 The Department of Communities and Local Government believe that standards committees are ideally placed to undertake these responsibilities in relation to employees. This is because the Standards Committee is an independent committee which currently has a role in promoting high standards of conduct amongst elected Members.

4.2 In addition, the Committee's role in maintaining ethical standards, reviewing arrangements such as the Register of Interests, and contributing to good governance, make the Committee a good alternative to the Independent Adjudicator.

5.0 Legal and Resource Implications

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

6.0 Conclusions

6.1 PRPs have been in place in local government since 1990, however, this is a new function for Standards Committees; transferring responsibility from an Independent Adjudicator, appointed by the Secretary of State.

6.2 Regulations allowing the Standards Committee to carry out this function are expected to be released later in the year. The Standards Committee will be required to agree a detailed set of procedures for considering such matters as soon as Regulations become available.

7.0 Recommendations

7.1 It is recommended that the Standards Committee note the information in this report, and request a further report in due course (once appropriate Regulations have been released).

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Appendix 1 – Section 202 of the Local Government and Public Involvement in Health Act 2007

202 Politically restricted posts: grant and supervision of exemptions

(1) In section 3 of the Local Government and Housing Act 1989 (c. 42) (grant and supervision of exemptions from political restriction of posts)—

(a) at the end of the sidenote, insert “: Scotland and Wales”;

(b) in subsection (1) for the words “It shall be the duty of the Secretary of State to appoint a person” substitute “It shall be the duty of the Scottish Ministers to appoint in relation to Scotland, and the duty of the Welsh Ministers to appoint in relation to Wales, a person”;

(c) omit subsection (8)(a);

(d) in subsection (8)(b), for “that subsection” substitute “subsection (1)”.

(2) After that section insert—

“3A Grant and supervision of exemptions from political restriction: England

(1) The standards committee of a local authority in England which is a relevant authority—

(a) must consider any application for exemption from political restriction which is made to the committee, in respect of any post under the relevant authority, by the holder for the time being of that post; and

(b) may, on the application of any person or otherwise, give directions to the relevant authority requiring it to include a post in the list maintained by the authority under section 2(2).

(2) An application may not be made under subsection (1)(a) unless—

(a) the relevant authority have specified or are proposing to specify the post in the list maintained by them under section 2(2); and

(b) in the case of a post within section 2(2)(a) or (b), the relevant authority have certified whether or not, in their opinion, the duties of the post fall within section 2(3);

and the relevant authority must give a certificate for the purposes of paragraph (b) above in relation to any post if requested to do so by the holder of that post.

(3) If, on an application under subsection (1)(a) in respect of any post, the standards committee is satisfied that the duties of the post do not fall within section 2(3), the committee must direct—

(a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and

(b) that accordingly the post is not to be specified in the list maintained by the relevant authority under section 2(2) or (as the case may be) is to be removed from that list.

(4) A standards committee may not give a direction under subsection (1)(b) in respect of any post unless the committee is satisfied that—

(a) the duties of the post fall within section 2(3); and

(b) the post is neither—

(i) in any list maintained by the relevant authority in accordance with section 2(2) above or section 100G(2) of the Local Government Act 1972; nor

(ii) of a description specified in any regulations under section 2(2) above.

(5) A standards committee must when determining for the purposes of subsection (3) or (4) whether or not the duties of a post fall within section 2(3) have regard to any general advice given by the Secretary of State under section 3B.

(6) Every local authority in England which is a relevant authority must—

(a) give its standards committee all such information as the committee may reasonably require for the purpose of carrying out its functions under this section;

(b) comply with any direction under this section with respect to the list maintained by the authority; and

(c) on being given a direction under subsection (1)(b), notify the terms of the direction to the person who holds the post to which the direction relates.

(7) In carrying out its functions under this section a standards committee must give priority, according to the time available before the election, to any application under subsection (1)(a) from a person who certifies that the application is made for the purpose of enabling him to be a candidate in a forthcoming election.

(8) The Secretary of State may make regulations requiring a local authority in England which is not a relevant authority to establish a committee to exercise the functions conferred by this section on the standards committee of a local authority in England which is a relevant authority.

(9) Regulations under subsection (8) may include provision—

(a) applying any provisions of this section (with or without modification) where a committee has been established under the regulations;

(b) applying (with or without modification) any provision of section 53 of the Local Government Act 2000 or regulations made under subsection (6) of that section.

(10) In this section—

- “standards committee” means a committee established under section 53(1) of the Local Government Act 2000;
- “relevant authority” has the meaning given by section 49(6) of that Act.

3B General advice as to politically restricted posts: England

(1) The Secretary of State may in relation to England give such general advice with respect to the determination of questions arising by virtue of section 2(3) as he considers appropriate.

(2) Before giving general advice under this section the Secretary of State must consult such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.”



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

**Subject: Local Investigation into a complaint against a Member - Reference: SBE
19277.07**

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 set out the findings of the Investigating Officer in the above case.

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 decide 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; and
- Whether they wish to make any recommendations to the relevant authority as a result of the complaint and investigation.

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Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Process for the receipt, referral and management of allegations of misconduct

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 proposed process for informing the public of the new arrangements for receiving and logging allegations of misconduct against Members.
2. To ensure that members of the public are aware that allegations of misconduct against Members will be received by the Council rather than the Standards Board for England from 8th May 2008, a notice must be published detailing where allegations should be sent and the process for dealing with the allegations.
3. In addition, the Council needs to consider whether to integrate the new process with their existing corporate complaints process, or to set up a separate process for dealing with allegations of misconduct.
4. Members of the Committee are asked to approve the proposed arrangements for advertising the new process, and for receiving and logging allegations of misconduct against Members.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Committee of the proposed process for informing the public of the new arrangements for receiving and logging allegations of misconduct against Members.

2.0 Background Information

- 2.1 Once allegations of misconduct are being received by Leeds City Council, arrangements will need to be put in place for how these allegations will be received and processed, and how the public will be made aware of the new arrangements.
- 2.2 The following proposals have been drafted with regard to the Standards Board guidance "Local Assessment of Complaints", the Standards Board Bulletin 37, and the Standards Committee (England) Regulations 2008.
- 2.3 The guidance states that the administrative processes that the authority adopts should be agreed with the Standards Committee as part of the processes and procedures that they must publish. The basic procedure for processing complaints is detailed below for the Committee's information.
- 2.4 These details, alongside further details of the review and notification requirements, will be published in the Standards Committee Procedure Rules, which are proposed in a separate report on this agenda.

3.0 Main Issues

Informing the public of the new arrangements

- 3.1 So that members of the public are aware of the new process for submitting allegations of misconduct, every authority will be required to publish a notice detailing where the complaints should be sent from 8th May 2008, and what the Council's new responsibilities will be.
- 3.2 It is proposed that this is done through the following media:
- Council's website - by updating the existing page of information on how to make complaints about misconduct, and through a Council press release.
 - Placing a notice in the Yorkshire Evening Post, and an article in the Council's own newspaper "About Leeds". Notices in public areas such as local libraries and the Council's information centre.
 - An article in "Governance Matters".
 - Contact Centre Staff will also be able to advise members of the public about the new arrangements.
- 3.3 As the majority of allegations that were received by the Standards Board for England were from members of the public, the public notice needs to be seen by as many people as possible. It was revealed at the Annual Assembly last year, that the steps taken by an authority to publicise the process are something that will be considered by the Audit Commission's Comprehensive Area Assessment key lines of enquiry.
- 3.4 The address and telephone number to which complaints should be sent also needs to be advertised on an ongoing basis, as well as if there are changes to the process.

The information on the Council's website will be available at all times, although it is proposed that another public notice be published in the Yorkshire Evening Post and the Council's newspaper on an annual basis as a reminder.

- 3.5 The Standards Board for England have updated their website to re direct complainants to their local council, and have produced a guidance leaflet called "Making a Complaint: Complaining about the behaviour of a local authority member". It is proposed that the Council use this document to produce a personalised guidance document which would contain the complaints form, an explanation of the process, a summary of what the Committee can deal with, and where to direct allegations. A copy of this draft leaflet is attached as Appendix 1.
- 3.6 This leaflet will be an electronic document published on the Council's website. It will not be distributed to libraries and Council offices, but rather will be printed on request or accessed online. It is instead proposed that the article to be published in the Yorkshire Evening Post is circulated to Council buildings and libraries to be displayed as appropriate. This article is attached as Appendix 2.

Receiving and logging allegations

- 3.7 In their Local Assessment Checklist, the Standards Board for England suggested that there were two main ways in which Councils could choose to handle allegations of Member misconduct.
- Firstly, Councils may choose to integrate the new arrangements into their existing corporate complaints framework. This would mean that when an allegation is received, officers of the authority would need to be able to analyse which of its procedures is the appropriate one and advise the complainant accordingly.
 - Secondly, Councils may choose to develop a separate process for Code of Conduct allegations so the process for such allegations is distinct from corporate complaints.
- 3.8 The Monitoring Officer has proposed that in Leeds a separate process for Code of Conduct matters is developed, to ensure that such allegations are kept distinct from all other corporate complaints. To this end a dedicated telephone line, email address and postal address for people to contact regarding allegations of misconduct have been set up. This will ensure that complainants are able to contact specific officers who are able to advise on Code of Conduct matters.
- 3.9 However, it is also recognised that some complainants will not know where to direct their complaint, and may complain through the corporate complaints process. In addition, some matters may need to be considered through both complaints processes.
- 3.10 In order to ensure that allegations do not get misdirected or delayed unnecessarily, it is proposed that the Corporate Governance Team work with the Corporate Complaints Manager to provide advice and guidance on what would constitute a Code of Conduct 'complaint', and where these should be directed. In particular officers will need to be made aware that any complaint which specifies or appears that it is in relation to the Code of Conduct must be passed to the Assessment Sub-Committee for consideration.

- 3.11 The Standards Board for England have produced a standard complaints form, which can be personalised for each authority, and contains the following information:
- the complainant's name, address and other contact details;
 - whether the complainant is a member of the public, fellow councillor or officer;
 - who their allegation is about and the authority or authorities that the member belongs to;
 - details of the alleged misconduct, including, where possible, dates, witness details and other supporting information;
 - equality monitoring data, if applicable;
 - a warning that the complainant's identity will normally be disclosed to the member the complaint has been made about (unless the case meets certain criteria).

3.12 It is proposed that complainants be encouraged to use this form wherever possible, as otherwise it may be difficult to obtain all the required information and may cause delays in the process by having to contact the complainant for further clarification. However all allegations which are submitted in writing must be accepted. This would include allegations received by fax, email and via an electronic form on the Council's website.

3.13 However in order to comply with relevant equalities legislation, alternative arrangements will need to be put in place for those unable to make a complaint in writing. One possible alternative would be to take down details of the allegation and then produce a written copy for the complainant, or the complainant's advocate, to agree.

Preparation of allegations for the Assessment Sub-Committee

3.14 Prior to an allegation being presented to the Assessment Sub-Committee, officers may gather 'readily obtainable' documents to support the complaint. These documents may include Committee minutes and entries from the Register of Interests. Complainants can also be asked to provide clarification of their complaint.

3.15 However pre-assessment enquiries cannot extend to interviewing any of the parties, as this may prejudice any subsequent investigation that the Assessment Sub-Committee may request.

3.16 When the allegation is received, the Assessment Sub-Committee must clearly explain to the complainant what happens next, including what the deadlines are for making a decision. The Monitoring Officer also has the discretion to tell the subject member that a complaint has been made about them. This notification can say that a complaint has been made, the name of the complainant (unless they have requested anonymity), and the relevant parts of the Code. A summary of the complaint will not be provided until after the meeting.

3.17 If the complainant decides they would like to withdraw the allegation before the Assessment Sub-Committee have considered it, the committee will have to decide whether to agree to withdraw it. The Standards Board for England use a set of criteria for deciding whether to withdraw complaints which include the following:

- Is the public interest in taking some action in relation to the complaint more important than the complainant's wish to withdraw it;

- Could the committee take some action on the matter without the involvement of the complainant; and
- Is there a possibility that the complainant may have been pressured or harassed to withdraw the complaint.

- 3.18 The Assessment Sub-Committee need to consider the matter within an average of 20 days from the date of receipt.
- 3.19 After the Assessment Sub-Committee have considered the allegation, a decision notice must be sent to the relevant parties as soon as possible. The Standards Board recommends that this should be sent out within five days of the decision. This decision notice must be signed by the Chair of the Assessment Sub-Committee.
- 3.20 There may occasionally be circumstances where it may prejudice a case if a Member is informed straight away of an allegation made against them. For example, where there is the real possibility of intimidation of the complainant or witnesses by the subject member or the early disclosure of the complaint may result in evidence being compromised.
- 3.21 In such circumstances the Monitoring Officer would have to make a recommendation on how to treat the case. If the Assessment Sub-Committee agreed, it could provide the summary of the allegation to the subject member after the Investigator has interviewed the complainant and any necessary witnesses.
- 3.22 After the Assessment Sub-Committee has made a decision about the allegation, and the parties have been informed, the Committee must produce a summary of the complaint to be published on the Council's website in a similar manner to minutes. This summary must include a description of the main points considered by the Sub-Committee, the conclusions on the complaints, and the reasons for the conclusion. These summaries will be available for public inspection for six years following the decision.

4.0 Implications For Council Policy And Governance

- 4.1 The Council will need to make arrangements to receive and process allegations about Members locally in order to comply with its new responsibilities under the Local Government and Public Involvement in Health Act 2007.
- 4.2 In addition, how the Council chooses to advertise the new arrangements may well feature in the Audit Commission's Comprehensive Area Assessment in future, and will therefore contribute to the Council's overall score.

5.0 Legal And Resource Implications

- 5.1 There will be resource implications to the local assessment process in general. The Assistant Chief Executive (Corporate Governance) has identified additional budget required for the local filtering role as part of the budget pressures for the 2008/9 budget.

6.0 Conclusions

- 6.1 The Local Government and Public Involvement in Health Act 2007 requires changes to the ways allegations of Member misconduct are dealt with at a local level.

6.2 This will require a new procedure to be implemented in order to receive and process allegations of Member misconduct. In addition the new process will need to be advertised to the public.

6.3 The broad arrangements for the above need to be approved by the Committee prior to implementation of the new regime.

7.0 Recommendations

7.1 Members of the Committee are asked to approve the proposed arrangements for advertising the new complaints process, and for receiving and logging allegations of misconduct against Members.



A guide to making complaints about Members of Leeds City Council and Parish and Town Councils within Leeds.

You can complain about the behaviour of Councillors and co-opted members¹ of Leeds City Council, or any of the Parish and Town Councils in the Leeds area.

If you want to make a complaint you should submit a written complaint to the Standards Committee of Leeds City Council, addressed to the Assessment Sub-Committee.

There is a special form at the end of this guidance leaflet which you can use for this purpose.

Please note that the Standards Committee can only consider complaints about the behaviour of individual Councillors or Members, not about the Council as a whole or the people employed by it. If you wish to make a complaint about the Council as a whole, or one of its services, please contact 'Compliments and Complaints' on 0113 398 4762.

What is the Standards Committee?

The Standards Committee is a group of people appointed by the Council to help maintain and promote high ethical standards. The Standards Committee is made up of:

- Five Leeds City Councillors (one from each of the political groups);
- Three Independent Members (who are not Councillors or employees of the Council); and
- Two Parish Councillors.

The Standards Committee has set up two sub-committees to deal with complaints about Councillors.

The Assessment Sub-Committee receives and initially assesses any complaints to decide whether to:

- Refer the complaint to the Monitoring Officer of Leeds City Council for investigation or other action;
- Refer the complaint to the Standards Board for England; or
- Take no action in relation to the complaint.

¹ A co-opted member is a voting member of an authority or one of its committees, who was appointed to their position rather than elected.

The Review Sub-Committee considers any appeals against decisions to take no action, and has a different membership from the Assessment Sub-Committee.

Both the Assessment Sub-Committee and Review Sub-Committee meet in private to consider these matters.

The Chair of the Committee is one of the Independent Members, as is the Chair of the Assessment Sub-Committee and Review Sub-Committee.

Who can you complain about?

Your complaint must be about one or more named members of the following authorities:

- Leeds City Council
- Aberford and District Parish Council
- Allerton Bywater Parish Council
- Alwoodley Parish Council
- Arthington Parish Council
- Bardsey cum Rigton Parish Council
- Barwick in Elmet & Scholes Parish Council
- Boston Spa Parish Council
- Bramham cum Oglethorpe Parish Council
- Bramhope and Carlton Parish Council
- Clifford Parish Council
- Collingham with Linton Parish Council
- Drighlington Parish Council
- East Keswick Parish Council
- Gildersome Parish Council
- Great and Little Preston Parish Council
- Harewood Parish Council
- Horsforth Town Council
- Kippax Parish Council
- Ledsham Parish Council
- Ledston with Ledston Luck Parish Council
- Micklefield Parish Council
- Morley Town Council
- Otley Town Council
- Pool-in-Wharfedale Parish Council

- Scarcroft Parish Council
- Shadwell Parish Council
- Swillington Parish Council
- Thorner Parish Council
- Thorp Arch Parish Council
- Walton Parish Council
- Wetherby Town Council

The Standards Committee cannot consider complaints about a decision or action of the Council or one of its committees, or a service provided by the Council.

Complaints about the actions of people who work for the Council also do not fall within the jurisdiction of the Standards Committee.

You should refer any complaints of this nature to 'Compliments and Complaints' on 0113 398 4762.

What types of behaviour can you complain about?

The Standards Committee cannot deal with complaints about behaviour that occurred before the Member was elected or appointed, which occurred before May 2002 (when the Code of Conduct came into force), or occurred after the Member had resigned or ceased to be a member of the Council.

You can complain about a member of the Council breaking any part of their Code of Conduct. Members of the Council are required to observe the Code whenever they are:

- Conducting the business of the authority;
- Conducting the business of the office to which they have been elected or appointed; or
- Acting as a representative of the authority.

You can complain about a Member doing any of the following:

- Failing to treat people with respect
- Conducting themselves in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute
- Using their position as a member improperly to confer on or secure for him or her self or any other person, an advantage or disadvantage
- Doing something which may seriously prejudice their authority's ability to comply with any of its statutory duty under the equality law
- Bullying any person
- Intimidating or attempting to intimidate someone who is or is likely to be a complainant or witness in relation to an investigation

- Doing anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority
- Disclosing information given to them in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where:
 - They have the consent of a person authorised to give it; or
 - For professional advice, providing the advisor agrees to maintain the confidentiality; or
 - Where disclosure is reasonable and in the public interest, and this disclosure is made in good faith and in accordance with the Council's reasonable requirements².
- Preventing another person from gaining access to information to which that person is entitled to by law
- When using the authority's resources, or authorising their use by others:
 - Not acting in accordance with the authority's requirements; or
 - Allowing such resources to be used for political purposes; or
 - Not having regard to the Local Authority Code of Publicity.
- When taking decisions:
 - Failing to have regard to advice provided by the Chief Finance Officer and the Monitoring Officer³; and
 - Failing to give reasons for those decisions in accordance with any statutory requirements or additional requirements imposed by the Council.
- Failing to register their financial or other interests within 28 days of their election or appointment
- Failing to update their register of interests within 28 days of a change to their circumstances
- Failing to register any gifts or hospitality (and the source), that they have received in their role as a Member worth over £25
- Failing to declare a personal interest at a meeting
- Failing to declare a prejudicial interest at a meeting (an interest so significant that it is likely to affect their judgement)
- Taking part in the discussion or making a decision where they have a prejudicial interest
- Improperly influencing a decision about a matter that they have a prejudicial interest in

You can see a full copy of the Members' Code of Conduct in force at Leeds City Council on the Council's website. To view a copy of a Parish or Town Council's Code of Conduct, you will need to contact the relevant Clerk.

² Set out in the "Access to Information Procedure Rules", in Part 4 of the Council's Constitution.

³ This part of the Code is not mandatory for Parish and Town Councils.

What happens once you submit your complaint?

When you submit your complaint we will write to you to let you know we have received it. We will also tell the Member that you are complaining about that we have received your complaint, who made the complaint (unless you have requested confidentiality and the Assessment Sub-Committee are yet to decide whether to grant your request) and the relevant paragraphs of the Code of Conduct that it is alleged may have been breached.

The Assessment Sub-Committee will then meet to consider your complaint and decide whether it should be referred for investigation or other action. This will happen within an average of 20 working days of the date we received your complaint. Meetings of the Assessment Sub-Committee are 'closed', which means that you will not be able to attend, and neither will the member(s) you have complained about. It is therefore very important that you set out your complaint out clearly and provide all the information you wish the Assessment Sub-Committee to consider.

The criteria that will be used to assess your complaint and decide whether it should be investigated are set out below:

(insert assessment criteria here)

When the Assessment Sub-Committee has reached its decision we will notify you in writing whether your complaint has been referred for investigation or other action. At the same time we write to you, we will also write to the member(s) you have complained about (and the relevant Parish or Town Council Clerk, if applicable). We will send these letters within five working days of the Assessment Sub-Committee reaching its decision. The decision of the Assessment Sub-Committee is made available for public inspection once the member the complaint is about has been given a summary of the complaint. In very limited situations the member may not be given this summary immediately and if so any public inspection will not happen until the member does get the summary.

What is meant by 'other action'?

The Assessment Sub-Committee may decide to refer your complaint for 'other action' instead of referring it for investigation. Other action is a deliberately broad term that may include options such as requiring the person you have complained about to apologise or undergo training or mediation. The Assessment Sub-Committee will carefully consider the circumstances surrounding your complaint when deciding whether other action is appropriate. If the Assessment Sub-Committee decides to refer your complaint for other action will be explain what this involves.

How should you make your complaint?

Before making your complaint you may find it helpful to talk through the complaint and the complaints process with a member of the Corporate Governance Team. You can call the complaints helpline on 0113 39 50035.

In order to submit your complaint, you should fully complete the attached complaints form (or complete it electronically via the Council's website). It is very important that you set out your complaint fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish the Assessment Sub-Committee to consider, where possible. Especially as you will not be able to attend the meeting of the Assessment Sub-Committee.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the member(s) complained about has breached the Code of Conduct.

You should submit your completed form or covering letter by post, email or fax using the contact details below:

Post: The Assessment Sub-Committee
c/o Governance Services
4th Floor West
Civic Hall
Leeds
LS1 1UR

Email: councillorconduct@leeds.gov.uk

Fax: 0113 39 51599

Additional Help

Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

If you wish to request support in making your complaint, or wish to discuss your complaint or the complaints process, you can contact us by:

Telephone: 0113 39 50035 (between 9am and 5pm Monday to Friday)

Fax: 0113 39 51599

Email: councillorconduct@leeds.gov.uk

Post: The Assessment Sub-Committee

c/o Governance Services

4th Floor West

Civic Hall

Leeds

LS1 1UR

COMPLAINT FORM – Councillors’ Code of Conduct

You can use this form to complain about Councillors and co-opted members⁴ of Leeds City Council, or any of the Parish and Town Councils in the Leeds area. However, please note that the Standards Committee can only consider complaints about the behaviour of individual Councillors or members, not about the Council as a whole or the people employed by it.

