



STANDARDS COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Tuesday, 21st April, 2009
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
JL 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 17th February 2009.</p>	1 - 4
6			<p>MINUTES OF THE ASSESSMENT SUB-COMMITTEE</p> <p>To note the minutes of the Assessment Sub-Committee meeting held on 5th March 2009.</p>	5 - 6
7			<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 11th February and 18th March 2009.</p>	7 - 16
8			<p>CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) providing information to Standards Committee in relation to the monitoring requirements of the Code of Practice for determining licensing matters.</p>	17 - 36

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p>ETHICAL ARRANGEMENTS IN PARTNERSHIPS</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) informing the Standards Committee of the Governance Framework for Significant Partnerships, and in particular the principles in place within the Framework relating to ethical governance.</p>	37 - 50
10			<p>STANDARDS COMMITTEE PROCEDURE RULES</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) reviewing the Standards Committee Procedure Rules, making recommendations for any necessary amendments and reporting on the gate keeping role performed by the Monitoring Officer in relation to any Local Complaints.</p>	51 - 58
11			<p>MICE MONEY AND MEMBERS' CODE OF CONDUCT</p> <p>To receive a report of the Director of Resources and the Assistant Chief Executive (Corporate Governance) advising Members of some amendments to the "Members Improvements in the Community and the Environment" (MICE) scheme approved by the Executive Board on 1st April 2009.</p>	59 - 64
12			<p>ANNUAL REPORT ON THE MONITORING OFFICER PROTOCOL</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) presenting the annual report of the Monitoring Officer which is required under Paragraph 5 of the Monitoring Officer Protocol.</p>	65 - 84

Item No	Ward/Equal Opportunities	Item Not Open		Page No
13			<p>ADJUDICATION PANEL FOR ENGLAND: DECISIONS OF CASE TRIBUNALS</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) providing summaries of recent decisions made by the Adjudication Panel for England in its role of determining allegations of misconduct.</p>	85 - 96
14			<p>STANDARDS COMMITTEE ANNUAL REPORT 2008/09</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) seeking Members' approval of the second draft of the Standards Committee Annual Report 2008/09.</p>	97 - 126
15			<p>STANDARDS COMMITTEE AND CORPORATE GOVERNANCE AND AUDIT COMMITTEE TERMS OF REFERENCE</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) informing Members of the revised Terms of Reference for the Standards Committee and Corporate Governance and Audit Committee.</p>	127 - 130
16			<p>STANDARDS COMMITTEE WORK PROGRAMME</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) outlining the contents of the draft work programme for the 2009/10 municipal year.</p>	131 - 138

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Standards Committee

Tuesday, 17th February, 2009

PRESENT:

Independent Members

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

Councillors

J L Carter J Elliott

Parish Members

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

APOLOGIES:

Councillors D Blackburn and E Nash

51 Appeals against refusal of inspection of documents

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

52 Exempt Information - Possible Exclusion of the Press and Public

The Standards Committee identified Item 7 of the agenda (Minute 57 refers) as containing an appendix which officers had identified as containing exempt information, and where officers considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information, for the reasons outlined in the report. The Standards Committee decided to accept the officers recommendation in respect of the above information.

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:-

The final report of the investigating officer in relation to a local investigation into a complaint against a Member classified as exempt under Access to

Information Procedure Rule 10.4 (1, 2 and 7c) as the report contains the opinion of the investigating officer, which, if the report were made public, would be disclosed prior to the Committee having had the opportunity to discuss that opinion and forming their own view of it.

53 Late items

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

54 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.

55 Minutes of the Previous Meeting

The minutes of the Standards Committee meeting held on 16th December 2008 were approved as a correct record.

Further to Minute 40, the Committee was informed that, as the Council had been shortlisted in the 'Standards and Ethics' category of the Local Government Chronicle Awards 2009, the Chair had been invited to take part in filming for the Standards Board for England's website.

Further to Minute 43, Members were informed that General Purposes Committee had considered the Standards Committee membership at its meeting on 20th January 2009, and resolved to recommend to full Council that the membership be amended as per the Standards Committee's resolution. Full Council will consider this recommendation on 25th February 2009.

Further to Minute 48, Members were informed that the Standards Committee's response had been amended according to Members' comments, and was sent to the Department for Communities and Local Government on 23rd December 2008.