If you wish to make a complaint about the Council as a whole, or one of its services, please contact ‘Compliments and Complaints’ on 0113 398 4762.

You should refer to the guidance leaflet “How to make complaints about the behaviour of Councillors” for more information about the complaints process, the decisions the Assessment Sub-Committee can reach, and the criteria they will use to make these decisions.

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

⁴ A co-opted member is a voting member of an authority or one of its committees, who was appointed to their position rather than elected.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if your complaint relates to a parish or town council member)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other (please specify: _____)

Making your complaint

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please indicate which sections of the Code of Conduct you believe that the member(s) have breached:

- Failing to treat people with respect
- Conducting themselves in a manner which could reasonably be regarded as bringing his or her office or authority into disrepute
- Using their position as a member improperly to confer on or secure for him or her self or any other person, an advantage or disadvantage
- Doing something which may seriously prejudice their authority's ability to comply with any of its statutory duty under the equality law
- Bullying any person
- Intimidating or attempting to intimidate someone who is or is likely to be a complainant or witness in relation to an investigation
- Doing anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority
- Disclosing information given to them in confidence by anyone, or information acquired which he or she believes is of a confidential nature, except where:
 - They have the consent of a person authorised to give it; or
 - For professional advice, providing the advisor agrees to maintain the confidentiality; or
 - Where disclosure is reasonable and in the public interest, and this disclosure is made in good faith and in accordance with the Council's reasonable requirements⁵.
- Preventing another person from gaining access to information to which that person is entitled to by law
- When using the authority's resources, or authorising their use by others:
 - Not acting in accordance with the authority's requirements; or
 - Allowing such resources to be used for political purposes; or
 - Not having regard to the Local Authority Code of Publicity.
- When taking decisions:
 - Failing to have regard to advice provided by the Chief Finance Officer and the Monitoring Officer⁶; and
 - Failing to give reasons for those decisions in accordance with any statutory requirements or additional requirements imposed by the Council.
- Failing to register their financial or other interests within 28 days of their election or appointment

⁵ Set out in the "Access to Information Procedure Rules", in Part 4 of the Council's Constitution.

⁶ This part of the Code is not mandatory for Parish and Town Councils.

- Failing to update their register of interests within 28 days of a change to their circumstances
- Failing to register any gifts or hospitality (and the source), that they have received in their role as a Member worth over £25
- Failing to declare a personal interest at a meeting
- Failing to declare a prejudicial interest at a meeting (an interest so significant that it is likely to affect their judgement)
- Taking part in the discussion or making a decision where they have a prejudicial interest
- Improperly influencing a decision about a matter that they have a prejudicial interest in

5. Please explain in this section (or on separate sheets) **what the member has done** that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the assessment sub-committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

A large, empty rectangular box with a thin black border, occupying most of the page. This is likely a placeholder for a complaint form or a large text area for providing details.

Only complete this next section if you are requesting that your identity is kept confidential

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless:
- You have reasonable grounds for believing that you will be at risk of physical harm if your identity is disclosed.
 - You are an officer who works closely with the subject member and you are afraid of the consequences to your employment or losing your job if your identity is disclosed.
 - You suffer from a serious health condition and there are medical risks associated with your identity being disclosed. In such circumstances, the Assessment Sub-Committee may wish to request medical evidence of your condition.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The assessment sub-committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

7. Equality monitoring questions

We need to make sure that we provide a fair service to everyone, please put a tick in the boxes that apply to you.

Gender: Male Female

Are you a disabled person? Yes No

Ethnic Origin:

White

- British
- Irish
- Other

Black/Black British

- Caribbean
- African
- Other

Chinese or other ethnic

- Chinese
- Other

Asian/Asian British

- Indian
- Pakistani
- Bangladeshi
- Kashmiri
- Other

Mixed

- White & Black Caribbean
- White & Black African
- White & Asian
- Other

How to complain about the behaviour of a Councillor



Please return your completed form to:

Fax: 0113 39 51599

Email: councillorconduct@leeds.gov.uk

Post: The Assessment Sub-Committee
c/o Governance Services
4th Floor West
Civic Hall
Leeds
LS1 1UR

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LOCAL CODE OF CONDUCT COMPLAINTS PROCESS

Changes to the complaints procedure

The responsibility for considering complaints that a Councillor may have breached the Code of Conduct has moved to the standards committees of local authorities.

What this means to you

If you want to complain about the conduct of a Councillor of Leeds City Council or a Councillor of one of our parish or town councils, you must submit your complaint to:

The Assessment Sub-Committee
c/o Governance Services
4th Floor West
Civic Hall
Leeds
LS1 1UR
Telephone: 0113 39 50035
Fax: 0113 39 51599
Email: councillorconduct@leeds.gov.uk

The Assessment Sub-Committee can only deal with complaints about the behaviour of a Councillor or a co-opted member of Leeds City Council or a Parish or Town Council in the Leeds area. It will not deal with complaints about things that are not covered by the Councillors' Code of Conduct. If you make a complaint to the Assessment Sub-committee it must be about why you think a Councillor has not followed the Code of Conduct.

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Originator: Kate Feltham

Tel: 0113 24 78408

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Final proposals for the 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:
 - Present the proposals for the new local assessment arrangements for dealing with complaints about members made under the Code of Conduct; and
 - Detail the constitutional amendments that will be required to put those arrangements in place.

2. The Committee is asked to agree the proposed arrangements and constitutional amendments in this report.

1.0 Purpose Of This Report

1.1 The purpose of this report is to:

- Present the proposals for the new local assessment arrangements for dealing with complaints about members made under the Code of Conduct; and
- Detail the constitutional amendments that will be required to put those arrangements in place.

2.0 Background Information

2.1 The Local Government and Public Involvement in Health Act 2007 (LGPIHA 2007) has amended the Local Government Act 2000 to make changes to the way that complaints about Members under the Members Code of Conduct are dealt with.

2.2 Under the new local system for dealing with allegations of misconduct by Members, an allegation will no longer be initially assessed by the Standards Board for England. This function is not the responsibility of the Leeds City Council Standards Committee.

2.3 The new regime came into force on 8th May 2008. The Standards Committee (England) Regulations 2008 in relation to the local process were made on 17th April and the Standards Board for England Guidance (that must be taken into account in devising the local arrangements) was published on 2nd May. The Guidance is attached as Appendix 1.

2.4 On 13th February 2008 the Standards Committee agreed some general proposals for the arrangements that need to be put in place in order to carry out the local assessment process.

2.5 Those general proposals were that the assessment and review of complaints made under the Members Code of Conduct will be carried out by sub-committees, and that any final hearings will be dealt with the whole Standards Committee. This report now sets out the detailed arrangements and the amendments to the Constitution that will be required to establish the new local system for dealing with allegations of misconduct made under the Members Code of Conduct.

2.6 The Standards Committee will need to appoint an Assessment Sub-Committee and a Review Sub-Committee. The Standards Committee is also asked to dissolve the Town and Parish Council Hearings Sub-Committee as this will no longer be required.

2.7 The Committee is requested to make the amendments to the Constitution detailed in the Appendices in order that the requirements of the legislation and Standards Board Guidance can be met.

3.0 Main Issues

3.1 Amendments or additions will be required to the following parts of the Constitution:

- a. Amendments to the Standards Committee Procedure Rules
- b. Creation of the Terms of Reference for Assessment Sub-Committee

c. Creation of the Terms of Reference for Review Sub-Committee

- 3.2 The new administrative procedures proposed by the Assistant Chief Executive (Corporate Governance) will also need to be agreed with the Standards Committee and these are covered in the report on the process for the receipt, referral and management of allegations of misconduct.

Make up of the Standards Committee

- 3.3 The authority must ensure that at least 25% of the members of its standards committee are independent members and that only one of its members is an executive member. In addition as Leeds City Council is a responsible authority at least two of the Standards Committee Members must be Parish or Town Council representatives but these cannot also be Leeds City Council Members. The current membership of the Leeds City Council Standards Committee complies with all these requirements.
- 3.4 However, the Standards Board guidance recommends that the number of Parish Council representatives on a Standards Committee is at least three to ensure that there is always a Parish or Town Council Member available without a conflict of interest for the assessment and review stages.

The Assessment Sub-Committee

- 3.5 The Regulations require that the initial assessment of any written allegation of misconduct under the Members Code of Conduct is carried out by a sub-committee that must be appointed by the Standards Committee. The sub-committee must be chaired by an Independent Member. It is proposed that this will be the Assessment Sub-Committee.
- 3.6 It is proposed that the Assessment Sub-Committee membership is to consist of:
- One Independent Member (Chairperson);
 - Two Leeds City Council Members¹; and
 - One Parish or Town Council Member (the Parish or Town Council Member only need attend if the matter involves a Parish or Town Councillor).

The quorum for the Assessment Sub-Committee is proposed to be three.²

- 3.7 The Standards Committee is asked to appoint the Assessment Sub-Committee with Membership as set out in paragraph 3.6.

Initial Assessment of Complaints

- 3.8 When considering an allegation of misconduct that has been made against a Member the Assessment Sub-Committee is required to reach one of the following decisions:

¹ Only one Leeds City Council Member needs to be present if the Parish or Town Council Member is also present, in order for the sub-committee to be quorate.

² Regulations 6 and 7 of the Standards Committee (England) Regulations 2008 state that an independent Member must be the Chair. If the matter involves an LCC member then an LCC member of the Assessment Sub-Committee must be present. If the Matter involves a Town/Parish Council Member then a Town/Parish Council representative must be present. There is no exemption to the requirement for an Independent Member to chair the Sub-Committee due to a prejudicial interest.

- To refer the complaint to the Monitoring Officer for investigation;
- To refer the complaint to the Monitoring Officer for other action;
- To refer the complaint to the Standards Board for England for investigation; or
- That no action should be taken.

3.9 When referring a case to the Monitoring Officer, this can be a referral to the Monitoring Officer of another authority if the subject of the complaint is no longer a Member of Leeds City Council but is a Member of another authority.

Consideration of Investigators' Reports

3.10 Under the current Standards Committee Procedure Rules, when an investigator completes an investigation, they produce a final report setting out their findings. If the investigator concludes in their report that the Member has breached the Code of Conduct (a finding of failure), this would automatically begin the pre-hearing process, and the Standards Committee would consider the report at a hearing. If the investigator concludes that the Member has not breached the Code of Conduct (a finding of no failure), the final report is presented to the Standards Committee during a normal Committee meeting. The Standards Committee then have to decide whether or not they accept the investigators' finding. If they agree with the investigator, the matter is concluded. If they do not agree with the investigator, the matter would be referred to a hearing of the Standards Committee.

3.11 Under the new regulations, all investigators' final reports will need to be considered by the Standards Committee **before** entering the pre-hearing process, even where the investigator has concluded that the Member has breached the Code of Conduct. If the investigator has concluded that the Member has breached the Code (a finding of failure), the Standards Committee would have to decide whether to refer the matter to a hearing of the Standards Committee or to the Adjudication Panel for England. If the investigator has decided that the Member has not breached the Code (a finding of no failure), the Standards Committee will have to decide whether or not they accept the investigator's finding. If they agree with the investigator, the matter is concluded. If they do not agree with the investigator, the Standards Committee must decide whether to refer the matter to a hearing of the Standards Committee or to the Adjudication Panel for England.

In order to avoid any delays in the process, it is proposed that the Assessment Sub-Committee considers these final reports.

3.12 Appendix 2 shows the proposed terms of reference of the Assessment Sub-Committee which sets out the functions that the Assessment Sub-Committee will be authorised to carry out. The Standards Committee is asked to approve these terms of reference.

The Review Sub-Committee

3.13 The Regulations require that the review of any decision by the Assessment Sub-Committee not to take any action in respect of an allegation be carried out by a sub-committee which must be appointed by the Standards Committee and must be chaired by an Independent Member. It is proposed that this will be the Review Sub-Committee. The Members on the Review Sub-Committee cannot be the same

Members who sat on the Assessment Sub-Committee that made the original decision on the case.

- 3.14 It is proposed that the Review Sub-Committee membership is to consist of:
- One Independent Member (Chairperson);
 - Two Leeds City Council Members³; and
 - One Parish or Town Council Member (the Parish or Town Council Member only need attend if the matter involves a Parish or Town Councillor).

The quorum for the Review Sub-Committee is three.⁴

- 3.15 The Standards Committee is asked to appoint the Review Sub-Committee with membership as set out in paragraph 3.14 above.
- 3.16 The Review Sub -Committee will apply the same assessment criteria as the Assessment Sub-Committee and is required to reach one of the following decisions when it is reviewing the decision of the Assessment Sub-Committee:
- To refer the complaint to the Monitoring Officer for investigation;
 - To refer the complaint to the Monitoring Officer for other action;
 - To refer the complaint to the Standards Board for England for investigation; or
 - Uphold the decision of the Assessment Sub-Committee to take no action.
- 3.17 Appendix 3 shows the proposed terms of reference of the Review Sub-Committee which set out the functions that the Review Sub-Committee will be authorised to carry out. The Standards Committee is asked to approve the terms of reference for the Review Sub-Committee.

Final Hearings

- 3.18 The Standards Board Guidance states that there is no requirement that final hearings must be carried out by a sub-committee. The Standards Board Guidance makes it clear that a Member can participate in a hearing if they have been involved in the assessment or review stages, as the earlier stages simply seek to determine whether further action should be taken, they do not result in any findings of fact.
- 3.19 It is proposed that final hearings will continue to be heard by the full Standards Committee. As with the proposed sub-committees the quorum for the Standards Committee is proposed to be three⁵.

Dissolution of the Town and Parish Council Hearings Sub-Committee

- 3.20 The Standards Committee is asked to formally dissolve the Town and Parish Council Hearings Sub-Committee as it is proposed that all cases will be dealt with in

³ Only one Leeds City Council Member needs to be present if the Parish or Town Council Member is also present, in order for the sub-committee to be quorate.

⁴ Regulations 6 and 7 of the Standards Committee (England) Regulations 2008 state that an independent Member must be the Chair. If the matter involves an LCC member then an LCC member of the Review Sub-Committee must be present. If the Matter involves a Town/Parish Council Member then a Town/Parish Council representative must be present. There is no exemption to the requirement for an Independent Member to chair the Sub-Committee due to a prejudicial interest.

⁵ This is the same as the present arrangements as set out in paragraph 28.3 of the Council Procedure Rules.

the same way. A Town or Parish Council Member of the Committee will be present when any matter involving a Town or Parish Council Member is dealt with.

Parish Council Representatives

- 3.21 In the event that a Code of Conduct Complaint was received about a Town or Parish Councillor, and one of the two Town or Parish Councillors on the Standards Committee had a prejudicial interest in that complaint, then the Assessment Sub-Committee could be held. However if there was a request for a review of the Assessment Sub-Committee's decision then a Review Sub-Committee could not be held until after a further Town or Parish Council Representative had been appointed to the Standards Committee. This would cause delay in dealing with a case and it may be that the Standards Committee feel it appropriate to resolve to increase the number of Town or Parish Council Representatives to three at this stage.

Arrangements for calling sub-committee meetings

- 3.22 The usual notice requirements do not apply to the sub-committees when they are initially assessing or reviewing complaints. Assessment Sub-Committee and Review Sub-Committee meetings will therefore be arranged when they are required.
- 3.23 With regard to the Assessment Sub-Committee, the Clerk will establish a date upon which both the Monitoring Officer and the Independent Chair person are available. The Clerk will then contact the remaining members of the Standards Committee. The membership of the Assessment Sub-Committee will be allocated on the basis of those who confirm first that they are available.⁶
- 3.24 With regard to the Review Sub-Committee, this cannot contain members who dealt with the case at the initial Assessment Sub-Committee so this will be arranged by the Clerk depending on the availability of the Monitoring Officer and all the Members of the Committee who are entitled to participate. Again the membership will be allocated on the basis of those who confirm first that they are available as long as the quorum requirements can be met in this way.
- 3.25 The Standards Board guidance states that the initial assessment should be carried out within an average of twenty days from receipt of the complaint. Any subsequent review should be carried out within three months of the decision, however the Standards Board guidance suggests that the reviews should, wherever possible, also be carried out within 20 days.
- 3.26 The Committee is asked to note the arrangements outlined in paragraphs 3.23 and 3.24 above for arranging the Assessment Sub-Committee, and the arrangements in paragraphs 3.23 and 3.25 above for arranging the Review Sub-Committee.

Standards Committee Procedure Rules

- 3.27 The proposed amendments to the Standards Committee Procedure Rules are shown at Appendix 4. The amendments are made to include the new local assessment and review process and to amend the existing procedure rules where required. Further amendments may be required and will be notified to the

⁶ (as long as the quorum requirements can be met in this way).

Committee at the meeting, as guidance and advice continue to emerge from the Standards Board for England.

- 3.28 The main stages of the new process are set out below and the changes required to implement the legislation, regulations and requirements of the Standards Board guidance have been incorporated into the Standards Committee Procedure Rules shown at Appendix 4. The revised Standards Committee Procedure Rules contain references to Appendices 1 and 2 which are the assessment criteria and anonymity criteria will be inserted into the Standards Committee procedure rules once they have been approved by the Committee.
- 3.29 The revised rules differentiate between Code of Conduct Complaints and Local Complaints. Some parts of the procedure will continue to apply to both types of complaint, however many parts of the new local assessment/review arrangements do not apply to Local Complaints and the rules have therefore had to be significantly changed to provide for this.

Initial receipt of complaints

- 3.30 All complaints must be made in writing and submitted to the Assessment Sub-Committee for assessment. Reasonable adjustments under the Disability Discrimination Act 2000 must be considered when necessary.
- 3.31 When a complaint has been addressed to the Monitoring Officer rather than to the Standards Committee the Monitoring Officer should determine if the complaint is about Member Conduct and should be passed to the Standards Committee or whether another course of action is appropriate. In the case of verbal complaints made to the Monitoring Officer, the Monitoring Officer should ask the complainant whether they want to submit a written complaint to the Standards Committee or whether they want to consider informal resolution of the matter.

Acknowledging the complaint

- 3.32 The Monitoring Officer may acknowledge receipt of a written complaint and tell the subject member that a complaint has been made against them. The information⁷ that can be provided at this stage is however limited to:
- Confirmation that a complaint has been made;
 - The name of the complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it);
 - The relevant paragraphs of the Code of Conduct that may have been breached; and
 - Confirmation that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint, and the date of the meeting, if known.

⁷ The Monitoring Officer should be satisfied they have the legal power to disclose this information. The Monitoring Officer should also consider whether advising the Member of the complaint would not be in the public interest. If this would be the case then the subject member should not be advised of the complaint at this stage.

- 3.33 It is proposed that the Monitoring Officer will usually advise the subject Member unless it is considered that advising the member of the complaint would not be in the public interest. The Standards Committee is asked to approve that the Monitoring Officer will advise the subject Member of the complaint unless it is not in the public interest.

Pre-assessment reports and enquires

- 3.34 The Committee is asked to consider whether the Monitoring Officer (or other nominated officer) should prepare a short summary of the complaint for the Assessment Sub-Committee. Such a report would cover:
- Whether the complaint is within the jurisdiction of the Assessment Sub-Committee.
 - The paragraphs of the Code of Conduct that the complaint may relate to or that have been identified by the complainant.
 - A summary of the key points of the complaint if it is particularly complex or long.
 - Any further readily accessible information that has been obtained, for example copies of the members register of interests, minutes, declarations of acceptance of office, other readily obtainable information.

Assessment Criteria

- 3.35 Before the Assessment Sub-Committee go on to apply their assessment criteria, they should be satisfied that each complaint meets the following initial tests:
- It is a complaint against one or more named members of the authority or an authority covered by the Standards Committee;
 - The named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
 - The complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint. Information regarding whether the complaint meets these tests will be contained in the officer's covering report.

- 3.36 If the complaint does meet the above initial tests, the Assessment Sub-Committee must also apply certain assessment criteria to each matter to decide what action to take. These criteria need to be agreed by the Standards Committee.
- 3.37 The assessment criteria should reflect local circumstances and priorities and be simple clear and open. Applying the same criteria to each case will ensure that cases are dealt with consistently and fairly and avoid accusations of bias. The assessment criteria can be reviewed and amended as necessary.
- 3.38 It is important that complainants are confident that complaints about member conduct are taken seriously and dealt with appropriately. At the same time deciding to investigate a complaint or to take some other action will incur resources, both from the public purse and in the time of elected and independent members.

Authorities need to take into account the public benefit in investing in complaints which are less serious, politically motivated, malicious or vexatious.

- 3.39 Using the Standards Board guidance as a basis, the assessment criteria shown at Appendix 5 are proposed for discussion and agreement by the Standards Committee.

Criteria for accepting anonymous complaints

- 3.40 The Committee is asked to decide on the criteria for accepting anonymous complaints. As a matter of fairness and natural justice, a member should usually be told who has complained about them. However, there may be instances where the complainant asks for their identity to be withheld. The Standards Board guidance advises that such requests should only be granted in exceptional circumstances and at the discretion of the Assessment Sub-Committee. It is proposed that the Assessment Sub-Committee consider the request for anonymity alongside the substance of the complaint itself.
- 3.41 The Standards Board advise that Authorities should develop criteria by which the Assessment Sub-Committee will consider requests for anonymity (where the complainant has identified themselves). It is proposed that these criteria are as follows:
- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
 - The complainant is an officer who works closely with the subject member and they are afraid of suffering a disadvantage to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle blowing policy).
 - The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed (in such circumstances, Standards Committees may wish to request medical evidence of the complainant's condition).
- 3.42 When considering requests for anonymity, the Standards Committees should also consider whether it is possible to investigate the complaint without making the complainant's identity known.
- 3.43 If a Standards Committee decides to refuse a request by a complainant for anonymity, the Committee may wish to consider offering the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to remain anonymous and the Assessment Sub-Committee will need to decide where the balance lies in the particular circumstances of each complaint.
- 3.44 Authorities should publish information setting out how anonymous complaints (where the complainant has not identified themselves) will be dealt with. It is proposed that an anonymous complaint should only be referred for investigation or some other action if it is exceptionally serious or significant, and that this is included in the Committee's local assessment criteria.

- 3.45 The Committee are asked to agree the criteria for dealing with requests for anonymity (where the complainant has identified themselves) as proposed in paragraph 3.40.

Notification of Assessment Sub-Committee decision

- 3.46 The decision of the Assessment Sub-Committee will need to be notified to the subject member and the complainant by a decision notice. In the event that a complaint is to be referred to the Monitoring Officer or the Standards Board then the decision should contain a summary of the complaint.⁸
- 3.47 The Assessment Sub-Committee can use its discretion to give limited information to the subject member. Any decision to withhold the summary must be kept under review as circumstances change.

The written summary of the Assessment Sub-Committee or Review Sub-Committee decision

- 3.48 As the Assessment Sub-Committee and Review Sub-Committee may discuss unfounded and potentially damaging complaints about Members it would not be appropriate for them to be held in public. Therefore they are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.⁹ The usual rules about notice, agendas and access to meetings do not therefore apply.
- 3.49 Regulation 8 of the Standards Committee (England) Regulations 2008 provides that once the Assessment Sub-Committee or Review Sub-Committee has considered a complaint a written summary of its consideration of the allegation (or review) must be made available for public inspection. The written summary must record the main points considered, the conclusions as regards the allegation or review of the decision, and the reasons for that conclusion.
- 3.50 This written summary should not be published until the subject member has been given a summary of the complaint against them as detailed in paragraph 3.45 above.

Review of New Arrangements

- 3.51 As the new arrangements will result in a significant number of changes to the Standards Committee Procedure Rules it is proposed that the operation of the Rules will be reviewed in three months. This will allow time to assess the new process and will enable changes to be made if required.

⁸ Unless the Assessment Sub-Committee decides that doing so would be against the public interest or would prejudice any future investigation. The Assessment Sub-Committee should take advice from the Monitoring Officer on this point.

⁹ According to Regulation 8(5) of the Standards Committee (England) Regulations 2008.

4.0 Implications For Council Policy And Governance

- 4.1 The authority is required to locally assess and review complains of misconduct. The changes and procedures detailed in this report are required in order for the Council to carry out it's statutory role in relation to dealing with allegations of misconduct.
- 4.2 It is in the interests of good governance that the Council's procedures and constitution are updated and amended to reflect the requirements of changes to legislation.

5.0 Legal and Resource Implications

- 5.1 Whilst additional resources have been identified to implement the local assessment and review process, the resource implications of the new arrangements will continue to be kept under review.

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 the Committee to appoint an Assessment Sub-Committee and a Review Sub-Committee. The Town and Parish Council Hearings Sub-Committee will require dissolving.
- 6.3 The changes also require amendments to the Constitution which are shown in the Appendices.

7.0 Recommendations

- 7.1 Members of the Committee are asked to:
- 1) appoint the Assessment Sub-Committee with membership as set out in paragraph 3.6;
 - 2) approve the terms of reference for the Assessment Sub-Committee as shown in Appendix 2;
 - 3) appoint the Review Sub-Committee with membership as set out in paragraph 3.14;
 - 4) approve the terms of reference for the Review Sub-Committee as shown in Appendix 3;
 - 5) formally dissolve the Town and Parish Council Hearings Sub-Committee, as proposed in paragraph 3.20;
 - 6) approve the amended Standards Committee Procedure Rules as shown in Appendix 4;
 - 7) agree that the Monitoring Officer will advise the subject Member of the complaint unless it is not in the public interest;

- 8) agree that the Monitoring Officer or other nominated officer will prepare a short summary of each complaint for the Assessment Sub-Committee;
- 9) agree the proposed assessment criteria as shown in Appendix 5 of this report;
- 10) agree a set of criteria for deciding whether complaints should be considered anonymously, as proposed in paragraphs 3.41; and
- 11) agree that a review of the operation of the new Standards Committee Procedure Rules be undertaken after 3 months.

LOCAL ASSESSMENT OF COMPLAINTS

Contents

- introduction
- pre-assessment
- assessment
- decision
- review
- other issues to consider

contents

introduction	3
Regulations	4
Background	4
Responsibilities	4
pre-assessment	7
Publicising the complaints system	7
The submission of complaints and accessibility	7
Acknowledging receipt of a complaint	9
Pre-assessment reports and enquiries	10
assessment	11
Initial tests	11
Developing assessment criteria	11
decision	13
Initial assessment decisions	13
Referral for local investigation	13
Referral to the Standards Board for England	13
Referral back to a standards committee from the Standards Board for England	15
Referral for other action	15
Decision to take no action	17
Notification requirements – local assessment decisions	18

contents

review	20
Reviews of 'no further action' decisions	20
Notification requirements – reviews of local assessment decisions	20
other issues to consider	22
Access to meetings and decision making	22
Withdrawing complaints	22
Multiple and vexatious complaints	23
Case history	24
Confidentiality	25
Anonymous complaints	25
Members with conflicts of interest	26
Officers with conflicts of interest	27
Personal conflicts	27
Complaints about members of more than one authority	28

introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the assessment of complaints that a member may have breached the Code of Conduct.

It details each stage of the assessment of complaints and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required.

The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the assessment of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the assessment of complaints must take this guidance into account when doing so.

You can contact the Standards Board for England on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**

introduction

Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of the local assessment of complaints. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue more regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

Background

More than 100,000 people give their time as members of authorities. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly.

Anyone who considers that a member may have breached the Code of Conduct may make a complaint to that member's local

standards committee. Each complaint must then be assessed to see if it falls within the authority's legal jurisdiction. A decision must then be made on whether some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that the committee assessing the complaint has made up its mind about the allegation. It simply means that the committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

The process for dealing with matters at a local level should be the same for all members. It must be fair and be seen to be fair.

Responsibilities

The assessment of complaints that a member may have breached the Code of Conduct is a new function for standards committees. It was previously undertaken centrally by the Standards Board for England.

Where a member is the subject of an allegation, we shall refer to that member as a **subject member**.

We shall use the term **independent member** to describe a person – not a member or officer of that or any other relevant authority – who is appointed to an authority's standards committee. Independent members work with the

introduction

authority to develop and maintain standards of conduct for members and are appointed under Section 53 of the Local Government Act 2000 and Regulation 5 of the regulations. At least 25% of the members of a standards committee must be independent members.

In order to carry out its functions efficiently and effectively, the standards committee must establish sub-committees. Creating sub-committees will allow the separate functions involved in the handling of cases to be carried out without conflicts of interest. These functions are:

- the **initial assessment** of a complaint received by the standards committee
- any **request** a standards committee receives from a complainant **to review its decision to take no action in relation to a complaint**

The standards committee must establish a sub-committee which is responsible for assessing complaints that a member may have breached the Code. We shall refer to this as the **assessment sub-committee**.

The assessment sub-committee will need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

A complainant may make a request for a review of a standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a sub-committee which is

responsible for carrying out these reviews. We shall refer to this as the **review sub-committee**.

This committee will also need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

There should be a minimum of three independent members on the standards committee to ensure that there is an independent member available without a conflict of interest for both the assessment and review sub-committees.

The standards committee can then effectively carry out these statutory functions, allowing for the situation of one independent member of the standards committee being absent or unavailable.

If the authority is responsible for any parish or town councils there should also be a minimum of three parish or town council representatives on the standards committee. This will ensure that there is a parish or town council representative available without a conflict of interest for both the assessment and review sub-committees when a complaint is considered about a member of a parish or town council.

The assessment and review sub-committees are not required to have fixed membership or a fixed chair.

Standards committee members who have been involved in decision making on the

introduction

initial assessment of a complaint must not take part in the review of that decision.

This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

Standards committee members involved in a complaint's initial assessment, or in a review of a standards committee's previous decision to take no further action, can take part in any subsequent standards committee hearing.

The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The assessment and review sub-committees make no findings of fact. Therefore, a member involved at the initial stage or the review stage may participate in a subsequent hearing, because a conflict of interest does not automatically arise.

pre-assessment

Publicising the complaints system

Each authority is required to publish a notice detailing where Code of Conduct complaints should be sent to. This is to ensure that members of the public are aware of the change of responsibility for handling Code complaints and what the process entails. If an authority is responsible for parish and town councils, the notice should make this clear.

The complaints system may be publicised through:

- an authority's website
- advertising in one or more local newspapers
- an authority's own newspaper or circular
- notices in public areas such as local libraries or authority reception areas

It is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary.

The standards committee must also continue to publicise regularly the address that misconduct complaints should be sent to. In addition, the standards committee needs to alert the public to any changes in such arrangements.

Authorities need to think carefully about how publicity for their complaints system is worded. This is to ensure that members of the public are clear about how to complain, who to complain to, and if there may be an alternative to a formal complaint to the standards committee.

Authorities should also consider whether their constitution requires an amendment to reflect the introduction of the local assessment of complaints. The constitution should make it clear that the citizen's right is to complain to the local standards committee and not to the Standards Board for England.

The standards committee must publish, in whatever manner it considers appropriate, details of the procedures it will follow in relation to any written allegation received about a member.

The submission of complaints and accessibility

There are two main ways in which authorities can set up procedures for the submission of complaints that a member may have breached the Code of Conduct:

- Authorities may choose to integrate the making of Code complaints into the existing complaints framework. This will mean that when a complaint is received, it can be analysed to decide which of the complaints processes is most appropriate. The authority can then advise the complainant accordingly.
- Authorities may choose to develop a separate process for Code complaints so the process for such complaints is distinct from all other complaints.

When deciding which option is most appropriate, authorities should consider that some complainants will not know where to direct their complaint.

pre-assessment

Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with incoming complaints will need to be alert to a complaint that a member may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the assessment sub-committee for consideration.

Where an authority is responsible for parish and town councils, it should make this clear. It should also consider whether a separate complaint form or section of a complaint form should be used.

Where an existing complaint system is used, complaint forms may need to be amended to take into account complaints under the Code. Alternatively, authorities that choose to develop a separate system for the submission of Code complaints may produce a separate complaint form for this.

Without using a separate complaint form, authorities may find it sufficient to give clear guidelines as to the information that complainants need to provide.

This should include:

- the complainant's name, address and other contact details
- complainant status, for example, member of the public, fellow member or officer

- who the complaint is about and the authority or authorities that the member belongs to
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information
- equality monitoring data if applicable, for example nationality of the complainant
- a warning that the complainant's identity will normally be disclosed to the subject member. **Note:** in exceptional circumstances, if it meets relevant criteria and at the discretion of the standards committee, this information may be withheld.

Complaints must be submitted in writing. This includes fax and electronic submissions. However, the requirement for complaints to be submitted in writing must be read in conjunction with the Disability Discrimination Act 1995 and the requirement to make reasonable adjustments.

An example of this would be in assisting a complainant who has a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.

Authorities should also consider what support should be made available to

pre-assessment

complainants where English is not the complainant's first language.

When a complaint is addressed to the authority's monitoring officer, the monitoring officer should determine whether the complaint should be directed to the assessment sub-committee or whether another course of action is appropriate. If the complaint is clearly not about member conduct, then the monitoring officer does not have to pass it to the assessment sub-committee.

A complaint may not necessarily be made in writing, for example it may be a concern raised with the monitoring officer verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing to the standards committee. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant.

Acknowledging receipt of a complaint

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them. When considering whether to do so, they should bear in mind the standards committee's procedures with regard to withholding summaries. Please see the section on **Notification requirements** on **page 18** for further information.

The notification can say that a complaint has been made, and state the name of the

complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint, and the date of this meeting, if known.

If a monitoring officer chooses to tell a subject member, the monitoring officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In particular, the monitoring officer will need to consider any of the restrictions set out in Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the regulations. These are the provisions which deal with restrictions on disclosure of information. Additionally, the impact of the Data Protection Act 1998 should be considered.

Only the standards committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member.

The administrative processes that the authority adopts should be agreed with the standards committee as part of the processes and procedures that they must publish.

pre-assessment

Pre-assessment reports and enquiries

Authorities may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the assessment sub-committee to consider. This could, for example, set out the following details:

- whether the complaint is within jurisdiction
- the paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified
- a summary of key aspects of the complaint if it is lengthy or complex
- any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:
 - a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
 - b) minutes of meetings
 - c) a copy of a member's entry in the register of interests
 - d) information from Companies House or the Land Registry
 - e) other easily obtainable documents

Officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted.

Pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member.

Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee's decision or make the decision for it.

assessment

Initial tests

Before assessment of a complaint begins, the assessment sub-committee should be satisfied that the complaint meets the following tests:

- it is a complaint against one or more named members of the authority or an authority covered by the standards committee
- the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

Developing assessment criteria

The standards committee or its assessment sub-committee will need to develop criteria against which it assesses new complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all new complaints by established criteria will also protect the committee members from accusations of bias. Assessment criteria can be reviewed and amended as necessary but this should not be done during consideration of a matter.

In drawing up assessment criteria, standards committees should bear in mind the importance of ensuring that complainants are confident that complaints about member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

To assist in developing the criteria for accepting a complaint or for deciding to take no further action on it, a standards committee or assessment sub-committee may want to ask itself the following questions and consider the following response statements. These will provide a good foundation for developing assessment criteria in the context of local knowledge and experience:

assessment

Q: Has the complainant submitted enough information to satisfy the assessment sub-committee that the complaint should be referred for investigation or other action?

If the answer is **no**: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the assessment sub-committee is taking no further action on this complaint.”

Q: Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the assessment sub-committee wish to refer the complaint to the monitoring officer of that other authority?

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the standards committee of that authority to consider.”

Q: Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If the answer is **yes**: “The matter of complaint has already been subject to a

previous investigation or other action and there is nothing more to be gained by further action being taken.”

Q: Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

If the answer is **yes**: “The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted.”

Q: Is the complaint too trivial to warrant further action?

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

Q: Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If the answer is **yes**: “The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted”.

The assessment criteria that the standards committee adopts should be made publicly available.

decision

Initial assessment decisions

The assessment sub-committee should complete its initial assessment of an allegation within an average of 20 working days, to reach a decision on what should happen with the complaint.

The assessment sub-committee is required to reach one of the three following decisions on a complaint about a member's actions in relation to the Code of Conduct:

- referral of the complaint to the monitoring officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority
- referral of the complaint to the Standards Board for England
- no action should be taken in respect of the complaint

New rules have been made about what the assessment sub-committee must do when a decision has been made. Please see the section on **Access to meetings and decision making** on **page 22** for further information.

The time that the assessment sub-committee takes to carry out its initial assessment of a complaint is key in terms of being fair to the complainant and the subject member. It is also in the public interest to make a timely decision within an average of 20 working days. The assessment sub-committee should

therefore aim to achieve this target wherever possible.

Referral for local investigation

When the assessment sub-committee considers a new complaint, it can decide that it should be referred to the monitoring officer for investigation.

The monitoring officer must write to the relevant parties informing them of the decision and, if appropriate, advising who will be responsible for conducting the investigation. Please see the section on **Notification requirements** on **page 18** for further information.

Referral to the Standards Board for England

In most cases, authorities will be able to deal with the investigation of complaints concerning members of their authorities and, where relevant, the parish and town councils they are responsible for. However, there will sometimes be issues in a case, or public interest considerations, which make it difficult for the authority to deal with the case fairly and speedily. In such cases, the assessment sub-committee may wish to refer a complaint to the Standards Board to be investigated by an ethical standards officer.

If the assessment sub-committee believes that a complaint should be investigated by the Standards Board, it must take immediate steps to refer the matter. It would be helpful if the assessment

decision

sub-committee let us know the paragraph or paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why it cannot be dealt with locally.

We may accept cases for investigation by an ethical standards officer, take no action, or refer cases back to the standards committee which referred them. When deciding which of these actions to take, we will be principally concerned with supporting the ethical framework nationally and locally.

We will take the following matters into account in deciding which cases we should accept in the public interest:

- Does the standards committee believe that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for them to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's cabinet or standards committee?
- Does the standards committee believe that the status of the complainant or complainants would make it difficult for the standards committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or standards committee, the chief executive, the monitoring officer or other senior officer?
- Does the standards committee believe that there is a potential conflict of interest of so many members of the standards committee that it could not properly monitor the investigation?
- Does the standards committee believe that there is a potential conflict of interest of the monitoring officer or other officers and that suitable alternative arrangements cannot be put in place to address the conflict?
- Is the case so serious or complex, or involving so many members, that it cannot be handled locally?
- Will the complaint require substantial amounts of evidence beyond that available from the authority's documents, its members or officers?
- Is there substantial governance dysfunction in the authority or its standards committee?
- Does the complaint relate to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority?
- Does the complaint raise significant or unresolved legal issues on which a national ruling would be helpful?
- Might the public perceive the authority to have an interest in the outcome of a case? For example if the authority could be liable to be judicially reviewed if the complaint is upheld.
- Are there exceptional circumstances which would prevent the authority or its

decision

standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation?

We will normally inform the monitoring officer within ten working days whether we will accept a case or whether we will refer it back to the standards committee, with reasons for doing so. There is no appeal mechanism against our decision.

Referral back to a standards committee from the Standards Board for England

If we decline to investigate a complaint referred to us, we will normally send it back to the authority's standards committee with the reasons why. The standards committee must then decide what action should be taken next.

The assessment sub-committee must again take an assessment decision and should complete this within an average of 20 working days.

This may be a decision not to take any further action, to refer the matter for local investigation, or to refer the matter for some other form of action. As the assessment sub-committee initially decided that the matter was serious enough to be referred to the Standards Board for investigation, it is likely that it will still think that it should be investigated.

However, if the circumstances of the complaint have changed since the

assessment sub-committee's original decision, it may be reasonable to take a different decision. This decision will again need to be communicated to relevant parties in the same way as the original decision was. Please see the section on **Notification requirements** on **page 18** for further information.

If we decline to investigate a case referred to us, we may, in the circumstances, offer guidance or give a direction to the standards committee, which may assist with the standards committee's decision.

In exceptional circumstances, we may decide to take no further action on a complaint referred to us by a standards committee. This is likely to be where circumstances have changed so much that there would be little benefit arising from investigation or other action, or because we do not consider that the complaint discloses a breach of the Code of Conduct.

Referral for other action

When the assessment sub-committee considers a new complaint, it can decide that other action to an investigation should be taken and it can refer the matter to the monitoring officer to carry this out. It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. The assessment sub-committee must consult its monitoring officer before reaching a decision to take other action.

decision

The suitability of other action is dependent on the nature of the complaint. Certain complaints that a member has breached the Code of Conduct will lend themselves to being resolved in this way. They can also indicate a wider problem at the authority concerned. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way to resolve matters that are less serious. Other action can be the simplest and most cost effective way of getting the matter resolved, helping the authority to work more effectively, and of avoiding similar complaints in the future.

The assessment sub-committee can choose this option in response to an individual complaint or a series of complaints. The action decided upon does not have to be limited to the subject member or members. In some cases, it may be less costly to choose to deal with a matter in this way rather than through an investigation, and it may produce a more effective result.

It is not possible to set out all the circumstances where other action may be appropriate, but an example is where the authority to which the subject member belongs appears to have a poor understanding of the Code and authority procedures. Evidence for this may include:

- a number of members failing to comply with the same paragraph of the Code
- officers giving incorrect advice
- failure to adopt the Code
- inadequate or incomplete protocols for use of authority resources

Other action may also be appropriate where a breakdown in relationships within the authority is apparent, evidence of which may include:

- a) a pattern of allegations of disrespect, bullying or harassment
- b) factionalised groupings within the authority
- c) a series of 'tit-for-tat' allegations
- d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures

The assessment sub-committee is encouraged to consider other action on a practical basis, taking into account the needs of their own authority and of the parish and town councils which they serve. Everyone involved in the process will need to understand that the purpose of other action is not to find out whether the member breached the Code – the decision is made as an alternative to investigation. If the monitoring officer embarks on a course of other action, they should emphasise to the parties concerned that no conclusion has been reached on whether the subject member failed to comply with the Code.

Complaints that have been referred to the monitoring officer for other action should not then be referred back to the standards committee if the other action is perceived to have failed. This is unfair to the subject member, and a case may be jeopardised if it has been discussed as part of a mediation process. There is also a difficulty with defining 'failure' in terms of

decision

the other action undertaken. The decision to take other action closes the opportunity to investigate and the assessment sub-committee should communicate this clearly to all parties.

Standards committees may find it helpful to introduce a requirement for the parties involved to confirm in writing that they will co-operate with the process of other action proposed. An example of this would be writing to the relevant parties outlining:

- what is being proposed
- why it is being proposed
- why they should co-operate
- what the standards committee hopes to achieve

However authorities choose to take this forward, the important thing is that all parties are clear about what is, and what is not, going to happen in response to the complaint.

The following are some examples of alternatives to investigation:

- arranging for the subject member to attend a training course
- arranging for that member and the complainant to engage in a process of conciliation
- instituting changes to the procedures of the authority if they have given rise to the complaint

Standards committees may find that resolving a matter in this way is relatively

quick and straightforward compared to a full investigation.

Decision to take no action

The assessment sub-committee can decide that no action is required in respect of a complaint. For example, this could be because the assessment sub-committee does not consider the complaint to be sufficiently serious to warrant any action. Alternatively, it could be due to the length of time that has elapsed since the alleged conduct took place and the complaint was made. The decision reached by the assessment sub-committee and the reasons for it should adhere to the assessment criteria that the standards committee or assessment sub-committee have agreed.

It is important to underline that where no potential breach of the Code of Conduct is disclosed by the complaint, no matter what its source or whoever the subject member, no action can be taken by the standards committee in respect of it. The matter of referral for investigation or other action therefore does not arise.

The complainant should be advised of their right to ask for a review of a decision to take no action. They should be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review. The complainant should be advised of the date by which their review request should be received by the standards committee.

decision

That date is 30 working days after the initial assessment decision is received.

Notification requirements – local assessment decisions

If the assessment sub-committee decides to take no action over a complaint, then as soon as possible after making the decision it must give notice in writing of the decision and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed, the assessment sub-committee must explain in the decision notice what the allegation was and why they believe this to be the case. This notice must be given to the relevant parties.

The relevant parties will be the complainant and the subject member. If the subject member is a parish or town councillor, their parish or town council must also be notified. We suggest that the standards committee sends out its decision notice within five working days of the decision being made.

If the assessment sub-committee decides that the complaint should be referred to the monitoring officer or to the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must explain why a particular referral decision has been made. After it has made its decision, the assessment sub-committee does not have

to give the subject member a summary of the complaint, if it decides that doing so would be against the public interest or would prejudice any future investigation.

This could happen where it is considered likely that the subject member may intimidate the complainant or the witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. The assessment sub-committee needs to take such possibilities into account when developing with its monitoring officer any process that notifies a member about a complaint made against them.

The assessment sub-committee should take advice from the monitoring officer in deciding whether it is against the public interest to inform the subject member of the details of the complaint made against them. It should also take advice from the monitoring officer in deciding whether informing the subject member of the details of the complaint would prejudice a person's ability to investigate it.