56 Minutes of the Corporate Governance and Audit Committee

The minutes of the Corporate Governance and Audit Committee meeting held on 21st January 2009 were received and noted.

57 Code of Conduct Investigation into a Complaint Against a Member

The Assistant Chief Executive (Corporate Governance) submitted a report setting out the findings of the Investigating Officer in a Code of Conduct investigation into a complaint against a Member. The investigation followed the submission of a complaint to the Standards Board for England which was subsequently referred back to the authority.

Appendix 1 to the report was designated as exempt under Access to Information Procedure Rule 10.4 (1, 2 and 7c).

The Investigating Officer was present at the meeting to present his findings and to respond to any questions from Members.

Members agreed that the former Councillor had only been acting in his official capacity from the point at which he identified himself as a Councillor, and that his conduct from then on would not have brought his office or authority into disrepute. Members therefore agreed to accept the Investigating Officer's finding that there had been no failure to comply with the code of conduct.

Members then considered whether they wished to make any recommendations to the relevant authority as a result of the complaint and investigation. The Monitoring Officer explained the reasons for the delays in processing the complaint, which had been unacceptable. However, the Committee was assured that the new local assessment procedures would safeguard against any delays in processing future complaints.

RESOLVED – Members of the Standards Committee resolved to accept the Investigating Officer's finding of no failure.

58 Administrative Processes underpinning the Local Assessment

Arrangements

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) updating Members of the Standards Committee on the implementation of those changes agreed at the Standards Committee meeting on 16th December 2008, and also providing some further options for the Committee to consider.

RESOLVED – Members of the Standards Committee resolved to:

- (a) Note the amendments agreed at their meeting on 16th December 2008;
- (b) Produce formal minutes of the Assessment and Review Sub-Committee meetings to be published on the Council's website and referred to full Standards Committee and Council meetings; and
- (c) Agree to conduct another review of the local assessment process in September 2009.

59 Code of Recommended Practice on Local Authority Publicity – A

Consultation

The Principal Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) advising the Standards Committee of the current consultation being conducted by the Department for Communities and Local Government in relation to the Code of Recommended Practice on Local Authority Publicity.

Members were informed that if Government considers that revisions to the Publicity Code are required, then the comments received in response to the consultation would form the basis for a revised Publicity Code, the content of which would be consulted upon in 2009. Members raised concerns regarding the difficulties sometimes caused by the Publicity Code.

RESOLVED – Members of the Standards Committee resolved to:

- (a) Note the contents of the report; and

(b) Provide a response to the consultation on the content of the revised Publicity Code (if and when this is released).

60 Standards Committee Training Plan

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive seeking Members' comments on the amended Standards Committee training plan, and the Committee's approval of the updated plan.

Members welcomed the proposal to encourage external members of the Committee to attend City Councillors' ward surgeries (provided that the City Councillor and constituents attending are willing).

RESOLVED – Members of the Standards Committee resolved to approve the amended training plan attached at Appendix 1 to the report.

61 Standards Committee Annual Report 2008/09

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) seeking the Committee's comments on the first draft of the Standards Committee Annual Report 2008/09.

Members were requested to contact the Senior Corporate Governance Officer should they wish to make any amendments to their biography or comments on the content of the draft Annual Report.

RESOLVED - Members of the Standards Committee resolved to:

- (a) Note the contents of the report; and
- (b) Contact the Senior Corporate Governance Officer should they wish to make any amendments to their biography or comments on the content of the draft Annual Report.

62 Standards Committee Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the Committee of the work programme for the remainder of the municipal year, and seeking comments from the Committee regarding any additional items.

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

Standards Committee - Assessment Sub-Committee

Thursday, 5th March, 2009

PRESENT:

Independent Members

Mike Wilkinson (Chair)

Councillors

C Campbell E Nash

Parish Members

Councillor Mrs P Walker

18 **Declarations 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.

19 **Case Reference 0809013**

The Monitoring Officer submitted the above complaint to the Assessment Sub-Committee for consideration.

RESOLVED - The Assessment Sub-Committee concluded that the subject Member was not acting as a Councillor at the time of the alleged misconduct and decided to take no further action in relation to the allegations.

20 **Case Reference 0809014**

The Monitoring Officer submitted the above complaint to the Assessment Sub-Committee for consideration.