The monitoring officer will need to carry out an assessment of the potential risks to the investigation. This is to determine whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member. An example of this is allowing the subject member to preserve any evidence. The monitoring officer should then advise the assessment sub-committee accordingly.

decision

The assessment sub-committee can use its discretion to give limited information to the subject member if it decides this would not be against the public interest or prejudice any investigation. Any decision to withhold the summary must be kept under review as circumstances change.

review

Reviews of 'no further action' decisions

If the assessment sub-committee decides not to take any action on a complaint, then the complainant has a right of review over that decision.

The review sub-committee must carry out its review within a maximum of three months of receiving the request. We recommend that the review sub-committee adopts a policy of undertaking the review within the same timescale as the initial assessment decision is taken, aiming to complete the review within an average of 20 working days.

The review must be, and must be seen to be, independent of the original decision. Members of the assessment sub-committee who made the original decision must not take part in the review of that decision. A separate review sub-committee, made up of members of the standards committee, must consider the review.

The review sub-committee should apply the same criteria used for initial assessment. The review sub-committee has the same decisions available to it as the assessment sub-committee.

There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such cases, the review sub-committee should consider carefully if it is more appropriate to pass this to the assessment sub-committee to be handled as a new

complaint. In this instance, the review sub-committee will still need to make a formal decision that the review request will not be granted.

For example, a review may be more appropriate if a complainant wishes to challenge that:

- not enough emphasis has been given to a particular aspect of the complaint
- there has been a failure to follow any published criteria
- there has been an error in procedures

However, if more information or new information of any significance is available, and this information is not merely a repeat complaint, then a new complaint rather than a request for review may be more suitable.

Notification requirements – reviews of local assessment decisions

If the standards committee receives a review request from the complainant, it must notify the subject member that it has received the request. We recommend that all relevant parties are notified when a review request is received.

When the review sub-committee reviews the assessment sub-committee's decision it has the same decisions available to it that the assessment sub-committee had. It could be decided that no action should be taken on the complaint. In this case, the review sub-committee must, as soon as

review

possible after making the decision, give the complainant and the subject member notice in writing of both the decision and the reasons for the decision. If the subject member is a parish or town councillor, the review sub-committee must also give written notice to the parish or town council.

If it is decided that the complaint should be referred to the monitoring officer or to the Standards Board for England, the standards committee should write to the relevant parties telling them this and letting them have a summary of the complaint. The decision notice must explain why that particular referral decision has been made.

We recommend that the review sub-committee sends out its decision notice within five working days of the decision being made.

other issues to consider

Access to meetings and decision making

Initial assessment decisions, and any subsequent review of decisions to take no further action on a complaint, must be conducted in closed meetings. These are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.

Such meetings may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. As such, a standards committee undertaking its role in the assessment or review of a complaint is not subject to the following rules:

- rules regarding notices of meetings
- rules on the circulation of agendas and documents
- rules over public access to meetings
- rules on the validity of proceedings

Instead, Regulation 8 of the regulations sets out what must be done after the assessment or review sub-committee has considered a complaint. The new rules require a written summary to be produced which must include:

- the main points considered
- the conclusions on the complaint
- the reasons for the conclusion

The summary must be written having regard to this guidance and may give the name of the subject member unless doing so is not in the public interest or would prejudice any subsequent investigation.

The written summary must be made available for the public to inspect at the authority's offices for six years and given to any parish or town council concerned. The summary does not have to be available for inspection or sent to the parish or town council until the subject member has been sent the summary.

In limited situations, a standards committee can decide not to give the written summary to the subject member when a referral decision has been made and, if this is the case, authorities should put in place arrangements which deal with when public inspection and parish or town council notifications will occur. This will usually be when the written summary is eventually given to the subject member during the investigation process. Please see the section on **Notification requirements** on **page 18** for further information.

Review of a decision to take no further action on a complaint is not subject to access to information rules in respect of local government committees.

In addition, authorities must have regard to their requirements under Freedom of Information and Data Protection legislation.

Withdrawing complaints

There may be occasions when the complainant asks to withdraw their complaint prior to the assessment sub-committee having made a decision on it.

other issues to consider

In these circumstances, the assessment sub-committee will need to decide whether to grant the request. It would be helpful if the assessment sub-committee had a framework by which to consider such requests. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the subject member, or an associate of theirs, to withdraw the complaint?

Multiple and vexatious complaints

An authority may receive a number of complaints from different complainants about the same matter. Authorities should have procedures in place to ensure that they are dealt with in a manner that is a practical use of time and resources.

A number of complaints about the same matter may be considered by the assessment sub-committee at the same meeting. If so, an officer should be asked to present one report and recommendation that draws together all the relevant

information and highlights any substantively different or contradictory information. However, the assessment sub-committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

Unfortunately, a small number of people abuse the complaints process. Authorities may want to consider developing a policy to deal with this. For example, they could bring it within the scope of any existing authority policies on vexatious or persistent complainants, or take action to limit an individual's contact with the authority.

However, standards committees must consider every new complaint that they receive in relation to the Code of Conduct. If the standards committee has already dealt with the same complaint by the same person and the monitoring officer does not believe that there is any new evidence, then a complaint does not need to be considered.

A person may make frequent allegations about members, most of which may not have any substance. Despite this, new allegations must still be considered as they may contain a complaint that requires some action to be taken.

Even where restrictions are placed on an individual's contact with the authority, they cannot be prevented from submitting a complaint.

Vexatious or persistent complaints or complainants can usually be identified through the following patterns of

other issues to consider

behaviour, which may become apparent in the complaints process:

- repeated complaints making the same, or broadly similar, complaints against the same member or members about the same alleged incident
- use of aggressive or repetitive language of an obsessive nature
- repeated complaints that disclose no potential breach of the Code
- where it seems clear that there is an ulterior motive for a complaint or complaints
- where a complainant refuses to let the matter rest once the complaints process (including the review stage) has been exhausted

There are ways that authorities can reduce the resources expended. For example, they can allow a vexatious complainant to deal with only one named officer or refuse email communication. Authorities can also include a statement in their referrals criteria that malicious or tit-for-tat complaints are unlikely to be investigated unless they also raise serious matters. This will allow authorities to decide not to investigate or take other action on such complaints if appropriate.

Case history

Authorities should consider developing a complaints management system. Records of all complaints and their outcomes

should be retained in line with the authority's records management policy. This policy may need to be amended to reflect the authority's new responsibilities in the local assessment of complaints.

Documents that relate to complaints that the assessment sub-committee decided not to investigate should be kept for a minimum of 12 months after the outcome of any review that has been concluded. This is in case of legal challenges, and also in order to meet the Standards Board for England's monitoring requirements.

Authorities should set a time limit for records retention after the outcome of any hearing or result of further action in respect of a complaint is known. This should be set in accordance with the authority's own file retention policy and in accordance with the principles of data protection.

Authorities should keep details of cases in a format that is easy to search by complainant name, by member name, and by authority where an authority is responsible for parish and town councils. Authorities may also want to search by paragraph of the authority's Code of Conduct.

Old cases may be relevant to future complaints if they show a pattern of behaviour. Authorities will also be able to identify complaints about the same matter that have already been considered by the standards committee.

other issues to consider

Authorities will need to consider records management alongside the law on keeping records of committees.

Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them. However, there may be instances where the complainant asks for their identity to be withheld. Such requests should only be granted in exceptional circumstances and at the discretion of the assessment sub-committee. The assessment sub-committee should consider the request for confidentiality alongside the substance of the complaint itself.

Authorities should develop criteria by which the assessment sub-committee will consider requests for confidentiality. These may include the following:

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
- The complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle-blowing policy).
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such

circumstances, standards committees may wish to request medical evidence of the complainant's condition.

In certain cases, such as allegations of bullying, revealing the identity of the complainant may be necessary for investigation of the complaint. In such cases the complainant may also be given the option of requesting a withdrawal of their complaint.

When considering requests for confidentiality, the assessment sub-committee should also consider whether it is possible to investigate the complaint without making the complainant's identity known.

If the assessment sub-committee decides to refuse a request by a complainant for confidentiality, it may wish to offer the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject member. The assessment sub-committee will need to decide where the balance lies in the particular circumstances of each complaint.

Anonymous complaints

Authorities should publish a statement setting out how complaints received anonymously will be dealt with. The assessment sub-committee may decide that an anonymous complaint should only be referred for investigation or some other action if it includes documentary or

other issues to consider

photographic evidence indicating an exceptionally serious or significant matter. If so, this needs to be included in the standards committee's assessment criteria.

Members with conflicts of interest

Note: this section does not deal with any interests which may arise under the Code of Conduct, which members must also keep in mind and deal with as appropriate.

A member of the standards committee who was involved in any of the following decisions **can** be a member of the committee that hears and determines the complaint at the conclusion of an investigation:

- the initial assessment decision
- a referral back for another assessment decision
- a review of an assessment decision

The assessment decision relates only to whether the complaint discloses something that needs to be investigated or referred for other action. It does not determine whether the conduct took place or whether it was a breach of the Code. The standards committee hearing the case will decide on the evidence before it as to whether the Code has been breached and, if so, if any sanction should apply.

The assessment process must be conducted with impartiality and fairness. There may be cases where it would not be

appropriate for a member to be involved in the process, even if not disqualified from doing so by law. Any member who is a complainant or one of the following should not participate in the assessment process:

- anyone closely associated with someone who is a complainant
- a potential witness or victim relating to a complaint

In certain situations, a standards committee member might initially be involved with the initial assessment of a case that is then referred to the Standards Board for England or to the authority's monitoring officer. The case might then be referred back to the standards committee to consider again. In such circumstances, the member may continue their participation in the assessment process.

However, a standards committee member who is involved at these assessment stages of the process, either initially or following a referral back from the Standards Board or monitoring officer, must not participate in the review of that decision.

Authorities should ensure that their standards committee has sufficient independent members, and parish or town representatives where applicable, for the framework to operate effectively. This should allow for circumstances where members are unable to participate for reasons of conflict of interest.

other issues to consider

Officers with conflicts of interest

An officer who has previously advised a subject member or who has advised the complainant about the issues giving rise to a complaint should consider whether they can properly take part in the assessment process. For example, a conflict of interest could mean that the officer will not be able to:

- draft letters
- prepare reports
- contact complainants
- attend the final hearing of that complaint

The officer should also consider whether they should stand aside due to their prior involvement, which has been such that others involved may view them as biased. Officers should take legal advice if they have any doubts.

If the officer has taken part in supporting the assessment or hearing process then they should not be involved in the investigation of that matter. This is so that the officer can minimise the risk of conflicts of interest that may arise and ensure fairness for all parties.

The monitoring officer should act as the main adviser to the standards committee unless the monitoring officer has an interest in a matter that would prevent them from performing the role independently.

If the monitoring officer is unable to take part in the assessment process, their role

should be delegated to another appropriate officer of the authority, such as the deputy monitoring officer. Similarly, the role of any other officer who is unable to take part in the assessment process should be taken by another officer.

Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities. This is to ensure that an experienced officer is available to deputise for the monitoring officer if they are unable to take part in the assessment process.

Personal conflicts

Members and officers should take care to avoid any personal conflicts of interest arising when participating in the consideration of a complaint that a member may have breached the Code of Conduct. The provisions of the authority's Code relating to personal and prejudicial interests apply to standards committee members in meetings and hearings.

Anyone who has a prejudicial interest or who is involved with a complaint in any way should not take part in the assessment or review sub-committee. Decisions made in an assessment or review sub-committee should not be influenced by anything outside the papers and advice put before the members in that committee. The members should not discuss complaints with others who are not members of the committee which deals with the assessment or review. Discussions between members should only take place at official meetings.

other issues to consider

Authorities should have clear guidelines in place on when a member or officer should not take part in the assessment of a complaint because of personal interests. These may include consideration of the following:

- The complaint is likely to affect the well-being or financial position of that member or officer or the well-being or financial position of a friend, family member or person with whom they have a close association.
- The member or officer is directly or indirectly involved in the case in any way.
- A family member, friend or close associate of the member or officer is involved in the case.
- The member or officer has an interest in any matter relating to the case. For example, it concerns a member's failure to declare an interest in a planning application in which the member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.

Complaints about members of more than one authority

The introduction of the local assessment of complaints may raise an issue relating to what should happen if a complaint is made against an individual who is a member of more than one authority – often known as a dual-hatted member.

In such cases, the member may have failed to comply with more than one authority's Code of Conduct. For example, an individual who is a member of a district council and a police authority may be the subject of complaints that they have breached the Code of both authorities. As such, it would be possible for both the assessment sub-committee of the district council and the assessment sub-committee of the police authority to receive complaints against the member.

Where a complaint is received about a dual-hatted member, the monitoring officer of the authority should check if a similar allegation has been made to the other authority, or authorities, on which the member serves.

Decisions on which standards committee should deal with a particular complaint must then be taken by the standards committees themselves, following discussion with each other. They may take advice as necessary from the Standards Board for England.

This will allow for a cooperative approach, including sharing knowledge and information about local circumstances, and cooperation in carrying out investigations to ensure resources are used effectively.

Authorities should also consider whether they need to establish a data sharing protocol with other relevant authorities. The government and the Information Commissioner's Office have produced guidance on such protocols. Visit www.ico.gov.uk for further details on the work of the Information Commissioner.

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The Standards Committee – Assessment Sub-Committee

The Standards Committee - Assessment Sub-Committee is authorised to discharge the following functions¹:

1. To receive, consider and initially assess² any written allegations³ of misconduct⁴ made against Members in relation to Code of Conduct Complaints.
2. To receive completed Investigation reports in relation to Code of Conduct Complaints and make the relevant findings under Regulation 17 The Standards Committee (England) Regulations 2008.
3. To receive completed Investigation reports in relation to Local Complaints and make the relevant findings under the Standards Committee Procedure Rules⁵.

¹ 'These 'functions' are discharged both in relation to Leeds City Council and its Members, and parish councils wholly or mainly in its area and the Members of those parish councils.

² Section 57A Local Government Act 2000

³ written allegations made by any person under section 57A Local Government Act 2000.

⁴ "misconduct" for these purposes means a breach of the Members Code of Conduct adopted by Leeds City Council or any of the Parish and Town Councils wholly or mainly within its area.

⁵ SCPR Rule 13.3

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The Standards Committee – Review Sub-Committee

The Standards Committee - Review Sub-Committee is authorised to discharge the following functions¹:

1. To review², upon the request of a person who has made a written allegation³ of misconduct⁴ against a Member, a decision of the Assessment Sub-Committee that no action should be taken in respect of that allegation.

¹ 'These 'functions' are discharged both in relation to Leeds City Council and its Members, and parish councils wholly or mainly in its area and the Members of those parish councils.

² Section 57A Local Government Act 2000

³ written allegations made by any person under section 57A Local Government Act 2000.

⁴ "misconduct" for these purposes means a breach of the Members Code of Conduct adopted by Leeds City Council or any of the Parish and Town Councils wholly or mainly within its area.

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**PROCEDURE FOR DEALING WITH COMPLAINTS OF MISCONDUCT
AGAINST MEMBERS OF THE COUNCIL**
1.0 INTERPRETATION

“Authority” means Leeds City Council;¹

“Chair” means the Chair of the Committee² who must be an Independent Member of the Committee;

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

“Committee” means the Standards Committee;

“Complainant” means the person who made the complaint;

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

“Code of Conduct Complaint” means a written allegation that a Member has breached the Members Code of Conduct;⁴

“Initial Assessment” means the process of initially assessing Code of Conduct Complaints that is carried out by the Assessment Sub-Committee;

“Review Request” means a request to review the decision of the Assessment Sub-Committee to take no action in relation to a Written Allegation;⁵

“Review” means a review of a decision to take no action in relation to a Code of Conduct Complaint that is carried out by the Review Sub-Committee;

“Investigation” means an investigation by the Monitoring Officer or their representative, or by an ESO into a Code of Conduct Complaint;

“ESO” means the Ethical Standards Officer appointed by the Standards Board or the ESO’s nominee;

“Investigator” means the Monitoring Officer or their nominee, or the ESO;

“Legal Advisor” means the person providing legal advice to the Committee;⁶

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

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

³ Under Section 51 of the Local Government Act 2000.

⁴ Made under Section 57A of the Local Government Act 2000

⁵ Made under Section 57B of the Local Government Act 2000

⁶ This will be the Monitoring Officer or nominee who may be another legally qualified officer of the Authority or someone legally qualified who is appointed for this purpose from outside the Authority.

Standards Committee Procedure Rules

“Local Code/Protocol” means:⁷

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

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

“Member” means the Member or co-opted member⁸ of the Authority who is the subject of the complaint of misconduct. It also includes the Member’s nominated representative where the context requires this;

“Parish Council” means any Town or Parish Council;

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

“Standards Board” means the Standards Board for England;

“The Act” means the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007;

“The Regulations” means the Standards Committee (England) Regulations 2008 (SI. 2008 No. 1085).

2.0 GENERAL

2.1 This procedure applies to Code of Conduct Complaints and Local Complaints made by Members or officers of the Authority or members of the public.

2.2 The general principles of conduct⁹ will be used by the Committee as a guide to interpretation of the Local Codes/Protocols and the Code of Conduct.

2.3 The Committee should have regard to Guidance issued by the Standards Board for England when applying these Procedure Rules.

⁷ The Monitoring Officer will provide copies of these on request.

⁸ As defined in Section 47 Local Government Act 2000. It also includes a former member or co-opted member. It does not include Parish Council members unless they are the subject of a Referred Complaint.

⁹ As set out in the Relevant Authorities (General Principles) Order 2001, and attached as Annex A to this procedure.

3.0 INITIAL ASSESSMENT OF CODE OF CONDUCT COMPLAINTS

3.1 The Assessment Sub-Committee

- 3.1.1 The initial assessment of Code of Conduct Complaints is to be carried out by the Assessment Sub-Committee. The Assessment Sub-Committee will aim to consider Code of Conduct Complaints within twenty working days.
- 3.1.2 When carrying out the initial assessment of Code of Conduct Complaints made under Section 57A Local Government Act 2000 the Assessment Sub-Committee is a closed meeting and is not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.¹⁰
- 3.1.3 The Assessment Sub-Committee will apply the Assessment Criteria at Appendix 1 when deciding what action should be taken in respect of a Code of Conduct Complaint .
- 3.1.4 The Assessment Sub-Committee will apply the Anonymity Criteria at Appendix 2 when deciding whether to allow a complainants request for anonymity.
- 3.1.5 The Assessment Sub-Committee should only take into consideration the information contained in the Agenda papers or provided to it by the Clerk at the hearing to make it's decision.
- 3.1.6 The Assessment Sub-Committee will make one of the following decisions in relation to the Code of Conduct Complaint:¹¹
- To refer the allegation to the to the Monitoring Officer to investigate¹² (Paragraph 4.2)
 - To refer the allegation to the Monitoring Officer to take steps other than investigation¹³ (Paragraph 4.1)
 - To refer the matter to the Standards Board for England (Paragraph 5.0)
 - To take no action in respect of the allegation

3.2 The Decision Notice

- 3.2.1 Where the Assessment Sub-Committee decides to take no action then as soon as possible (normally within five working days) after making the decision it must give notice of that decision and set out clearly the reasons for that decision. Where no potential breach of the Members Code of Conduct is disclosed the Assessment Sub-Committee must explain in the decision notice what the allegation was and why they believe this to be the case. The decision notice must be sent to:

¹⁰ Regulation 8(5) Standards Committee (England) Regulations 2008.

¹¹ As required by Section 57A (2) of the Local Government Act 2000

¹² This can be Monitoring Officer of another authority if the Member is longer a member of LCC but of another authority

¹³ This can be Monitoring Officer of another authority if the Member is longer a member of LCC but of another authority

Standards Committee Procedure Rules

- the Member,
- the Complainant¹⁴, and
- any Parish Council concerned.

3.3 The Written Summary under Section 57(C) Local Government Act 2000

3.3.1 If the Assessment Sub-Committee decides that the Code of Conduct Complaint should be referred to the Monitoring Officer or to the SBE then a decision notice containing notice of that decision and a written summary of the Code of Conduct Complaint will be provided¹⁵ to:

- the Member,
- the Complainant¹⁶, and
- any Parish Council concerned.

3.3.2 The written summary should state what the allegation was and what type of referral the Assessment Sub-Committee made. The decision notice should explain why the particular referral decision has been made.¹⁷

3.4 Withholding the Written Summary

3.4.1 A written summary will not be provided under paragraph 3.3.1 above if the Assessment Sub-Committee determines that to do so would be contrary to the public interest or would prejudice the investigation of the Code of Conduct Complaint¹⁸.

3.4.2 In reaching a decision to withhold the written summary the Assessment Sub-Committee must take account of any guidance issued by the Standards Board and may take account of any advice given by the Monitoring Officer or any ESO concerned.¹⁹

3.4.3 If it is determined that the written summary should not be given to the subject member at the time the decision is made by the Assessment Sub-Committee, then reasonable steps must be taken to ensure that the written summary is given to the subject Member either:

- when the Monitoring Officer or ESO has advised that it would no longer be contrary to the public interest or that it would no longer be prejudicial to any investigation; and in any event
- before consideration of any report or recommendation from a Monitoring Officer or an ESO in relation to that allegation.

¹⁴ And to any other Standards Committee concerned

¹⁵ This is a duty arising under Section 57C(2) of the LGA 2000.

¹⁶ And to any other Standards Committee concerned

¹⁷ SBE Guidance (Local Assessment of Complaints)

¹⁸ Regulation 11 Standards Committee (England) Regulations 2008.

¹⁹ The SBE Guidance states that the Assessment Sub-Committee should take advice from the Monitoring Officer on such matters.

3.5 Publication of the Written Summary

3.5.1 The Assessment Sub-Committee is also required to produce a written summary of its consideration of the Code of Conduct Complaint²⁰. The written summary:

- Must record the Main points considered, the conclusion as regards the allegation, and the reasons for that conclusion.
- Must be prepared having regard to any SBE Guidance,
- May give the names of the subject of the allegation unless such disclosure is not in the public Interest or would prejudice any investigation
- Must be made available for inspection by the public at the Authority's office for a period of six years after the date of the meeting; and
- Must be given to any Parish Council concerned.

3.5.2 The written summary does not need to be made available for inspection or given to any Parish Council until the Member who is the subject of the complaint has been given the written summary as detailed in paragraph 3.3 above

4.0 REFERRAL OF CODE OF CONDUCT COMPLAINTS TO THE MONITORING OFFICER BY THE ASSESSMENT SUB-COMMITTEE

4.1 Referral of a Code of Conduct Complaint to the Monitoring Officer with a direction to take steps other than an investigation²¹

4.1.1 The Assessment Sub-Committee can only refer the Code of Conduct Complaint to the Monitoring Officer with a direction to take steps other than carrying out an investigation after consultation with the Monitoring Officer.

4.1.2 An ESO may also refer a matter to the Monitoring Officer with a direction to take steps other than carrying out an investigation²².

4.1.3 The steps that the Monitoring Officer can take are:

- Arranging for the member who is the subject of a Code of Conduct Complaint to attend a training course;
- Arranging for the member and the complainant to engage in a process of conciliation;
- Such other steps (not including an investigation) that the Assessment Sub-Committee (or the ESO²³) think are appropriate.

4.1.4 The Monitoring Officer will deal with the matter in accordance with the direction.

4.1.5 The Monitoring Officer will notify:

²⁰ Regulation 8 Standards Committee (England) Regulations 2008.

²¹ Regulation 13 Standards Committee (England) Regulations 2008.

²² Under Section 60(2) or (3) of the Local Government Act 2000

²³ If the complaint was referred to the Monitoring Officer under Section 60 (2) or (3) of the LGA 2000

Standards Committee Procedure Rules

- the Member,
- the Complainant²⁴, and
- any Parish Council concerned

that the Code of Conduct Complaint has been referred to them for such steps to be taken.

4.1.6 The Monitoring Officer will submit a written report to the Assessment Sub-Committee (or ESO) within three months of the direction (or as soon as reasonable practicable after three months). That written report will give details of the action that has been taken or that it is proposed will be taken to comply with the direction of the Assessment Sub-Committee.

4.1.7 The Assessment Sub-Committee may give a further direction to the Monitoring Officer if it is not satisfied with the action specified in the written report.

4.1.8 The ESO²⁵ may follow the procedure contained in Regulation 13 (8) of the Regulations if they are not satisfied with the action specified in the Monitoring Officer's report.

4.1.9 If the Assessment Sub-Committee is satisfied with the action specified in the written report it shall write to:

- the Member,
- the Complainant²⁶, and
- any Parish Council concerned,

to advise them that it is satisfied with the action that has been specified.

4.1.10 If the ESO is satisfied with the action specified in the Monitoring Officers report then the ESO will send written notice of that fact to:

- the Member,
- the Complainant²⁷, and
- any Parish Council concerned,

to advise them that they are satisfied with the action that has been specified.

4.2 Referral of Code of Conduct Complaint to Monitoring Officer for Investigation²⁸

4.2.1 When the Assessment Sub-Committee (or ESO²⁹) refers a Code of Conduct Complaint to the Monitoring Officer³⁰ for investigation, the Monitoring Officer shall inform:

²⁴ And the standards committee of any other authority concerned

²⁵ If the complaint was referred to the Monitoring Officer under Section 60 (2) or (3) of the LGA 2000

²⁶ And the Standards Committee of any other authority concerned

²⁷ And the Standards Committee of any other authority concerned

²⁸ Regulation 14 Standards Committee (England) Regulations 2008.

²⁹ Under section 60 (2) or (3) of the LGA 2000

Part 4 (m)

Page 6 of 54

Issue 1 – May 2007

- the Member,
- the complainant³¹, and
- any Parish Council concerned,

that the matter has been referred to them for investigation and who will be conducting that investigation.

4.2.2 The Monitoring Officer will not inform the Member of the referral for investigation if the Assessment Sub-Committee (or ESO) has directed them not to as it would be against the public interest or would prejudice the investigation.

4.2.3 The Monitoring Officer will conduct an investigation into the Code of Conduct Complaint. (See paragraph 9 relating to Investigations)

4.3 **References back to Assessment Sub-Committee by Monitoring Officer during an Investigation or other action³²**

4.3.1 Where the Monitoring Officer has had a Code of Conduct Complaint referred to it by the Assessment Sub-Committee to either investigate or take steps other than an investigation, the Monitoring Officer may refer the matter back to the Assessment Sub-Committee if the following circumstances apply:

- As a result of new information or evidence the Monitoring Officer is of the opinion that the Code of Conduct Complaint is materially more or less serious than may have seemed apparent to the Assessment Sub-Committee, and
- The Monitoring Officer is of the opinion that the Assessment Sub-Committee would have made a different decision had it been aware of that new information or evidence, OR
- That the person who is the subject of the Code of Conduct Complaint has died, or is seriously ill, or has resigned from the Authority, and the Monitoring Officer is of the opinion that in the circumstances it is no longer appropriate to continue the investigation.

4.3.2 When a matter is referred back to the Assessment Sub-Committee in this way it shall make a decision in the way set out in paragraph 3 above.

4.3.3 The Assessment Sub-Committee can direct that a Code of Conduct Complaint should not be referred back to it a further time.

³⁰ References to Monitoring Officer in respect of the Investigation of Code of Conduct Complaints also means the Monitoring Officers nominee. The Monitoring Officer may appoint the Deputy Monitoring Officer, or any person nominated under the provisions of section 82A(2) or (3) of the Local Government Act 2000 to perform any function as nominee.

³¹ And the standards committee of any other authority concerned

³² Regulation 16 Standards Committee (England) Regulations 2008.

Standards Committee Procedure Rules

4.3.4 The Monitoring Officer can take the following into account when forming their opinion in paragraph 4.3.1 above:

- The failure of any person to co-operate with an investigation; or
- Any allegation that the Member has engaged in a further breach of the Members Code of Conduct, or a related breach of the Code of Conduct of another relevant authority.

5.0 REFERRAL OF CODE OF CONDUCT COMPLAINT TO STANDARDS BOARD FOR ENGLAND BY THE ASSESSMENT SUB-COMMITTEE

5.1 When the Assessment Sub-Committee refers a Code of Conduct Complaint to the SBE for investigation the SBE will³³ :

- Refer the Code of Conduct Complaint to an ESO for investigation,
- Decide that no action should be taken in respect of the Code of Conduct Complaint, or
- Refer the Code of Conduct Complaint back to the Assessment Sub-Committee for re-assessment.

5.2 The SBE will usually inform the Monitoring Officer within ten working days if they will accept a Code of Conduct Complaint or will be referring it back to the Assessment Sub-Committee. The SBE will give their reasons for doing so.

5.3 When a case is referred back to the Assessment Sub-Committee by the SBE an assessment decision will be made again by the Assessment Sub-Committee within an average of 20 working days. The SBE may give guidance, or give a direction to the Assessment Sub-Committee when a case is referred back to them in this way.

5.4 The Assessment Sub-Committee will then make one of the following decisions:

- To refer the allegation to the to the Monitoring Officer to investigate,
- To refer the allegation to the Monitoring Officer to take steps other than investigation, or
- To take no action in respect of the allegation.

5.5 The Assessment Sub-Committee does not have the option of referring the matter back to the SBE a second time.

5.6 The decision should be notified to:

- the Member,
- the Complainant³⁴, and
- any Parish Council concerned

in the same way as detailed above in paragraph 3.2 and 3.3 the written summary should be published in the same way as detailed in paragraph 3.4.

³³ S.58 Local Government Act 2000

³⁴ And any other Standards Committee concerned.

6.0 CODE OF CONDUCT MATTERS REFERRED BY ESO TO MONITORING OFFICER FOR INVESTIGATION

6.1 Monitoring Officer requesting a referral back to the ESO³⁵

6.1.2 Where the Investigator is carrying out an investigation into a Code of Conduct Complaint referred to them by an ESO under Section 60(2) or (3) of the LGA 2000, the Investigator may, at any stage prior to the completion of the investigation, make a request to the ESO in writing that the matter be referred back to that ESO for investigation. The request must set out the reasons for making it.

6.1.3 The ESO must respond to such a request within 21 days of its receipt and may accept the referral (in which case the Investigator's investigation shall cease), or the ESO may direct that the Investigator should continue to investigate. The Investigator is not able to make the same request again in respect of the same complaint.

7.0 REVIEW OF CODE OF CONDUCT COMPLAINTS³⁶

7.1 The Review Sub-Committee is a closed meeting³⁷ and is not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.

7.2 The Review sub-committee will review decisions made by the Assessment Sub-Committee not to take any action in respect of a Code of Conduct Complaint.

7.3 The request for a review must be made in writing within 30 days of the decision notice.³⁸

7.4 The review of the Assessment Sub-Committee decision will be carried out within 3 months. The SBE Guidance recommends that such reviews are carried out within 20 working days of receipt.

7.5 The Review Sub-Committee will apply the same assessment criteria as the Assessment Sub-Committee in making its decision.

7.6 The Review Sub-Committee will decide whether:

- To refer the allegation to the Monitoring Officer to investigate.³⁹
- To refer the allegation to the Monitoring Officer to take steps other than investigation.⁴⁰
- To refer the matter to the Standards Board for England.
- To take no action in respect of the allegation.

³⁵ Regulation 14 (5) Standards Committee (England) Regulations 2008.

³⁶ Under Section 57B of the LGA 2000

³⁷ Regulation 8 Standards Committee (England) Regulations 2008.

³⁸ These are not working days

³⁹ This can be Monitoring Officer of another authority if the Member is longer a member of LCC but of another authority

⁴⁰ This can be Monitoring Officer of another authority if the Member is longer a member of LCC but of another authority

Standards Committee Procedure Rules

7.7 The requirements contained in paragraphs 3.2 to 3.5 above in respect of the Decision Notice, Written Summary and Publication of the Written Summary apply in the same way to the deliberations and decision of the Review Sub-Committee.

8.0 RECEIPT AND PRELIMINARY INVESTIGATION OF LOCAL COMPLAINTS

8.1 Receipt of Local Complaints

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

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

8.1.3 The Monitoring Officer will notify the Member within 5 days of receiving the Complaint⁴¹:

- that s/he has received the complaint;
- who the complainant is;⁴²
- what the complaint is about, including which Local Code it is alleged that the Member has breached; and
- the procedure which will be followed in respect of the complaint.

8.2 Preliminary Investigation- Local Complaints

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

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

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

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

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

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

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

⁴¹ In exceptional cases where the Monitoring Officer has reason to believe that there is a serious risk of intimidation of witnesses or destruction of evidence, the Monitoring Officer may complete the preliminary investigation without notifying the Member;

⁴² In accordance with the Authority's Whistleblowing policy, the identity of the Complainant may be protected in some cases.

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

9.0 INVESTIGATIONS INTO CODE OF CONDUCT COMPLAINTS AND LOCAL COMPLAINTS

9.1 The Investigator will give the Member who is the subject of the investigation the opportunity to comment on the Code of Conduct Complaint or Local Complaint.

9.2 The Investigator will have regard to any relevant guidance issued by, and will comply with any relevant direction given by, the Standards Board.

9.3 When conducting an investigation the Investigator may:

- Make inquiries of any person the Investigator thinks is necessary or useful in conducting the investigation;
- Require any person to give such information or explanation as the Investigator thinks is necessary or useful in conducting the investigation;
- Require any of the authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation;
- Require any of the authorities concerned, other than a Parish Council, to meet the reasonable cost of any such advice and assistance provided
- If any of the authorities concerned is a Parish Council, require the responsible authority to meet any reasonable costs incurred by that Parish Council in providing such advice and assistance
- Require any of the authorities concerned to allow reasonable access to documents in the possession of that authority that the Investigator thinks are necessary for the purpose of conducting the investigation.

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

9.5 The Investigator will make clear to any person interviewed that any information which that person provides may be shared with the Committee and may be made public. Any person interviewed will be entitled to be accompanied by a representative of their choice.⁴³

10.0 DRAFT REPORTS FOR CODE OF CONDUCT COMPLAINTS AND LOCAL COMPLAINTS

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

⁴³ In accordance with the Authority's Whistle blowing Policy, the identity of the Complainant may be protected in some cases in respect of a Local Complaint. For a Code of Conduct Complaint, it may also be withheld at the direction of the Assessment Sub-Committee or an ESO.

Standards Committee Procedure Rules

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

- the Member; and
- the Complainant

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

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

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

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

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

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

11.0 COMPLETING THE INVESTIGATION - Code of Conduct Complaints and Local Complaints

11.1 When the Investigator has completed the investigation they will

- make a finding that:
 - there has been a failure to comply with the Members Code of Conduct or Local Code/Protocol (“a finding of failure”); or
 - there has not been a failure to comply with the Members Code of Conduct or Local Code/Protocol (“a finding of no failure”);
- prepare a written report of the investigation (“the Final Report”) which contains their findings
- send a copy of that Final Report to the member who was the subject of the investigation;
- refer the report to the Standards Committee of the Authority; and the Standards Committee of any other authority, other than a Parish Council, of which the person who was the subject of the investigation is a member, if that other authority so requests.

12.0 THE FINAL REPORT - Code of Conduct Complaints and Local Complaints

12.1 The Final Report will be written and contain:-

- a “final” marking;
- the date;
- for a Code of Conduct Complaint the legislation under which the investigation is being carried out;
- the relevant sections of the Local Code or Code of Conduct;
- evidence;
- the Investigator’s findings of fact;

- the Investigator’s reasoning;
- the investigator’s finding whether
 - there has been a failure to comply with the Local Code or Code of Conduct a “finding of failure”; or
 - there has not been a failure to comply with the Local Code or Code of Conduct – a “finding of no failure”; and
- documents relied on by the Investigator in reaching his or her conclusions.

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

13.0 RECEIPT OF FINAL REPORTS AND CONSIDERATION OF FINAL REPORTS BY THE ASSESSMENT SUB-COMMITTEE - Code of Conduct Complaints and Local Complaints

13.1 Code of Conduct Complaints investigated by Monitoring Officer or Nominee

13.1.1 The Assessment Sub-Committee will consider all Final Reports that have been investigated by the Monitoring Officer or their nominee.

13.1.2 The Monitoring Officer or their nominee will send a copy of the Final Report to:

- the Member;
- the Complainant;
- the Standards Committee⁴⁴;
- any relevant Parish Council concerned⁴⁵;
- any ESO concerned⁴⁶; and
- the Monitoring Officer⁴⁷

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

13.1.4 On completing or receiving the Final Report the Monitoring Officer will:

- Within 2 days of completing or receiving the Final Report:
 - Ask the Committee Clerk to make arrangements for the Assessment Sub-Committee to consider the Final Report
 - Notify the Committee Clerk of the date on which the report was completed and the date on which the report was sent to the Member;
- within 5 days of completing or receiving the report, tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.⁴⁸

⁴⁴ Members of the Committee are advised that the contents of the Investigator’s report remains confidential until all or part of it is brought into the public domain at the hearing.

⁴⁵ Code of Conduct Complaints only

⁴⁶ Code of Conduct Complaints only if an ESO has been involved

⁴⁷ Where the Monitoring Officer has not acted as Investigator

Standards Committee Procedure Rules

13.1.5 The Assessment Sub-Committee will convene to consider the Final Report and decide whether:

- It accepts the Monitoring Officer/Investigators finding of no failure (a “finding of acceptance”), or
- The matter should be referred to the Standards Committee for a hearing.
- The matter should be referred to the Adjudication Panel for determination.

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

- the Member;
- any ESO concerned⁴⁹;
- the Investigator,
- any Parish Council concerned⁵⁰; and
- the Complainant⁵¹

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

13.1.8 The Assessment Sub-Committee may only decide to refer the matter to the Adjudication Panel for determination if:

- it has determined that the action it could take against the member would be insufficient were a finding of failure to be made; and
- the president or deputy president of the Adjudication Panel has agreed to accept the referral.

13.2 Code of Conduct Complaints investigated by an ESO

13.2.1 The Assessment Sub-Committee will also consider final reports from an ESO containing a finding of failure.

13.2.2 When the Monitoring Officer receives a copy of an ESO’s report relating to a Code of Conduct Complaint the Monitoring Officer will:-

- within 2 days, send a copy of the report to the Member;
- within 2 days, send a copy of the report to all members of the Committee;⁵²

⁴⁸ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

⁴⁹ Code of Conduct Complaint only when an ESO has been involved

⁵⁰ Code of Conduct Complaint only

⁵¹ Also, to the Standards Committee of the authority concerned, if not the Standards Committee that made the finding, and the Standards Committee of any other authority concerned, if not the Standards Committee that made the finding.

Part 4 (m)

Page 14 of 54

Issue 1 – May 2007

- within 2 days, ask the Committee Clerk to make arrangements for the Assessment Sub-Committee to consider the report, and notify the Committee Clerk of the date on which the report was received from the Investigator and on which it was sent to the Member;
- within 5 days, tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.⁵³

13.2.3 The Assessment Sub-Committee will meet to consider the ESO's report to determine whether:

- The matter should be referred to the Standards Committee for a hearing.
- The matter should be referred to the Adjudication Panel for determination.

13.2.4 The Assessment Sub-Committee may only decide to refer the matter to the Adjudication Panel for determination if:

- it has determined that the action it could take against the member would be insufficient were a finding of failure to be made; and
- the president or deputy president of the Adjudication Panel has agreed to accept the referral.

13.3 Local Complaints investigated by Monitoring Officer or Nominee

13.3.1 The Investigator will send a copy of their Final Report to:

- the Member;
- the Complainant;
- the Standards Committee⁵⁴;
- the Monitoring Officer⁵⁵

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

13.3.3 The Monitoring Officer will within 2 days of completing or receiving the Final Report:

- Ask the Committee Clerk to make arrangements for:
 - The pre-hearing process to commence where the Report contains a finding of failure, OR

⁵² Members of the Committee are advised that the contents of the Investigator's report remains confidential until all or part of it is brought into the public domain at the hearing.

⁵³ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

⁵⁴ Members of the Committee are advised that the contents of the Investigator's report remains confidential until all or part of it is brought into the public domain at the hearing.

⁵⁵ Where the Monitoring Officer has not acted as Investigator

Standards Committee Procedure Rules

- The Assessment Sub-Committee to consider the Final Report at a meeting of the Assessment Sub-Committee where the report contains a finding of no failure.
- Notify the Committee Clerk of the date on which the report was completed and the date on which the report was sent to the Member.

13.3.4 Within 5 days of completing or receiving the report the Monitoring Officer will tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.⁵⁶

13.3.5 When the Final Report contains a finding of no failure the Assessment Sub-Committee will convene to consider the Final Report and decide whether:

- It accepts the Investigators finding of no failure (a “finding of acceptance”).
- The matter should be referred to the Standards Committee for a hearing.

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

- the Member;
- the Investigator, and
- the Complainant⁵⁷

13.3.7 After making a finding of acceptance the Committee shall also as soon as reasonably practicable, arrange for a notice to be published stating that the Committee have found that there has not been a failure on the part of the Member to comply with the Local Code/Protocol. This notice shall not be published if the Member requests that it should not be.

13.4 Provisions relating to both Code of Conduct Complaints and Local Complaints

13.4.1 When considering any Final Report the Assessment Sub-Committee will only consider the Final Report; it will not interview witnesses, nor take representations from the parties.

13.4.2 The Assessment Sub-Committee may make recommendations to the Authority on matters arising from the Final Report.

13.4.3 When the Assessment Sub-Committee meets to consider an Investigators Final Report, these meetings are normal meetings and the normal rules relating to notice and publicity apply.

⁵⁶ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

⁵⁷ Also, to the Standards Committee of the authority concerned, if not the Standards Committee that made the finding, and the Standards Committee of any other authority concerned, if not the Standards Committee that made the finding.

13.5 Starting the pre-hearing process

13.5.1 When dealing with Code of Conduct Complaints the Committee Clerk will start the pre-hearing process once the Assessment Sub-Committee has made a decision to refer a Code of Conduct Complaint or Local Complaint to the Standards Committee for a hearing.

13.5.2 When dealing with Local Complaints the Committee Clerk will start the pre-hearing process once the Monitoring Officer notifies him/her under paragraph 15.15 above that the Final Report contains a finding of failure to comply with a local code/protocol OR when the Assessment Sub-Committee has decided that they do not accept the investigators finding of no failure and the matter should be referred to the Standards Committee for a hearing.

14.0 HEARINGS - Code of Conduct Complaints and Local Complaints

14.1 Where the Committee is considering a Code of Conduct Complaint the Committee will ensure that the hearing takes place:

- within three months of the date on which the Monitoring Officer or their Investigator completed the report or within 3 months of receiving the report from an ESO; and
- at least 14 days⁵⁸ after the date on which the Monitoring Officer sent the Member a copy of the report, unless the Member agrees to an earlier date.

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

- within three months of the date on which the Monitoring Officer
- Investigator completed the report, or as soon as reasonably practicable after that; and
- at least 14 days⁵⁹ after the date on which the Investigator sent the Member a copy of the report, unless the Member agrees to an earlier date.

14.3 Where the Committee is considering either a Code of Conduct Complaint or Local Complaint, the Committee will ensure that:

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

14.4 A Member may be represented by a barrister, a solicitor or with the consent of the Committee, any other person the Member wishes.⁶⁰

⁵⁸ These are not working days.

⁵⁹ These are not working days.

Standards Committee Procedure Rules

14.5 The Standards Committee may conduct the hearing using such procedures as it considers appropriate in the circumstances. The Committee will deal with a complaint in the way in which it considers most suitable in order to clarify the issues before it and to ensure the just handling of the proceedings. This provision is however subject to the requirements set out in paragraphs 18(1) Standards Committee (England) Regulations 2008.

15.0 Hearing by the Standards Committee

15.1 The Standards Committee will conduct a hearing in relation to a Code of Conduct Complaint or Local Complaint which has been referred by the Assessment Sub-Committee to the Standards Committee for a hearing.

16.0 The Pre-Hearing Process

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

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

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

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

- provide a copy of this procedure to the Member;
- send the Member an outline of his/her rights and responsibilities (Annex B to this procedure); and
- invite the Member to respond in writing by a set time⁶¹ to the questions set out in the Member's Information Form (Annex C to this procedure), in order to find out whether the Member:
 - disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
 - wishes to make representations about any sanctions to be imposed if the Committee decide that the Member has breached the Code of Conduct or a Local Code;

⁶⁰ The Committee will usually provide its consent, unless the representative is directly involved in the Complaint.

⁶¹ The Chair will decide the set time in relation to each Complaint, according to the relevant circumstances, but it will be a minimum of 10 working days.

- wants to be represented at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Committee, either verbally or in writing;
- can come to the hearing on the proposed date⁶²;
- wants any part of the hearing to be held in private; and
- wants any part of the report or other relevant documents to be withheld from the public.

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

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

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

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

- Send the Member's response to the Investigator for comment and response within a set time⁶³ to the questions set out in the Investigator's Information Form (Annex D to this procedure) in order to find out whether the Investigator:
 - wants to be represented at the hearing;
 - wants to call relevant witnesses to give evidence to the Committee;
 - wants any part of the hearing to be held in private; and
 - wants any part of the report or other relevant documents to be withheld from the public.
- After the set time periods have expired, (or after the Committee Clerk has received responses from both Parties if this is earlier), the Committee Clerk will refer the responses of the Parties to the Chair. The Chair will review the information received, and, after consultation with the Legal Advisor, may decide any issues which will help the Committee to determine the complaint.

⁶² Where ever possible, given the availability of Members of the Standards Committee and the availability of suitable accommodation the Member will be given a choice of dates. These dates will be proposed by the Chair in consultation with the Committee Clerk.