RESOLVED - The Assessment Sub-Committee decided:

- To refer part of the complaint in relation to one of the subject Members to the Standards Board for England for investigation, and to take no further action in relation to the remainder of the complaint against that subject Member;
- To refer part of the complaint in relation to one of the subject Members to the Monitoring Officer for investigation¹, and to take no further action in

¹ Councillor Colin Campbell and Councillor Elizabeth Nash required that it be recorded that they voted against this decision.

relation to the remainder of the complaint against that subject Member;
and

- To adjourn their consideration of the complaints against the third subject Member pending discussions between the Monitoring Officer and the subject Member.

21 Case Reference 0809015

The Monitoring Officer submitted the above complaint to the Assessment Sub-Committee for consideration.

RESOLVED - The Assessment Sub-Committee concluded that there was no potential breach of the Members' Code of Conduct and therefore decided to take no further action in relation to the allegations.

Agenda Item 7

Corporate Governance and Audit Committee

Wednesday, 11th February, 2009

PRESENT: Councillor J Bale in the Chair

Councillors D Blackburn, G Driver, J Elliott,
P Grahame, N Taggart, C Campbell and
G Kirkland

Co-optee
Mr M Wilkinson

82 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

83 Exempt Information - Possible Exclusion of the Press and Public

There were no resolutions to exclude the public.

84 Late Items

There were no late items added to the agenda.

85 Declaration of Interests

No declarations of interest were made at the meeting.

86 Apologies for Absence

Apologies for absence from the meeting were received on behalf of Councillor Latty.

87 Minutes of the Previous Meeting - 21st January 2009

RESOLVED – That the minutes of the Corporate Governance and Audit Committee meeting held on 21st January 2009 be approved as a correct record.

88 Matters Arising

Further to Minute 74, the Head of Governance Services reported that the outcomes of the audit of the Council's decision making processes would be presented to the Committee at its meeting on 30th April 2009.

89 Progress Update on the Waste Solution Programme

The Chief Environmental Services Officer presented a report providing an update on delivery of the Council's Waste Solution Programme.

The Committee particularly commented upon:

- The geographical variability of recycling statistics across the city;
- The potential shortfall in landfill allowances prior to the Residual Waste Treatment facility commencing operations;
- The potential effect of the economic climate on the Waste Solution Programme;
- The governance structure of the Waste Solution Programme and Elected Members' various roles in this;
- The involvement of local people and communities in the Programme;
- The range of technologies contained in the bids for the Residual Waste Treatment project; and
- The need for appropriate consultation with Members and local residents regarding the Residual Waste Treatment project.

RESOLVED –

- (a) That the contents of the report and the measures currently in place to mitigate the risks within the Waste Solution Programme be noted;
- (b) That the views of young people be sought in the consideration of the Waste Solution Programme; and
- (c) That a further report be submitted to the Committee further exploring the various officer and Member accountabilities within the Waste Solution Programme.

90 Recent Information Security Breaches - Findings and Recommendations

The Project Manager (Information and Knowledge Management) presented a report of the Assistant Chief Executive (Planning, Policy and Improvement) providing the Corporate Governance and Audit Committee with the final reports from the investigations into the recent information security breaches.

Members discussed the need for guidelines on aggregating data, in order that sensitive information is only used where absolutely necessary, as well as the need to ensure that any laptops which are stolen could be identified as Council property.

RESOLVED –

- (a) That the investigation reports be noted; and
- (b) That six monthly update reports on the action plans be received.

91 Annual Performance Assessment of Services for Children and Young People in Leeds City Council 2008

The Deputy Director of Children's Services presented a report of the Director of Children's Services advising the Committee of the outcomes of Ofsted's

Annual Performance Assessment (APA) of Children's Services in Leeds, in relation to any governance implications.

Members particularly discussed:

- The need to assess the performance of front line services;
- The need to ensure that different cultural needs are recognised;
- The Committee's role relating to the Corporate Risk Register and how this connects to individual risks.

RESOLVED –

- (a) That the report be noted; and
- (b) That a further report be submitted to the Committee regarding the Corporate Risk Register and how this connects to individual risks.

(Councillors Blackburn, Campbell and Grahame left the meeting during the consideration of this item.)