⁶³ The Chair will decide the set time in relation to each complaint, according to the relevant circumstances, but will be a minimum of 10 days.

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

- whether the Committee consents to the Member being represented by a non-legally qualified representative;
- whether witnesses will be heard at the hearing;
- whether the Committee wishes to call any witnesses to attend who may help the Committee to determine the Complaint;⁶⁴
- whether the Committee is likely to refuse to hear evidence from any of the witnesses notified by either Party, and the reasons for this;⁶⁵
- the date, time and place of the hearing;
- a request to either Party to provide by a set date such details, supplementary statement or access to documents as may be reasonably required for the determination of the Complaint; and
- in respect of a Code of Conduct Complaint investigated by an ESO, where the ESO has indicated that the ESO does neither wish to attend, nor be represented at the hearing, a request to the Monitoring Officer to nominate a person to act as Investigator at the hearing.

16.8 **Pre-hearing process summary**

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

16.9 The purpose of the summary is to:

- set the date, time and place for the hearing;⁶⁶
- summarise the Complaint;
- outline the main facts of the Complaint that are agreed;
- outline the main facts which are not agreed;
- note whether the Member or the Investigator will go to or be represented at the hearing;
- list those witnesses, if any who will be asked to give evidence; and
- outline the proposed procedure for the hearing.

17.0 **HEARINGS PROCEDURE**

17.1 **Recording the Hearing**

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

⁶⁴ This may include the Complainant. The Committee cannot however order witnesses to appear or give evidence.

⁶⁵ The Party will be able to make representations about this to the Committee at the beginning of the hearing, provided that the Party has notified the Committee Clerk at least 10 days before the hearing that they intend to do so.

⁶⁶ Unless a complaint is complicated, the Committee will aim to complete a hearing in one sitting or in consecutive sittings of no more than 1 day in total.

17.2 Purpose of the Hearing

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

17.3 Documents

17.3.1 The Committee Clerk, after consultation with the Legal Advisor and the Parties, will collate the documents provided by the Parties to be considered by the Committee during the hearing.

17.3.2 Where a Party has asked for a document be kept private, this document will not be made available to the public with the agenda before the meeting.⁶⁷

17.4 Witnesses

17.4.1 A Member may arrange for witnesses to attend at a hearing as the Member wishes, although the Committee may place a limit on the number of witnesses a Member may call if it is of the view that the number of witnesses is unreasonable.

17.4.2 The Committee has the right to govern its own procedures as long as it acts fairly. For this reason the Committee may choose not to hear from certain witnesses if it believes that they will simply be repeating evidence of earlier witnesses or if a witness will not be providing evidence that will assist the Standards Committee to reach its decision.

17.4.3 The Committee may arrange for witnesses to attend as it considers appropriate.

17.5 Legal Advice

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

17.6 Questioning

17.6.1 The Committee controls the procedure and evidence presented at a hearing, including the way witnesses are questioned.

17.6.2 At any time during the hearing the Committee may directly question any witness or Party on any point raised either in evidence or by way of representations.

⁶⁷ The Committee will have to consider which documents should be made available for public inspection – see paragraph 17.11.4 below.

Standards Committee Procedure Rules

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

17.7 New Evidence

17.7.1 The Committee will not allow the Member to raise new disagreements over findings of fact in the Investigator's report at the hearing unless there are good reasons for doing so.⁶⁸

17.7.2 If the Member disagrees with any relevant fact in the Investigator's report without having given prior notice of the disagreement⁶⁹, the Committee will ask the Member for the reasons why the evidence was not raised before.

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

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

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

17.8 Failure to attend

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

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

17.8.3 If the Committee does consider there is sufficient reason, it will adjourn the hearing to another date.⁷⁰

⁶⁸ The Committee should not re-open an investigation. However if more evidence becomes available after the completion of the investigation the Committee may consider that evidence during the course of the hearing.

⁶⁹ by raising it in the course of the pre-hearing process, or as soon as practicable after that.

⁷⁰ In respect of Code of Conduct Complaints this is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Monitoring Officer received the report from the ESO.

17.9 Adjournment for further information or investigation⁷¹

17.9.1 The Committee may at any stage prior to the conclusion of the hearing adjourn the hearing⁷² and require the Investigator to seek further information or undertake further investigation on any specified point.

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

17.10 Referral back to the ESO- Code of Conduct Complaints investigated by an ESO⁷³

17.10.1 The Committee may at any stage prior to the conclusion of the hearing adjourn the hearing and make a written request to the ESO that the matter be referred back to the ESO for investigation. Any such request must set out the Committee's reasons for making it.⁷⁴

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

17.11 Stage 1: Introductions and procedure

17.11.1 The Committee and its advisors will assemble in the hearing room⁷⁵.

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

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

17.11.4 The Committee will consider whether to exclude the public from any parts of the hearing and which parts of the agenda are not to be made available for public inspection⁷⁶. There is a clear presumption that hearings will be held in public. The Committee will therefore need to keep this issue under review throughout the hearing, and may consider excluding the public on each occasion it makes its deliberations in making any finding on a complaint – marked * in this procedure.

⁷¹ Regulation 18(8) Standards Committee (England) Regulations 2008.

⁷² In respect of Code of Conduct Complaint this is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Monitoring Officer received the report from the ESO

⁷³ And referred to the Monitoring Officer under section 60(2) or (4) of the LGA 2000.

⁷⁴ Regulation 18(10) Standards Committee (England) Regulations 2008.

⁷⁵ At no time before, during or after the hearing, should either party be present or represented before the Committee without the other party being also present or represented, unless the other party has failed to attend and the Committee is discussing whether to proceed in his/her absence or has decided to proceed in his/her absence.

⁷⁶ See further Access to Information Procedure Rules and Annex G. If evidence is heard in private, the Legal Advisor should warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing.

Standards Committee Procedure Rules

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

17.12 Stage 2: Outstanding Preliminary procedural issues

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

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

17.13 Stage 3: Making findings of fact

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

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

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

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

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

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

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

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

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

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

17.14 Stage 4: Did the Member fail to follow the Code⁷⁷?

- 17.14.1 The Committee will then consider whether or not, based on the facts it has found, the Member has failed to follow the Code.
- 17.14.2 The Committee will invite the Member to give relevant reasons why the Committee should decide that the Member has not failed to follow the Code, and consider any written representations from the Member about this.
- 17.14.3 The Committee will then invite the Investigator to give relevant reasons why the Committee should decide that the Member had failed to follow the Code, and consider any written representations from the Investigator about this.
- 17.14.4 The Member will be invited to make any final relevant representations, in response to anything raised by the Investigator.
- 17.14.5 The Committee will then decide whether or not the Member has failed to follow the Code.*
- 17.14.6 The Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code.
- 17.14.7 Where the Committee decides that the Member has not failed to follow the Code, the Committee will then move on to Stage 6 of this procedure.

17.15 Stage 5: Sanctions

- 17.15.1 The Committee will consider any verbal or written representations from the Investigator and the Member about:-
- whether or not the Committee should impose any sanction;
 - what form any sanction should take;
- 17.15.2 The Committee will take into account any guidelines it has agreed for imposing sanctions.
- 17.15.3 The Committee will then decide whether or not to impose a sanction on the Member, and if so what the sanction should be *, in accordance with Annex H to this procedure.⁷⁸
- 17.15.4 The Committee will also decide how much of the information which it has considered should be made available for public inspection after the announcement of its decision in public.⁷⁹

⁷⁷ In relation to a Code of Conduct Complaint this means the Members Code of Conduct, and in relation to a Local Complaint, the Local Code.

⁷⁸ In accordance with Regulation 19 of the Standards Committee (England) Regulations 2008 in relation to Code of Conduct Complaint the Committee must make one of the following findings:-

- that the Member had not failed to comply with the Code of Conduct; or
- that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters which were considered by the Committee; or
- that the Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

Standards Committee Procedure Rules

17.15.5 The Chair will announce the Committee's decision.

17.16 Stage 6: Recommendations to the Authority

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

17.17 Stage 7: Making the Findings Public

17.17.1 The Chair will confirm the Committee's decision, with reasons, in public at the end of the hearing. Where practicable a short written decision will also be provided on that day⁸⁰.

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

17.17.3 **In relation to a Code of Conduct Complaint**⁸¹, the Committee shall within 10 days, or as soon as reasonably practicable, take reasonable steps to give written notice of its findings and the reasons for the findings to:

- the Member;
- the ESO (if relevant);
- the Investigator
- the Standards Committee;
- the Standards Committee of any other authority concerned⁸²;
- any Parish Council concerned; and
- the Complainant.

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

17.17.5 The Committee Clerk shall also arrange for a summary of the finding to be published in one or more newspaper circulating in the area of the Authority⁸³ and if considered appropriate by the Standards Committee on the Web Page of any authority concerned or in any other publication, except where the Committee has found that the Member had not failed to comply with the Code of Conduct, and the Member asks for the summary not to be published.

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

⁷⁹ The Standards Committee Media Protocol will be followed in relation to any dealings with the media about the Complaint.

⁸⁰ If it is not practicable to provide a short written decision on the day of the hearing then it will be provided within 3 days of the hearing.

⁸¹ In accordance with Regulation 20 of the Standards Committee (England) Regulations 2008

⁸² where at the time of the complaint, the Member was a member of another authority

⁸³ In accordance with Regulation 20 of the Standards Committee (England) Regulations

Part 4 (m)

Page 26 of 54

Issue 1 – May 2007

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

18.0 MONITORING

18.1 The Monitoring Officer will report annually to the Committee on how the “gate-keeping” role has been discharged, in respect of preliminary investigations under paragraph.

18.2 The Monitoring Officer will report to the Standards Committee annually on whether the arrangements set out in this procedure have been complied with, and will include any proposals for amendments in the light of any issues that have arisen during the year.

19.0 REVIEW OF PROCEDURE

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

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

GENERAL PRINCIPLES GOVERNING MEMBERS' CONDUCT

1. Selflessness

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

2. Honesty and Integrity

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

3. Objectivity

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

4. Accountability

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

5. Openness

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

6. Personal Judgement

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

7. Respect for Others

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

8. Duty to Uphold the Law

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

9. Stewardship

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

10. Leadership

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

NOTE

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

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

MEMBERS' RIGHTS AND RESPONSIBILITIES - OUTLINE

You have the right to:

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

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

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

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

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

Breaches of the Authority's Code of Conduct

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

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

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

Sanctions (except for censure) may start immediately or up to six months after the hearing, if the Standards Committee wishes.

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

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

Breaches of a Local Code

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

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

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

MEMBER'S INFORMATION FORM

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

PART 1 - GENERAL INFORMATION

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

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

Standards Committee Procedure Rules

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

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

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

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

Table A

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

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

Please attach separate sheets if necessary.

Table B

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

	Details of the evidence
1	
2	
3	
4	

Please attach separate sheets if necessary.

Standards Committee Procedure Rules

PART 3 - MITIGATION

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

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

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

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

Please attach separate sheets if necessary.

PART 4 - WITNESSES

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

Signed(Member) Date.....

Signed.....(Representative⁴)Date.....

⁴ If you are represented

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

INVESTIGATOR'S INFORMATION FORM

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

PART 1 - GENERAL INFORMATION

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

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

Standards Committee Procedure Rules

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

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

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

Signed(Member) **Date.....**

Signed.....(Representative⁴)**Date.....**

⁴ If you are represented

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

Checklist for the pre-hearing process summary

The pre-hearing process summary should include:

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

¹ For Code of Conduct Complaints that have been investigated by an ESO.

² This will be the Monitoring Officer, their nominee or the ESO

³ As applicable

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

THE USE OF RECORDING EQUIPMENT IN HEARINGS BY COMMITTEE

1.0 INTRODUCTION

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

2.0 BACKGROUND

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

3.0 RECORDING OF HEARINGS

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

4.0 ACCESS TO TAPES

- 4.1 Since the purpose of taping the hearing is to provide a verbatim record of the hearing and to support the process of the Committee's determination, access to the tapes will be controlled by the Monitoring Officer⁸⁴.
- 4.2 Tapes will be kept by the Monitoring Officer for 2 months from the date of the hearing and will then be erased, except in the event of an appeal in which case the tapes will be retained until the final outcome of the case is known.

⁸⁴ Access will be provided where required in accordance with the Data Protection Act 1998, or where necessary in relation to an appeal to the Adjudication Panel.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

Excluding the public from hearings – Guidance

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

- 1 At the hearing, the Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the Committee considers that "confidential information" is likely to be revealed during the hearing, the committee must exclude the public by law. "Confidential information" is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The Committee also has the power to exclude the public if it considers that "exempt information" is likely to be revealed during the hearing. The categories of "exempt information" are listed in the Access to Information Procedure Rules⁸⁵. The Committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The Committee also has a duty to act fairly and in line with the rules of natural justice.
- 3 Article 6 says that the public **may** be excluded from all or part of the hearing if it is in the interests of:
 - (a) morals;
 - (b) public order;
 - (c) justice;
 - (d) national security in a democratic society; or
 - (e) protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the Committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- 5 The Committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to "receive and impart information and ideas without interference by public authority". Any restrictions on this right must

⁸⁵ Contained within Part 4 of the Constitution

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

6 The Committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee) may interfere with this right unless it is:

(a) in line with the law; and

(b) necessary in a democratic society in the interests of:

(i) national security;

(ii) public safety;

(iii) the economic wellbeing of the country;

(iv) preventing crime or disorder;

(v) protecting people's health and morals (which would include protecting standards of behaviour in public life); or

(vi) protecting people's rights and freedoms.

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

7 Conflicting rights often have to be balanced against each other.

8 In relation to rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be "necessary in a democratic society". A measure will only be "necessary" if it meets "a pressing social need", and any restriction on people's rights must be "proportionate".

9 The Standards Board for England recommends that a Standards Committee should exclude the public when considering its decisions. The Board considers that this will not conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

SANCTIONS

Referred Complaints

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

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

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

Local Complaints

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

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

Deciding a sanction

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

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

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

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

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

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

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

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

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

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

FULL WRITTEN DECISIONS

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

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

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

The Committee's full written decision will include:

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

¹ The Monitoring Officer, their nominee or the ESO

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

Application for permission to appeal

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

Standards Committee Procedure Rules

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

Your signature

Print Name

Date

President's Decision:

Permission	Granted/Denied
Reason if permission refused:	

Signed

Date

Assessment Criteria

Appendix 5

	Question to ask	Answer	Suggested Criterion
1	Is the complaint anonymous	Yes =	Anonymous complaints will only be referred for investigation or other action if they are exceptionally serious or significant.
2	Has the complainant submitted enough information to satisfy the Assessment Sub-Committee that the complaint should be referred for investigation or other positive action? Does the Assessment Sub-Committee want to invite the complainant to submit further information in support of the complaint for the Assessment Sub-Committee to consider afresh? Does the Assessment Sub-Committee want to indicate the information that should be submitted?	Yes =	“The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation so unless, or until, further information (as detailed below) is received, the authority is taking no further action on this complaint. “
3	Would an alternative route to investigation provide a more effective resolution to the matter? Is there scope for: Mediation, Conciliation, Brokering an apology or Training.	Yes=	The Assessment Sub-Committee may wish to refer the matter to the Monitoring Officer to take alternative action. The Assessment Sub-Committee should however be aware that if the alternative action is not successful the case will not be open to investigation at that stage.
4	Is this complaint too trivial to warrant further action?	Yes =	“The matter is not considered to be sufficiently serious to warrant any action.”
5	Is the complaint about something that happened so long ago that there would be little benefit in taking action now?	Yes =	“The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter

			should be referred for investigation or further action. It was decided under the circumstances that an investigation was not warranted.”
6	Does the complaint appear to be malicious, politically motivated or tit-for-tat?	Yes =	“The matter appears to be malicious or politically motivated or tit-for-tat and it was decided that further action was not warranted”.
7	Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct. Or has the complaint been the subject of an investigation by other regulatory authorities. Is there anything more to be gained by further action being taken.	Yes = No=	“The matter complained of has already been subject to previous investigation or other action, or has been subject to investigation by another regulatory authority and there is nothing more to be gained by further action being taken”.
8	Does the Assessment Sub-Committee want, normally, only to deal with complaints if they occurred after the authority adopted the 2007 version of the Code of Conduct?	Yes =	“Except in the most serious of cases, complaints that disclose a potential breach under the 2001 Code of Conduct but would not constitute a breach under the 2007 Code of Conduct are unlikely to be referred for investigation or further action”.
9	Is the complaint about someone who is no longer a member or co-opted member of the authority but is a member or co-opted member of another authority? If so, does the Assessment Sub-Committee wish to refer the complaint to the Monitoring Officer of that other authority?	Yes =	“Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to that authority to consider”.

10	Would investigation serve any useful purpose	No=	“Investigation of this matter would serve no useful purpose because (give reason) therefore it has not been referred for Investigation”
11	Is the case suitable for local investigation or should it be referred to the Standards Board for investigation		

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Originator: Amy Kelly

Tel: 0113 39 50261

Report of Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Members' Induction Period 2008

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. It is part of the Standards Committee's responsibilities to make arrangements for training in matters relating to the Code of Conduct and local codes and protocols. This report makes Members of the Committee aware of the following issues relating to the Members' induction period:
 - New Members' declaration of acceptance of office and undertaking to comply with the Code of Conduct;
 - Information on the Members' register of interests;
 - Training of Members; and
 - Parish and Town Councils.
2. 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 inform Members of the Committee of the following issues:

- New Members' declaration of acceptance of office and undertaking to comply with the Code of Conduct;
- Information on the Members' register of interests;
- Training of Members; and
- Parish and Town Councils.

2.0 Background Information

2.1 It is part of the Standards Committee's responsibilities to review and make arrangements for training in matters relating to the Code of Conduct and local codes and protocols. This report therefore provides information about the Members' induction period for 2008.

2.2 On 2nd May 2008, 29 Councillors were re-elected and five new Councillors were elected. All 34 Members were required to complete two pieces of paperwork within 28 days. These were:

- Their declaration of acceptance of office and undertaking to comply with the Code of Conduct; and
- Their register of interests entry.

2.3 These new Members were invited to attend a series of training sessions on a variety of issues. A copy of the induction leaflet detailing the courses available is attached at Appendix 1 to this report.

3.0 Main Issues

Declaration of acceptance of office

3.1 In Leeds, all 34 Members were required to complete the following pieces of paperwork within 28 days of their election or re-election:

- their declaration of acceptance of office and undertaking to comply with the Code of Conduct; and
- their register of interests entry.

3.2 Members were provided with all forms within their induction pack, which included instructions as to where documents should be handed in and the relevant deadlines for completion.

3.3 The completed declarations of acceptance of office and compliance with the Code of Conduct are retained by Democratic Services and stored in a book. Members were required to return their form by 22nd May 2008 (prior to taking part in the annual meeting). All Members complied with this deadline.

3.4 In accordance with the report presented to the Standards Committee on 26th July 2006, a system was used to control and monitor the completion of the declarations of acceptance of office in order to comply with the relevant deadlines.

- 3.5 Although completion of the form is required prior to attendance at the annual meeting, an initial risk assessment highlighted a number of other meetings, prior to the annual meeting, that returning Members would be attending for which they would also need to have completed the declaration of acceptance. A prioritised schedule was produced highlighting key dates and Councillor attendance. The Acting Democratic Services Officer coordinated the return of completed forms and was responsible for keeping all key stakeholders fully informed with an updated position statement.

Register of Interests

- 3.6 The completed register of interests forms are retained by Governance Services. Members were required to complete and return this form within 28 days of their election or re-election. All completed register of interests forms were received by the Corporate Governance Officer or Group Office staff within the deadline.
- 3.7 A system was used to ensure that Members complied with the deadline, as was used last year. The Group Support Managers and Group Whips were involved in the process of issuing reminders to Members, reminders were issued every week during the 28 days, and in the final week reminders were issued every day to those Members who still had not returned their completed forms. This system was successful in ensuring Members did not breach the Code of Conduct.

Training for Members

- 3.8 All newly elected and existing Members were invited to take part in a series of training courses during the induction period. This programme was heavily advertised both prior to the election as well as by individual invite to the new Members, once they were known.
- 3.9 All existing Members were invited to attend three sessions during the induction. These were Introduction to Performance Management, Leeds Local Area Agreement and Strategic Plan, and Media Skills. Existing Members were sent the induction programme leaflet as part of one of their usual weekend packages of papers, and information was available on the member development notice board. The programme also appeared on the Member Development intranet site.
- 3.10 All newly elected Members are taking part in the induction programme to varying degrees and a few existing Members have indicated that they will attend some courses. Initial feedback suggests that work commitments and childcare commitments are the most common reasons for new Members being unable to take part in the induction sessions. These Members acknowledge that they had received the information in good time, but that some previous commitments were unavoidable. As in previous years, one to one sessions will be arranged to cover any key aspects of induction that have been missed (finding your feet, scrutiny, code of conduct).
- 3.11 As in previous years, a questionnaire will be sent out to Members who participated in the induction period to seek their views on how the events could be improved for the next programme. As a result of last years' questionnaire, the induction sessions have been spread out over a longer time period, and the start of the induction period was delayed until a week after the elections. An extra line was also added to the letters sent to election candidates to resolve the poor attendance faced last year:

“Please remember that the induction programme forms a vital part of your early days as a councillor and has been endorsed by party Whips. Please make a note of the dates so that you are able to attend as many events as possible if elected next month. Don’t fall into the trap of assuming you won’t be elected!”

Parish and Town Councils

- 3.12 As Members may be aware, a new Parish Council in Alwoodley was created this year and held elections in May 2008. In order to assist these new Members with the induction process, in the absence of a Clerk, an induction pack was created for Parish and Town Councils. This included:
- Checklist of forms to return
 - Declaration of acceptance of office form
 - Copy of model Members’ Code of Conduct for Parish and Town Councils
 - Register of Interests form
 - Register of Interests guidance
 - Standards Board for England Guidance on the Code of Conduct
 - Copy of the ‘Cracking the Code’ e-learning module for Parish and Town Councils
- 3.13 In order to assist these Councillors during their first meeting, the Chief Officer (Legal, Licensing and Registration) and the Acting Democratic Services Officer attended the meeting to help them complete the relevant paperwork and ensure that the correct meeting procedure was followed.
- 3.14 All new Members completed the relevant paperwork within the deadlines, and these documents are currently being kept by the Acting Democratic Services Officer until a Parish Clerk is appointed.

4.0 Implications For Council Policy And Governance

- 4.1 Ensuring that all Members are aware of their responsibilities as Councillors, such as complying with the Code of Conduct, is essential for good governance. By providing training and assistance to Members, officers within Democratic Services ensure that all Councillors comply with their legal duties.

5.0 Legal And Resource Implications

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

6.0 Conclusions

- 6.1 It is part of the Standards Committee’s responsibilities to make arrangements for training in matters relating to codes of conduct and protocols. This report makes Members of the Committee aware of the several issues relating to the Members’ induction period.

7.0 Recommendations

- 7.1 Members of the Committee are asked to note the contents of this report.



**Members'
Induction Programme
2008**

**Member Development
Tel: 0113 39 50852
E-mail: kay.sidebottom@leeds.gov.uk**

This leaflet outlines the learning and development sessions that you will be encouraged to attend as a new Member of Leeds City Council.

Please note that all induction sessions (unless otherwise stated) will take place in the Civic Hall. Please ask for the exact location at reception.

A light lunch will be provided for all events. Please contact us if you have any special dietary needs or any other requirements.

FINDING YOUR FEET – SERVICES AND SUPPORT

Monday 12th May 2008
10am to 12pm

Presented by:

Nick de la Taste, Chief Democratic Services Officer, with representatives from Group Offices

Content:

This session will provide you with all the information you need to get up and running quickly in your new role. You will understand what services you can access and gain an awareness of the protocols and procedures in place to support you. Topics covered include: your allowance entitlements, the pension scheme, training and development opportunities, and the role of the Group Offices.

The session continues with lunch, where you will have the chance to meet the officers and discuss your individual requirements further. There will then be the chance to find out more about being a councillor from your group colleagues.

INTRODUCTION TO ICT

Monday 12th May 2008
1pm to 4pm

OR

Thursday 5th June 2008
9:30am to 12:30pm

Presented by:

Dennis Rhodes, Associate IT Trainer

Content:

This session will explain to you how the council's computer system works, show you how to log in, and explain what applications are available to you. You will be able to discuss any further IT training you need. There will also be the opportunity to talk through what computer equipment is available to you for your home.

An essential session for all new councillors!

LEARNING THE ROPES – THE CONDUCT OF COUNCIL MEETINGS

Wednesday 14th May 2008
10am to 12pm

Presented by:

Ian Walton, Principal Governance Officer

Content:

Council meetings can appear puzzling and intimidating to newcomers. This session will help to remove the mystery and help you feel more confident by explaining the procedures and processes involved. You will get the opportunity to try out the voting equipment and microphones in the Council Chamber itself. This session will be followed by lunch.

SPEAKING IN THE CHAMBER

Wednesday 14th May 2008
1pm to 3pm

Presented by:

Emma Taylor, 'Successful Speeches'

Content:

A session to help you become familiar with speaking in the Council Chamber. Emma will help you learn the following techniques:

- Sight reading so that you can always make eye contact with your audience
- Vocal warm-up
- Gestures to emphasise meanings
- Stressing words effectively so that your audience derives greater meaning from them.

UNDERSTANDING THE CODE OF CONDUCT

Tuesday 20th May 2008
10am to 12pm

Presented by:

Kate Feltham, Principal Corporate Governance Officer
 Nicolé Jackson, Assistant Chief Executive (Corporate Governance)

Content:

As a local councillor, you need to understand the Code of Conduct, which exists to guide and protect you in your role. This session will explain the requirements of the Code in terms of your general obligations as a councillor and how to register and declare your interests.

HOW THE COUNCIL WORKS – STRUCTURES AND DECISION-MAKING

Wednesday 21st May 2008
10am to 12pm

Presented by:

Liz Davenport, Principal Corporate Governance Officer

Content:

This session will demystify the workings of the Council in a fun and informative way. You will understand how decisions are made, the difference between Council and Executive functions and how the organisation is structured.

MEDIA SKILLS

Friday 30th May 2008
9:30am to 12:30pm
OR
1:30pm to 4:30pm

Presented by:

Charlotte Milligan, 'Maypole Media'

Content:

These sessions are open to both new and existing councillors.

The workshop will help you to prepare for a radio or television interview, and feel confident, even at short notice. You will have a clear idea how the media works and how to get the best out of it, plus a chance to practise your new skills with a detailed personal debrief to follow.

UNDERSTANDING SCRUTINY

Monday 2nd June 2008
10am to 12pm

Presented by:

Peter Marrington, Head of Scrutiny and Member Development

Content:

This event will help you to understand the role and organisation of the Council's Scrutiny function and put Scrutiny into context within the Council's decision-making process.

LOCAL GOVERNMENT FINANCE MADE SIMPLE

Tuesday 3rd June 2008
10am to 12pm

Presented by:

Alan Gay, Director of Resources

Content:

This event will provide a basic introduction to local government finance and the Council budget. It will explain how the Council receives and allocates European and government funding and how council tax is set and spent in Leeds. Officers will also demonstrate a new finance e-learning course for councillors, which is designed to take your knowledge to the next level.

LEEDS LOCAL AREA AGREEMENT AND STRATEGIC PLAN

Tuesday 3rd June 2008
1pm to 3pm

Presented by:

Jane Stageman, Senior Project Manager, Performance and Improvement

Content:

This session is open to both new and existing councillors.

How will the council improve things for the people of Leeds? This event will explain what the council is trying to achieve for the future and how it will do it. You will learn about the Leeds Local Area Agreement and the Leeds Strategic Plan and how they set out how the council will work with external partners to achieve the targets for the city agreed with central government.

INTRODUCTION TO PERFORMANCE MANAGEMENT

Tuesday 17th June 2008
11am to 12:30pm

Presented by:

Marilyn Summers, Senior Performance Manager

Content:

This session is open to both new and existing councillors.

Performance management involves using information about how things are, to decide how to make them better. It is part of everything that the council does and helps us to achieve what we set out to do.

This session will explain how the council manages performance and your role as a councillor in doing this.

MEET THE CORPORATE LEADERSHIP TEAM

Tuesday 17th June 2008
1pm to 1:30pm
Leonardo Building

The Corporate Leadership Team (CLT) consists of the Council's senior officers and the Chief Executive, Paul Rogerson. CLT would like to invite you to one of its weekly meetings. You will have the opportunity to discuss any issues relating to its service areas and get the chance to put faces to names.

Please assemble in the Civic Hall ante-chamber at 12.50pm and you will be escorted to the Leonardo building.

LICENSING FOR MEMBERS*

Sessions will be arranged on a one to one basis, as required.

Presented by:

Gill Marshall, Head of Legal Services

Content:

The Head of Legal Services will brief you about the Licensing Act and Gambling Act and how Leeds City Council conducts licensing matters. You will learn about your role on the Licensing Committee and have a chance to ask any questions.

* This training session is compulsory for new Members appointed to Licensing Panels.

PLANNING FOR MEMBERS*

Sessions will be arranged on a one to one basis, as required.

Content:

This briefing with the relevant Area Planning Manager will provide general information on planning, including information on the context of planning and an outline of the legislative framework. You will also learn about your role in the process, especially in relation to development control and material considerations. There will be a chance to ask any questions you might have.

* This training session is compulsory for new Members appointed to a Plans Panel.

CRACKING THE CODE

Monday 30th June 2008
10am to 12pm

Presented by:

Kate Feltham, Principal Corporate Governance Officer
Kay Sidebottom, Member Development Officer

Content:

This session follows on from the 'Understanding the Code of Conduct' event on 20th May. You will go through our popular e-learning courses 'Cracking the Code (parts 1 and 2)' with the help of experienced officers. You'll then have the chance to ask any questions and deal with any outstanding issues from your experiences to date.

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Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Review of the Members' Register of Interests, Gifts and Hospitality 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. This report presents to the Standard Committee statistical data in relation to declarations of gifts and hospitality recorded by Members during the period 2007-2008, and draws comparisons with declarations made by Members in 2006-2007. The report highlights any trends that have been identified in terms of:
 - the number of gifts / hospitality received;
 - the Members receiving the largest numbers of gifts / hospitality; and
 - the organisations making the largest numbers of donations.
2. The report shows that there has been an increase in the number of gifts and hospitality received in 2007/08, although this is almost entirely accounted for by the new arrangements in place for the Lord Mayor and Deputy Lord Mayor to record all personal gifts and hospitality received in the Register of Interests.
3. The Standards Committee is recommended to consider the information as set out in the report.

1.0 Purpose Of This Report

1.1 This report presents to the Standard Committee statistical data in relation to declarations of gifts and hospitality recorded by Members during the period 2007-2008, and draws comparisons with declarations made by Members in 2006-2007. The report highlights any trends that have been identified in terms of:

- the number of gifts / hospitality received;
- the Members receiving the largest numbers of gifts / hospitality; and
- the organisations making the largest numbers of donations.

2.0 Background Information

2.1 The way in which gifts and hospitality have been recorded has changed in the last municipal year. The new Members' Code of Conduct (which was adopted by the Council at the Annual Meeting in 2007) makes provisions for declarations of gifts and hospitality to be included in the Members' Register of Interests, rather than as a separate private register.

2.2 Details of the gifts and hospitality which Members have received since May 2007 (including details of the donor and the value of the gift) are now available on the Council's website as part of the Register of Interests.

2.3 In October 2007, the Standards Committee received a report which presented them with statistical data in relation to the register of gifts and hospitality from 2002 to May 2007. This report analyses any trends in the number, frequency and value of gifts received during the year 2007/08 in the same way, and draws comparisons with the register of gifts for 2006/07.

2.4 The top twelve donors for the year 2007/08 have also been identified along with the percentage of gifts throughout the municipal year they account for. Those who have provided less than three gifts within the year have not been identified.

3.0 Main Issues

Procedure for recording gifts and hospitality received by Members

3.1 Members are required to register any gifts or hospitality they receive worth over £25.00 and in connection with their role as a Councillor. In order to register the gift Members must provide the name of the donor, a brief description of the gift or hospitality, the date they received the gift, and its estimated value.

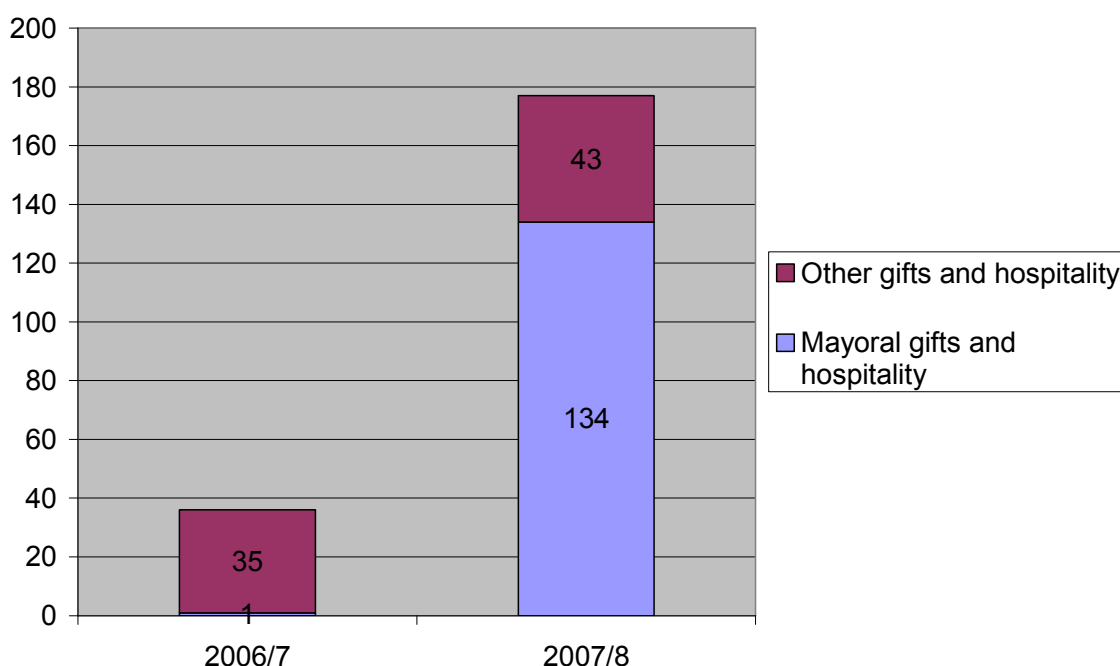
3.2 Members are provided with extensive guidance (available on the Council's intranet site and from their group office) on when to accept gifts and hospitality, and when this would be inappropriate. There is also a form available for Members to use when registering their receipt of a gift which prompts them to provide all the required information. This is attached as Appendix A to this report.

3.3 Members are reminded of the need to register gifts and hospitality through the regular quarterly reminders sent to them regarding the Register of Interests. In addition, Members who also hold special positions, such as the Leader or the Lord Mayor, have special arrangements for officers to forward details of civic engagements and gifts received on their behalf.

- 3.4 In addition, Members are now required to declare a personal interest in any matter under consideration at a meeting if it is likely to affect a person who gave them the gift or hospitality. Members must declare the existence and nature of the gift and hospitality, the person who gave it to them and how the matter relates to that person. Three years after a Member has received a gift, their obligation to declare it at a meeting ceases, although it will remain on their register for the duration of their period as a Councillor.
- 3.5 Members are reminded of the need to declare any personal interests arising from their Register of Interests through an aide memoir sent by the relevant Committee Clerk prior to the Committee meeting.
- 3.6 At the end of 2007 an Internal Audit Inspection was carried out on the Register of Interests and the Register of Gifts and Hospitality for Members. In the case of the registration of gifts and hospitality, the audit identified that there are satisfactory procedures in place to ensure that members promptly register any acceptance of gifts and hospitality in accordance with the Code of Conduct.
- 3.7 A substantial assurance opinion was provided both in respect of the control environment and compliance. One of the main recommendations for improvement was that the designated form (Appendix A) should be used by Members when recording their acceptance of gifts and hospitality in order to ensure that all the required information is provided and that there are no delays in registering this information.

Number of gifts

- 3.8 The number of gifts received in the last municipal year in comparison the number received in 2006/07 can be seen in the graph below:



- 3.9 As can be seen in the graph, there has been a large increase in the number of gifts and hospitality received in the last municipal year. This is mostly accounted for by the 134 personal gifts and incidents of hospitality received by the Lord Mayor and

the Deputy Lord Mayor during the year. The number of gifts and hospitality recorded by the Lord Mayor and Deputy Lord Mayor is much higher than in previous years, which is due to the Lord Mayor and Deputy Lord Mayor registering their interests correctly.

3.10 As was reported in October last year, the Lord Mayor's Secretary is required to keep a register of civic gifts for audit purposes. These are gifts given to the Lord Mayor that are not personal gifts, but are intended for the city. These gifts are kept in the Lord Mayor's accommodation. Until May 2007 the Guidelines for Civic Dignitaries also instructed Lord Mayors to record their personal gifts in this register. However the Standards Board for England advise that there are no special rules or exemptions for those who serve in special positions such as the Lord Mayor or the Leader, and therefore the personal gifts and all hospitality received should have been recorded in the register kept for all Members of the Council.

3.11 The updated guidance notes now read as follows:

"In order to comply with the Members' Code of Conduct, all Members (including the Lord Mayor and Deputy Lord Mayor) must record any personal gifts or hospitality received (over the value of £25) in their register of interests because they are a Councillor.

If you do not know the value of the gift or hospitality you have received you should estimate it. This estimate should reflect what it would cost a member of the public to obtain the same item. You should bear in mind that if multiple gifts are received from the same source, it is the cumulative value which applies. Also if you take a guest to a civic engagement, it is the combined value of the hospitality received which should be recorded.

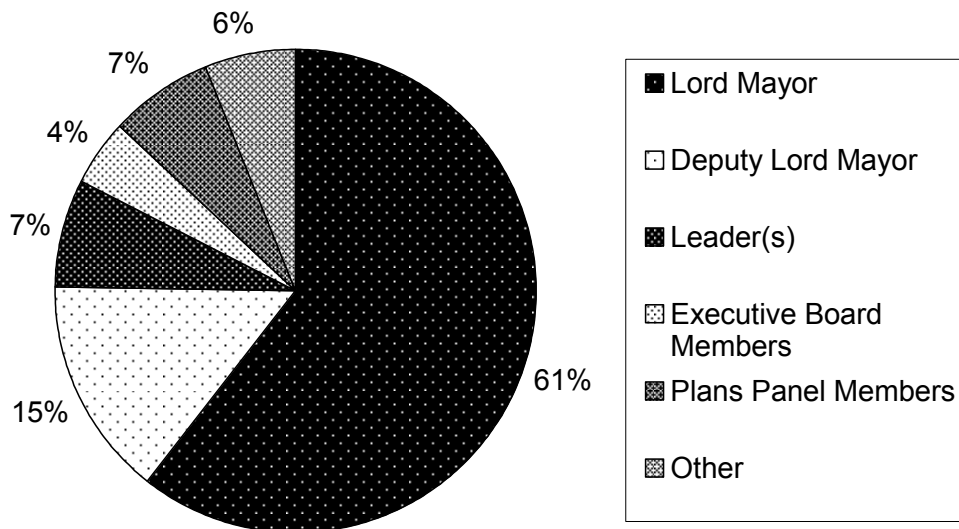
The Lord Mayor's Secretary will assist you with recording appropriate gifts and hospitality by informing the relevant officer of all civic engagements where hospitality has been received with an estimated value of £25 or more. The Lord Mayor's Secretary will also inform the relevant officer of any personal gifts which are received.

However, it is your responsibility to ensure your register entry is correct. If you receive a gift or hospitality which the Lord Mayor's Secretary is unaware of, you must notify the relevant officer within 28 days of receiving that gift or hospitality. Civic gifts do not need to be recorded in your register of interests, and will instead be recorded in a separate register by the Lord Mayor's Secretary for audit purposes."

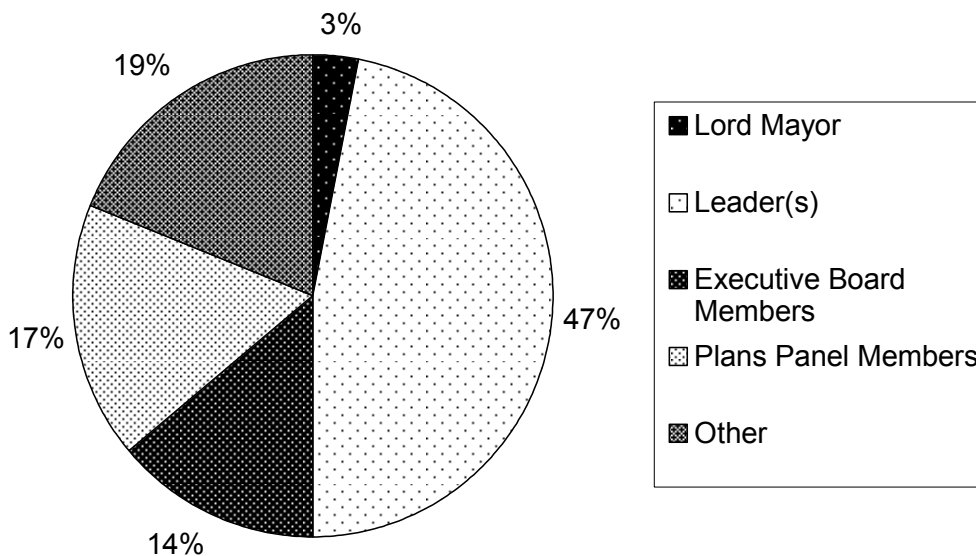
3.12 As can be seen from the above guidance notes, the Lord Mayor's Secretary now also assists the Lord Mayor and Deputy Lord Mayor by forwarding details of all personal gifts and incidents of hospitality to Governance Services so that these can be recorded in the Register of Interests.

Position of recipient

3.13 An analysis of the position of the recipients in 2007/08 can be seen in the graph below:



3.14 The position of the recipients in 2006/07 can also be seen below:

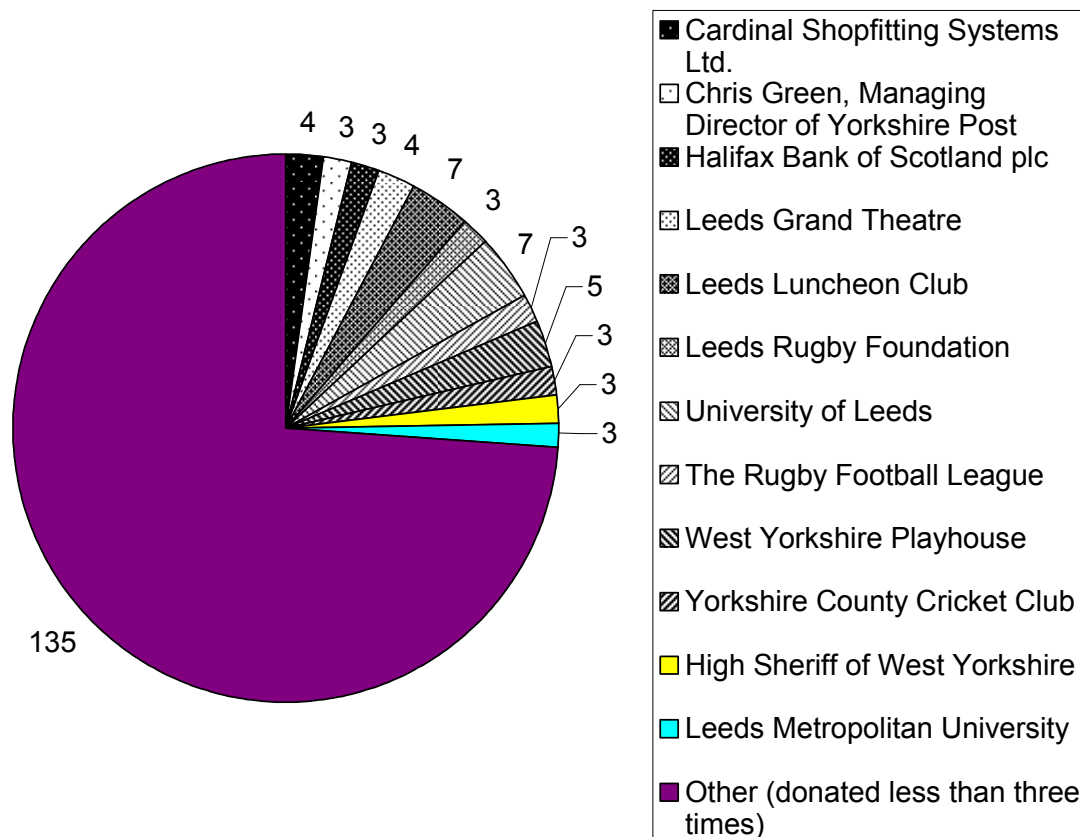


3.15 A comparison of the two graphs shows that gifts and hospitality provided to the Leader have decreased in the past year. Indeed in 2007/08 the number of gifts provided to the Leader is the same as that provided to Plans Panel members.

3.16 As in previous years the Leaders and the Executive Board account for a large proportion of gifts and hospitality, which could be explained by the fact that these are high profile Members who regularly feature in local media. However, they are also the Members of the Council who have the most decision making power.