92 Standards Committee Half Year Progress Report

The Assistant Chief Executive (Corporate Governance) submitted a report advising the Committee of the work completed by the Standards Committee to date in the 2008/09 municipal year.

The Chair of the Standards Committee informed Members that he had been asked take part in filming for the Standards Board for England website, demonstrating that the Standards Committee is held in high regard. The Chair expressed his appreciation on behalf of the Corporate Governance and Audit Committee for the work undertaken by the Standards Committee in promoting a high standard of ethics.

RESOLVED – That the report be noted.

93 Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the Committee of the draft work programme for 2008/09.

It was confirmed that an additional meeting would be held on 12th May 2009, and that the proposed seminar due to take place after the meeting on 18th March 2009 would be postponed until the required information became available.

RESOLVED – That the work programme for the remainder of 2008/09 be noted.

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Corporate Governance and Audit Committee

Wednesday, 18th March, 2009

PRESENT: Councillor J Bale in the Chair
Councillors D Blackburn, G Driver, J Elliott,
P Grahame, M Iqbal, G Latty, N Taggart,
C Campbell and G Kirkland

Co-optee
Mr M Wilkinson

94 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

95 Exempt Information - Possible Exclusion of the Press and Public

There were no resolutions to exclude the public.

96 Late Items

There were no late items added to the agenda.

97 Declaration of Interests

No declarations of interest were made at the meeting.

98 Apologies for Absence

There were no apologies for absence from the meeting.

99 Minutes of the Previous Meeting - 11th February 2009

RESOLVED – That the minutes of the Corporate Governance and Audit Committee meeting held on 11th February 2009 be approved as a correct record, with one amendment to the list of apologies.

100 Minutes of the Standards Committee

The Chair of the Standards Committee informed Members that he had recently taken part in some filming for the Standards Board for England's website, that the Standards Committee had considered its final investigation report under the previous procedure rules, and that a proposal to encourage external members of the Committee to attend City Councillors' ward surgeries had been approved.

RESOLVED - That the minutes of the Standards Committee meeting held on 17th February 2009 be noted.

(Councillor Taggart arrived during the consideration of this item.)

101 Children's Services Joint Area Review Action Plan Update

The Deputy Director of Children's Services presented a report of the Director of Children's Services updating Members on the Joint Area Review Action Plan for Children's Services.

Members particularly discussed:

- Whether the target of ensuring that all initial child protection conferences happen on time was appropriate;
- How to ensure that children could easily access the young people's version of the JAR findings; and
- The need for officers to correlate related outcomes reported from different inspection agencies so that progress reports to the Corporate Governance and Audit Committee can be seen reviewed in a more balanced and objective way.

RESOLVED –

- (a) That the progress made in addressing the recommendations from the JAR inspection and the opinions of the Director of Children's Services in relation to progress on the JAR Action Plan be noted; and
- (b) That a report correlating the outcomes of all recent inspections relating to Children's Services be presented to the Committee at its meeting on 12th May.

(Councillor Campbell left the meeting during the consideration of this item.)

102 Developing Locality Children's Trust Arrangements in Wedges

The Deputy Director of Children's Services presented a report of the Director of Children's Services providing an overview of the evolution of locality children's trust arrangements, and building upon an earlier report which was presented to the Committee on 19th March 2008.

Members discussed the need to ensure that local communities are consulted prior to the revised trust arrangements being finalised. It was agreed that further discussions should be held outside of the meeting in order to determine how best to involve Members in ensuring that the new arrangements are sufficiently robust.

RESOLVED –

- (a) That the report be noted; and
- (b) That further discussions be held in order to determine how best to involve Members in ensuring that the new locality arrangements are sufficiently robust.

103 Multi-Agency Arrangements to be implemented by the Director of Adult Social Services

The Director of Adult Social Services presented a report advising Members of the multi-agency arrangements that have been put in place in Leeds to better reflect national standards in relation to the safeguarding and protection of adults.

Members were informed that:

- It was the intention that an independent Chair of the Safeguarding Board would be recruited in the Autumn and appointed from next year;
- Four full (rather than associate) members of the Board would constitute a quorum; and
- The Performance, Audit and Quality Assurance Group would explore safeguarding and risk issues in detail.

RESOLVED – That the report be noted.

104 Adult Social Services - Risk Management Arrangements

The Director of Adult Social Services presented a report advising Members of the risk management arrangements operating within Adult Social Services, and highlighting how strategic risks are translated into operational controls.

Members particularly discussed the need to clarify the different assurances that the Committee should be seeking (particularly from Directors) and the need to maintain clearly demarcated lines of responsibility between the Committee's work and that of Scrutiny Boards.

RESOLVED – That the report be noted.

(Councillor Taggart left the meeting during the consideration of this item.)

105 Progress Report - CAA Use of Resources - Self Assessment

The Chief Officer (Financial Management) presented a report of the Director of Resources providing details of the auditor's judgement as to the Council's Use of Resources for 2008, and updating Members on the Council's preparation for the 2009 assessment following the self assessment exercise that was undertaken in Summer 2008.

Members were informed that a further report would be presented to the Committee providing details of how the Use of Resources Assessment will operate within the context of the new Comprehensive Area Assessment. Members were also assured that an update report regarding Partnership Governance would be presented to the Committee at its meeting on 12th May.

RESOLVED –

- (a) That the report be noted; and

Draft minutes to be approved at the meeting
to be held on Thursday, 30th April, 2009

- (b) That a further report be brought to the Committee by the Assistant Chief Executive (Planning, Policy and Improvement) regarding how the Use of Resources Assessment will operate in the context of the new Comprehensive Area Assessment.

106 KPMG Audit and Delivering Successful Change – A review of Project Management Arrangements

Representatives from KPMG presented this report, which summarised the key findings from KPMG's recent audit of the Council's project management arrangements.

Members commented on the need to strengthen public engagement and consultation, and to ensure that small projects can also use the methodology.

RESOLVED – That the progress made with respect to project management across the Council be noted.

107 Progress Statement - External Audit

Representatives from KPMG presented this report which provided Members with the progress statement for the external audit programme 2008/09.

The Committee was informed that the Youth Services report would be submitted to the Committee's meeting on 30th April, and that the Scrutiny report would be submitted on 12th May.

Members raised concerns as the Waste Management report had been superseded by another piece of work without the Committee's consent. It was agreed that a report should be presented to the Committee's next meeting to explain why this had occurred.

RESOLVED –

- (a) That the Progress Statement for the External Audit Programme 2008/09 be noted; and
- (b) That a report be submitted to the next meeting of the Committee by the Director of Resources to explain why the Waste Management report had been removed from the 2008/09 Programme without the Committee's consent.

(Councillor Iqbal left the meeting during the consideration of this item.)

108 Corporate Governance and Audit Committee and Standards Committee Terms of Reference

The Assistant Chief Executive (Corporate Governance) submitted a report informing Members of the revised Terms of Reference for the Corporate Governance and Audit Committee and Standards Committee.

RESOLVED – That the revised Terms of Reference for the Corporate Governance and Audit Committee and Standards Committee, as set out in Appendix 1 to the report be noted.

109 Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the draft work programme for 2008/09.

RESOLVED – That the draft work programme for the remainder of the municipal year be noted.

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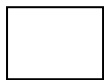
Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

Subject: Annual report regarding the Code of Practice for the Determination of Licensing Matters for the 2008/2009 municipal year

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 This report provides the information to Standards Committee in relation to the monitoring requirements of the Code of Practice for determining licensing matters

2.0 Background Information

- 2.1 The First Code of Practice for determining licensing matters was approved by Standards Committee on 31 March 2005. The Code of Practice was developed following the expansion of licensing activity within Leeds as the Council took responsibility for the licensing of alcohol previously undertaken by the Magistrates' Court and the licensing of hot food served between 11:00pm and 5:00am. The Council has since taken over responsibility for the licensing of various forms of gambling under the Gambling Act 2005.
- 2.2 The Code of Practice for Determination of licensing Matters was last amended and approved by Standards Committee on 14 April 2008 and additionally the Licensing Procedure Rules, which now includes a Site Visit Protocol were approved by the Licensing Committee on 3 June 2008. The Code of Practice is attached at Appendix 1.
- 2.3 Paragraph 18 Of the Code of Practice deals with monitoring and review. It provides for an annual report to Standards Committee regarding the arrangements set out in the Code, whether these have been complied with, the number of complaints about breaches and the outcome of any complaints, the number of appeals upheld against licensing decisions, the results of any external inspections, the results of any Ombudsman Complaints or reports and the level of awareness of the Code among members and officers.