Frequency of donations

- 3.17 The chart below shows the identity of the top twelve providers of gifts and hospitality to Members in 2007/08:



- 3.18 Those who have donated less than three times during the year are grouped together under 'other'. This includes some bodies such as the Leeds Chamber of Commerce, but also individual constituents who may have provided a bunch of flowers to their Ward Member.
- 3.19 Some of the bodies in the list have close ties with the Council, such as Leeds Grand Theatre and West Yorkshire Playhouse, as the Council has Members on their management boards. Therefore the provision of free tickets to shows at these theatres is fairly commonplace.
- 3.20 Members may be interested to know that according to the Council's records, Cardinal Shopfitting Systems Ltd have not supplied the Council in any way for at least the past two years.
- 3.21 Leeds Luncheon Club and the University of Leeds have provided the most frequent gifts and hospitality, although it may be of note that all of these gifts and hospitality were provided to the Lord Mayor or the Deputy Lord Mayor as part of civic events.
- 3.22 Two of the top three donors in the municipal year 2006/07 (Yorkshire County Cricket Club and West Yorkshire Playhouse) again appear in the top twelve donors for 2007/08.

Value of gifts and hospitality

- 3.23 In the municipal year 2007/08, 177 gifts and hospitality were recorded by Members. These amounted to an estimated total of £10,657.95. This comes to an average amount of £60.21 per gift.
- 3.24 This represents a large increase on the value of gifts received in 2006/07 which was £2,361.60. However once the value of gifts and hospitality received by the Lord Mayor are removed from the total, only £2,927.00 worth of gifts and hospitality were received in 2007/08, which only represents a small increase. The average amount per gift has also actually decreased since 2006/07, which amounted to £65.60 per gift.
- 3.25 The cumulative value of the gifts received in the municipal year 2007/08 can be seen in Appendix B to this report. As can be seen from the table, the most valuable single gift came from the Ledston Charity Ball Committee, which was a pair of tickets provided to the Lord Mayor. Indeed most of the more expensive items were provided to the Lord Mayor or Deputy Lord Mayor.

Declarations of interest arising from gifts and hospitality received

- 3.26 There have been three personal interests declared by Members in the municipal year 2007/08 relating to gifts and hospitality received.
- 3.27 Two of these related to a white paper being considered at a full Council meeting on 31st October 2007 in relation to Leeds Rhinos, and the other related to a planning application being made by Leeds Metropolitan University in March 2008.

4.0 Implications For Council Policy And Governance

- 4.1 Undertaking the described review of the Members' register of gifts and hospitality enables to the Council to have a better understanding of the nature of gifts and hospitalities received by Members and also the effectiveness of those procedures in place to ensure that the acceptance of any such offers by Members is open and transparent.
- 4.2 The Council has been able to strengthen its governance arrangements by implementing new procedures for the Lord Mayor and other senior Members to ensure gifts and hospitality are recorded promptly and in the appropriate manner.

5.0 Legal And Resource Implications

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

6.0 Conclusions

- 6.1 In carrying out this review, the Council has been able to strengthen its governance arrangements by implementing new procedures for the Lord Mayor and other senior Members to ensure gifts and hospitality are recorded promptly and correctly.

7.0 Recommendations

- 7.1 Standards Committee is recommended to consider the information provided in this report.

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Declaration of receipt of gifts and hospitality

You must complete all the following details and return the form to the address below within 28 days of receiving the gift or hospitality in order to comply with the Members' Code of Conduct 2007. This information will then be added to the Members' Register of Interests published on the Council's website.

For more guidance on the rules surrounding registering gifts and hospitality, please refer to the 'Members' Register of Interests – Guidance Notes', available in your group office or to download on the intranet by following this path: Information About – Council and Democracy – Councillors, agendas and minutes – Councillors' Code of Conduct – Guidance on the Members' Register of Interests.

<p>Who donated the gift/hospitality?</p> <p>Please note that you are not required to register gifts or hospitality provided by Leeds City Council.</p>	
<p>What date did you receive the gift/hospitality?</p>	
<p>Please provide a brief description of the gift/hospitality.</p>	
<p>What is the estimated market value of the gift/hospitality?</p> <p>Please note that if you are registering a heavily discounted item, the value will be the difference between the normal market cost and the amount you paid. Also please note that you are only required to register gifts or hospitality worth £25 or more.</p>	

Name of Member:

Date:

Please return your completed form to:
Amy Kelly, Corporate Governance Officer, Governance Services, 4th Floor West, Civic Hall

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Cumulative value of gifts and hospitality received by Members in 2007/08

Donor	Number of gifts/hospitality	Cumulative value of gifts/hospitality
Leeds Grand Theatre	4	£680.00
Chris Green (Yorkshire Post)	3	£435.00
Ledston Charity Ball Committee	1	£300.00
Halifax Bank of Scotland plc	3	£300.00
University of Leeds	7	£295.00
Leeds Metropolitan University	3	£230.00
Yorkshire County Cricket Club	3	£230.00
West Yorkshire Playhouse	5	£218.00
HMS Ark Royal	1	£200.00
Railway Touring Co & Mayor of Scarborough	1	£200.00
Yorkshire Culture	1	£200.00
NewstrAid (West Yorkshire)	2	£200.00
High Sheriff of West Yorkshire	3	£190.00
Louisville 'Sister Cities'	1	£180.00
Leeds and District Referees Association	2	£180.00
Carey Jones Architects Ltd.	1	£165.00
Rugby Football League	3	£165.00
Leeds Rugby Foundation	3	£160.00
Leeds Children's Holiday Camp Association	2	£150.00
Mayor of Doncaster	2	£140.00
Rotary Club	2	£140.00
Cardinal Shopfitting Systems Ltd.	4	£140.00
Leeds Law Society	1	£120.00
Leeds Sports Federation	1	£120.00
Northern Ballet Theatre - Leeds Grand Theatre	1	£120.00
Yorkshire & Humber Chinese Association	1	£120.00
Jamaica Society (Leeds)	2	£120.00
Mayor of Wakefield	2	£120.00
Caledonian Society Leeds	1	£100.00
Federation of Disability Sports	1	£100.00
Gourmet Burger Kitchen	1	£100.00
John Morgan of Fortune River Restaurant	1	£100.00

Keepmoat	1	£100.00
Leukaemia Research	1	£100.00
National Youth Orchestra of Great Britain	1	£100.00
Opera North Ltd.	1	£100.00
Ian Ward (Chairman of Leeds Building Society)	2	£100.00
Leeds Parish Church	2	£90.00
Leeds Luncheon Club	7	£90.00
Fairburn Ings, Ledston, Castleford	1	£80.00
Haven Breast Cancer	1	£80.00
Leeds Eastate Agents, Surveyors and Valuers	1	£80.00
Leeds WIZO Blue and White Bazaar	1	£80.00
Morley Rotary Club	1	£80.00
Rothwell and District Rotary Club	1	£80.00
Leeds Chamber of Commerce	2	£75.00
Insurance Institute	1	£70.00
Vice Chancellor of Leeds University Professor Michael Arthur	1	£70.00
TS Ark Royal	2	£68.00
Normandy Veterans Association	2	£65.00
Brasserie Blanc	1	£60.00
Friends of Physically Disabled Able Bodied	1	£60.00
Harewood House Trust, Harewood House	1	£60.00
Hospital Broadcasting Association	1	£60.00
Leeds Chinese Community Association	1	£60.00
Leeds Festival Chorus	1	£60.00
Leeds Wah Kwong Chinese Association	1	£60.00
Normanton Town Council	1	£60.00
RAF Linton-on-Ouse	1	£60.00
SLP College of Performing Arts	1	£60.00
UK Jewish Film Festival	1	£60.00
Yorkshire in Bloom Awards/ Hull City Council	1	£60.00
15th NE Brigade	1	£50.00
Federation of Master Builders	1	£50.00
Gateways School, Harewood	1	£50.00
Jet2.com	1	£50.00
Leeds Carnegie	1	£50.00

Leeds Youth Opera	1	£50.00
St Kitts and Nevis Association	1	£50.00
Sun Zi (author)	1	£50.00
Yorkshire and Humber Faiths Forum	1	£50.00
Yorkshire Sikh Forum	1	£50.00
SITA UK	1	£49.00
British Amateur Rugby League Association	1	£40.00
Dame Fanny Waterman DBE FRCM	1	£40.00
Donisthorpe Hall	1	£40.00
Her Majesty The Queen	1	£40.00
Leeds College of Music	1	£40.00
Leeds Women's Luncheon Club	1	£40.00
Lord Mayor of Bradford	1	£40.00
Oceana Club, Woodhouse Lane	1	£40.00
Park Lane College	1	£40.00
Royal British Legion	1	£40.00
School Crossing Patrol Service	1	£40.00
Screen Yorkshire & Warner Bros	1	£40.00
Showmen's Guild (Yorkshire)	1	£40.00
Skelton Grange Environment Centre	1	£40.00
Soldiers, Sailors, Airmen & Families Association Forces Help	1	£40.00
Sound Control Modern Music Stores	1	£40.00
West Riding Opera Company	1	£40.00
West Yorkshire Federation of Women's Institutes	1	£40.00
Yorkshire Cancer Centre	1	£40.00
Yorkshire Regiment	1	£40.00
Legal Delegation from Milan	1	£33.00
Manager of Lidl Store, Halton	1	£32.00
British Council	1	£30.00
Hargreaves Training Centre	1	£30.00
Home Office and Probation Service	1	£30.00
Leeds Association of Engineers	1	£30.00
Leeds Civic Arts Guild	1	£30.00
Leeds Methodist Mission	1	£30.00

Leeds Pageant	1	£30.00
Leeds Primary Care Trust	1	£30.00
Mayor of Tadcaster	1	£30.00
RICE restaurant	1	£30.00
Sheffield Cathedral	1	£30.00
Speed Masters	1	£30.00
Trinity and All Saint's College, Horsforth	1	£30.00
Chinese Olympic Committee	1	£25.00
City Council of Stockholm	1	£25.00
Delegation from Ukraine	1	£25.00
Julie Hanlon (constituent)	1	£25.00
Swimming Teachers' Association	1	£25.00
Thorntons	1	£25.00
Yorkshire Dance Centre	1	£25.00
Bishop of Leeds	1	£20.00
Etz Chaim Synagogue	1	£20.00
Ian Harrison (RAF Church Fenton)	1	£20.00
Martin House Hospice	1	£20.00
Peter Diddle	1	£20.00
Romanian Ambassador	1	£20.00
Save the Children Fund	1	£20.00
Wheatfields Hospice	1	£20.00
Mr Michael Winner	1	£17.95
Bill Samuels Junior Maker's Mark Distillery Louisville	1	£15.00
Diocese of Ripon and Leeds	1	£10.00
Gateway Yorkshire	1	£10.00
People in Action Leeds	1	£10.00
The Sports Cafe, Headrow, Leeds	1	£10.00



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Adjudication Panel for England: Decisions of Case Tribunals

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

1.0 Purpose Of This Report

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

2.0 Background Information

- 2.1 Two case tribunal decisions have been published since the last report. The decisions are summarised below, in order that Members of the Committee may consider if there are any lessons to be learned by this authority. Copies of each case summary published on the Adjudication Panel for England's website have been sent separately to those Members who have requested them.
- 2.2 The Committee will note that the majority of cases highlight the need for comprehensive and regular training for elected and co-opted Members, on the detailed requirements of the Code of Conduct.
- 2.3 Members of the Committee may wish to note that the cases have been separated into those involving Parish and Town Councils, those involving Borough, City or District Councils, and those which are appeals against local standards committee decisions, for ease of reference.

3.0 Main Issues

Appeals against a local standards committee decisions

Shepway District Council and Hythe Town Council

- 3.1 The Councillor appealed against the standards committee's finding that he had breached paragraphs 2(b), 2(c) and 4 of the Code of Conduct through the comments he made about the Town Clerk at a meeting of Charity Trustees. During this meeting the Councillor made the comment that the Public Rights of Way Officer had found the Town Clerk "difficult to get on with", and that "this was also the view of many towns people who say that when they try to contact the Town Clerk she is downright rude to them..."
- 3.2 The Councillor also appealed against the action that the standards committee decided to take, which was to censure him.
- 3.3 The Councillor cited several procedural matters in respect of the standards committee hearing which in his view amounted to a breach of natural justice. The Appeals Tribunal provided comments on this procedural matters for the standards committee to consider in respect of future hearings:
- Firstly, that it is important for hearings to take place in public (except where confidential or exempt information is being discussed) and that public access to the meeting is well facilitated. Where any part of a meeting will be conducted in private, the reasons for doing so should be clearly explained to the public present and preferably produced in writing.
 - Secondly, where the case is being determined in the absence of the Councillor, further evidence should not be introduced to the committee without giving the

Councillor the opportunity to have sight of that evidence so that a decision can be made whether they would like to attend the meeting to rebut the evidence or make written representations in respect of it.

- Finally, the Appeals Tribunal concluded from the paperwork presented to it, that the standards committee chose not to follow the guidance produced by the Standards Board in respect of the conduct of hearings and the pre-hearing process. Not doing so may have led to a degree of unfairness in this case.

3.4 The Appeals Tribunal decided that the Councillor did not breach the Code of Conduct as alleged for the following reasons:

- The fact that the Councillor refused to apologise for comments that he honestly believed to be true and was simply reporting and then failing to apologise, cannot in the opinion of the Appeals Tribunal, amount to treating the Town Clerk disrespectfully. The comments were not made in a malicious manner, and were within the remit of the meeting.
- The Appeals Tribunal disagreed that the Councillor had behaved in such a way that was likely to compromise the impartiality of the Town Clerk by inhibiting her ability to fulfil her functions effectively when dealing with officers and officials at Kent County Council. There was no evidence of any problems in the Clerk's dealings with others, and the comments provided by the original complainant on the draft investigation report refer to the 'very friendly' relationship between the Clerk and one official.
- In the Appeals Tribunal's view it is important that Members should be able to express in robust terms their concerns over any aspect of the running of the Council and this can include disagreement with officers and their methods. The Appeals Tribunal does not consider that a reasonable objective observer of the proceedings would think that the comments would bring the office or Councillor or the Council into disrepute.

3.5 Therefore the Appeals Tribunal dismissed the findings of the Standards Committee.

3.6 **In Leeds, the Standards Committee Procedure Rules reflect the recommended practice in the Standards Board guidance on hearings and investigations. There is also a clear presumption within the Procedure Rules that hearings will be held in public.**

Birmingham City Council

3.7 The Councillor appealed against the standards committee's decision that he failed to follow paragraph 2(b) of the Code of Conduct by trespassing on private land and recording a video, which was subsequently posted on the internet, the content of which was inaccurate and biased against the landowner and therefore failed to treat him with respect.

3.8 The Councillor also appealed against the action taken by the standards committee which was to suspend him for a period of one month, unless he gave a written apology within 14 days of the standards committee decision.

3.9 The Appeals Tribunal decided that the Councillor did fail to follow the Code of Conduct because:

- The Councillor was acting in his official capacity at the time as he was seeking to deal with a constituent's problems;
- He trespassed on the complainant's land and a building he owned, filmed him and the building and made the film available on the internet;
- The film made a number of negative statements regarding the ownership of the property including that the owner carried out work on the property without planning and building control consent, that the building was structurally unsafe and made defamatory remarks about him which caused him and his family distress;
- The Councillor was disrespectful to the complainant at the time of the visit to his property because it was an unreasonable interference with his property rights, having neither sought permission to enter or informed him that he was going to visit the building;
- The tenor and content of the video was biased against the complainant, and the Appeals Tribunal concluded that its purpose was to show him in a poor light. The Councillor was happy to associate himself with the video (even if he did not make the comments personally), as he posted the video on YouTube through a link on his own website. Some of the comments were speculative or simply incorrect, and by publishing the video, the Appeals Tribunal felt that the Councillor was unfair and unreasonable to the complainant within the context of the Code of Conduct;
- The Appeals Tribunal also felt that the Councillor failed to show respect to the complainant by failing to edit the video or the accompanying blog in the light of new information. In addition, the Councillor sent the video to a local news website called 'The Stirrer' which also published it, causing the complainant and his family distress and harming the complainant's public standing. The Appeals Tribunal also considers this to be a breach of paragraph 2(b) of the Code;
- Finally, the Appeals Tribunal concluded that the Councillor had breached paragraph 2(b) of the Code of Conduct by continuing to publish the video after the building inspection took place and he was requested to remove it by the complainant's solicitors.

3.10 The Appeals Tribunal considered that the conduct of the Councillor represented a serious breach of the Code meriting a short period of suspension. They also varied the one month suspension imposed by the standards committee to no longer offer the option of an apology to avoid suspension. The Appeals Tribunal therefore upheld the findings of the standards committee.

3.11 **In Leeds, the guidance on applying sanctions within the Standards Committee Procedure Rules and the Hearings Manuals states that a period of suspension may be appropriate in more serious cases, or where there is a fear that the behaviour may be repeated or may have brought the Members' office or authority into disrepute.**

4.0 Implications For Council Policy And Governance

4.1 There are no implications for Council Policy.

4.2 By continually monitoring decisions made by the Adjudication Panel and the implications for Leeds, the Standards Committee is fulfilling its terms of reference by keeping the codes and protocols of the Council under review.

4.3 By identifying problem areas the Standards Committee are also able to improve the training provided for Members on conduct issues, and maintain good conduct in the Council.

5.0 Legal And Resource Implications

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

6.0 Conclusions

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

7.0 Recommendations

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

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Originator: Amy Kelly

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Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 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 new 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 municipal year 2008/09 is attached at Appendix 1.

4.0 Implications For Council Policy And Governance

4.1 There are no implications for Council policy.

4.2 By ensuring the codes and protocols of the Constitution are reviewed and fit for purpose, the Standards Committee is supporting the Council's governance arrangements.

5.0 Legal And Resource Implications

5.1 There are no legal and resource implications.

6.0 Conclusions

6.1 The work programme is attached at Appendix 1 for the Committee's information.

6.2 The work programme contains information about future agenda items for the Committee.

7.0 Recommendations

7.1 Members of the Committee are asked to note the work programme and advise officers of any items they wish to add.

STANDARDS COMMITTEE - WORK PROGRAMME 2008/09

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Meeting date: Thursday 16th October 2008 – The deadline for reports for this meeting is Monday 22nd September 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 Framework Training and Awareness Programme for Officers	To receive an updated report on the steps the Chief Officer (Human Resources) has taken to implement the Ethical Framework Training and Awareness Programme proposed in December 2007.	Human Resources Manager Alex Watson
Protocol for Elected Members/Officer Relations	The Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.	Principal Corporate Governance Officer Kate Feltham
Protocol for Elected Members / Education Leeds Relations	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 light of any issues that have arisen during the year.	Principal Corporate Governance Officer Kate Feltham
Standards Committee Communications Plan	To consider a report reviewing the Standards Committee Communications Plan including any proposals for amendment.	Corporate Governance Officer Amy Kelly
Complaints referred to the Standards Board for England in the period October 2007 to June 2008	Annual report detailing the number of complaints referred to the Standards Board for England in relation to Members of Leeds City Council and local Parish or Town Councillors within the area, and the outcome of those complaints.	Corporate Governance Officer Amy Kelly

STANDARDS COMMITTEE - WORK PROGRAMME 2008/09

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Ethical Audit Action Plan	To receive the updated Ethical Audit Action Plan for the 2008/09 municipal year, which will include actions arising from the results of the Ethical Audit 2007.	Principal Corporate Governance Officer Kate Feltham
Code of Practice for the Determination of Planning Matters	To receive an annual report outlining whether the arrangements set out in the Code have been complied with and any proposals for amendment in the light of any issues that have arisen throughout the year.	Chief Planning Officer Phil Crabtree
Meeting date: Tuesday 16th December 2008 – The deadline for reports for this meeting is Friday 21st November 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
Complaints referred to Leeds City Council since June 2008	To receive a report outlining the number of complaints regarding Leeds City Councillors and Parish and Town Councillors in Leeds considered by the Assessment Sub-Committee since June 2008, and the outcome of those complaints.	Corporate Governance Officer Amy Kelly
Standards Board for England Annual Assembly	To receive a report on the recent Standards Board Annual Assembly, and feedback from those Members of the Committee who attended.	Corporate Governance Officer Amy Kelly
Parish Council Annual Audit 2008/09	To receive a report outlining the results of the Parish Council Annual Audit undertaken in October/November 2008.	Corporate Governance Officer Amy Kelly

STANDARDS COMMITTEE - WORK PROGRAMME 2008/09

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Meeting date: Tuesday 17th February 2009 – The deadline for reports for this meeting is Friday 23rd January 2009		
Draft Standards Committee Annual Report 2008/09	To seek Members' input on content of the Standards Committee annual report 2008/09. The report provides proposals and suggestions for content, and a draft report.	Corporate Governance Officer Amy Kelly
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
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
Annual report on the Monitoring Officer Protocol	The Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.	Principal Corporate Governance Officer Kate Sadler
Ethical Audit Action Plan – Progress Report	To receive a report outlining the progress against the Ethical Audit Action Plan over the last six months.	Principal Corporate Governance Officer Kate Sadler
Meeting date: Tuesday 21st April 2009 – The deadline for reports for this meeting is Friday 27th March 2009		
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

STANDARDS COMMITTEE - WORK PROGRAMME 2008/09

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
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
Code of Practice for the Determination of Licensing Matters	To receive a report outlining whether the arrangements set out in the Code have been complied with and will include any proposals for amendment in light of any issues that have arisen throughout the year.	Section Head Licensing and Enforcement Gill Marshall
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. The Monitoring Officer will report to the Standards Committee annually on whether the arrangements set out in this procedure have been complied with, and will include any proposals for amendments in the light of any issues that have arisen during the year.	Principal Corporate Governance Officer Kate Sadler

STANDARDS COMMITTEE - WORK PROGRAMME 2008/09

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
<u>Unscheduled Items</u>		
Officer Code of Conduct	Approval of a revised Leeds City Council Officer Code of Conduct following receipt of the Model Code. ¹	Chief Officer (Human Resources) Lorraine Hallam
Ethical Arrangements in Partnerships	To receive a report detailing the draft ethical components of the toolkit for partnerships.	Principal Corporate Governance Officer Kate Feltham
Parish Council Annual Audit	To receive the results of the Parish Council Audit carried out following the adoption of the new Code of Conduct in 2007.	Corporate Governance Officer Amy Kelly
Politically Restricted Posts	To receive a report setting out details of the Council's new requirements for considering appeals against politically restricted posts and how the Chief Officer (Human Resources) proposes to comply with them under the new duty given to Standards Committees. ²	Human Resources Manager Alex Watson

¹ The Department for Communities and Local Government will not resume work on the officer code of conduct until late 2007.

² Regulations regarding this process are not due to be released until later in 2008.

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