3.0 Main Issues

3.1 Complaints about Breaches of the Protocol

There have been no formal complaints in relation to the behaviour of Members or officers under the Code of Practice for determining licensing matters.

3.2 Appeals against licensing decisions

During 2008/2009 the Licensing Committee and its sub committees will have dealt with 51 hearings and in relation to the granting of licenses and permissions under the Licensing Act 2003 and Gambling Act 2005. There have been 6 Appeals in relation to those decisions of which 3 were dismissed, 1 withdrawn 1 upheld in full and 1 in part. In the cases of the appeals upheld, this was due to changes in circumstances between the time at which members heard the evidence and the time at which the Courts Dealt with the matter. In these cases there were no costs awarded against the council.

3.3 External Reports

There have been no external reports in respect of any relevant issues raised by the Code of Practice.

3.4 Ombudsman Reports

There have been no Ombudsman complaints or reports in respect of relevant matter raised under the Code of Practice.

3.5 Awareness of the Code of Practice

All Members of the Plans Panels, Licensing and Regulatory Panels and the Licensing Committee have been offered training on an annual basis in relation to governance and conduct issues. So far 30 out of the 40 members have attended the training with a further session planned for the end of April.

3.6 Amendments to the Code of Practice

No amendments are required to the Code of Practice which was last amended by the Standards Committee on 14 April 2008. However the Licensing Procedure Rules have been amended to include a Site Visit Protocol, which was approved by the Licensing Committee on 3 June 2008.

The need for the protocol was identified following the implementation of the Gambling Act 2005 where the location of the site was more paramount and more of an issue. This had not been the case under the Licensing Act 2003 where the volume of premises were far greater. The protocol was needed to clarify a number of issues identified between Members and officers and was the quickest way to implement the procedure. The Protocol is attached at Appendix 2.

4.0 Implications For Council Policy And Governance

4.1 It is the interests of good governance that the Council's Codes of Practice are kept up to date with the changing and developing role of members and officers within the Council.

4.2 The Code of Practice may need to be amended as a result of the new Code of Conduct for Members which will come into force in June 2009.

5.0 Legal And Resource Implications

5.1 Ensuring that the Code of Practice is up to date will assist the Council in ensuring that licensing decisions are legally sound and able to withstand challenge on a procedural basis.

5.2 There are no resource implications to this report.

6.0 Conclusions

6.1 This annual report shows that the existing Code of Practice for determining licensing matters is working well.

7.0 Recommendations

7.1 Members are asked to consider the assurances contained within the report and advise as to whether further amendments are required to the Code of Practice for the Determination of Licensing Matters.

8.0 Background Documents

8.1 None.

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CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

1.0 BACKGROUND

- 1.1 This Code of Practice for the determination of licensing matters substantially follows the Guidance produced by LACORs (Local Authority Co-ordinators of Regulatory Services) in consultation with the Standards Board for England, the Association of Council Secretaries and Solicitors (ACSeS), the Association of London Government (ALG) and the Society of Local Authority Chief Executives(SOLACE) for Licensing Committee Hearings under the Licensing Act 2003 (Updated October 2007).

2.0 SCOPE

- 2.1. This code **applies** to all licensing decisions including

Decisions of the Licensing and Regulatory Panel
Decisions of the Licensing Committee
Decisions of any Licensing Sub committee
Delegated decisions within the terms of reference of the above bodies

All decisions made by the above bodies will be referred to within this code as decisions of the licensing authority

This code **also applies** at all times when Members are involved in the licensing process. This includes taking part in decision making meetings of the Council in exercising the functions of the licensing authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies as equally to licensing enforcement matters, reviews, or site specific issues as it does to licensing applications.

- 2.2 **The aim of this code of good practice is** to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.3 Sections 3-5 apply to all Members. Sections 6-14 apply particularly to Members of the Licensing Committee or Licensing and Regulatory Panel. Sections 15-16 apply to officers. Sections 17-19 deal with procedures, monitoring and review
- 2.4 **If you have any doubts** about the application of this Code, you should seek early advice, preferably well before any meeting takes place from the Assistant Chief Executive (Corporate Governance).

3.0 RELATIONSHIP WITH THE MEMBERS CODE OF CONDUCT

- 3.1 Leeds City Council's Members Code of Conduct was adopted by the Council on the 24th May 2007 and must be complied with throughout the decision making process.

Do apply the rules in the Members Code of Conduct first and at all times.

Do then apply the rules of this Code which seek to explain and supplement the Members Code of Conduct for the purposes of licensing. If you do not abide by this Code you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and
- yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Members Code of Conduct, a complaint being made to the Standards Committee.

4.0 DECLARATIONS OF INTERESTS UNDER THE MEMBERS CODE OF CONDUCT

4.1 It is your responsibility to declare any personal or prejudicial interest you may have, or be perceived as having, in a matter at any relevant meeting, including informal meetings or discussions with officers and other Members preferably at the beginning of the meeting. You should declare the existence and nature of that interest.

If your personal interest in a matter arises due to solely from your membership of, or position of control/ management on:

- Any other body to which you were appointed or nominated by the authority;
- Any other body exercising functions of a public nature (for example another local authority).

The Model Members Code of Conduct states¹ that in these cases, provided that you do not also have a prejudicial interest, you only need to declare that interest if you intend to speak on the matter.

If you have a personal or prejudicial interest in a matter do then act accordingly depending on the interest that you have declared.

Where your interest is personal and prejudicial you should withdraw from the room or chamber where the meeting is being held:-

Do not participate or give the appearance of trying to participate in any part of the meeting which involves the matter in which you have a prejudicial interest. You may however make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so². You only have the same right as the public to make representations. You will be brought into the meeting when the other parties are called in. You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties

You must leave the room immediately after making representations, answering questions or giving evidence and must take no part in the decision making. If the public have no right to make representations, answer questions on a matter or give evidence on a matter then you must withdraw from the meeting room when the matter in which you have a prejudicial interest is discussed.

Where you have a prejudicial interest in the matter is to be determined by a Licensing Sub Committee you should ensure that you have arranged for a substitute to attend the hearing in your place as although you may have a right to make representations,

answer questions on a matter or give evidence on a matter you are not able to take part in the decision.

Do not get involved in the processing of the application.

Do not seek to improperly influence a decision on a matter in which you have a prejudicial interest. Not all attempts to influence a decision will be improper.

Improper influence would be any attempt to use your position to further your own interests in a way that would not be open to an ordinary member of the public. Do not seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Councillor.

Do be aware that, whilst you are not prevented from seeking to explain or justify a proposal in which you have a personal or prejudicial interest to an appropriate officer, the Code places greater limitations on you than would apply to an ordinary member of the public and sensible steps must be taken to ensure openness and fairness in the decision making process. In particular you should:

- Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent.
- Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at a licensing hearing.

5.0 MEMBERS SPEAKING AT LICENSING HEARINGS

- 5.1 All Members of the Council should be aware of the planning case involving a North Yorkshire Councillor, Councillor Richardson. The Councillor was not a member of the Planning Committee but sought to represent the views of his constituents.

However his property was affected by the application and the Standards Board for England disqualified him from being a Councillor on the basis that he did not disclose a Personal and Prejudicial interest even though he was not the decision maker and was making representations as either the ward member or in an individual capacity. The Court of Appeal upheld the Standards Board decision.

As a result of this case the Model Members Code of Conduct was amended and now provides that you can make representations, answer questions on a matter or give evidence on a matter in which you have a prejudicial interest if the public also have the right to do so. You must leave the room immediately after making representations, answering questions or giving evidence.

You only have the same right as the public to make representations You will be brought into the meeting when the other parties are called in. You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties You must not remain in the room when the decision is made even if you are not making the decision.

6.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

- 6.1.1 Given the requirement that Members of the Licensing and Regulatory Panel or Licensing Committee or Sub committee should exercise an independent mind and decide proposals in accordance with the relevant licensing considerations,

Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a licensing application prior to its full consideration at the Licensing and Regulatory Panel or Licensing Committee or Sub committee.

Do not make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer's presentation and the evidence and arguments on both sides.

Do be aware that you are likely to be biased or pre-determined where the Council is the landowner or applicant **if** you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its licensing merits and in the public interest.

Do remember that you are, of course, free to listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate licensing officer.

Do not use any political group meetings prior to the Licensing and Regulatory Panel or Licensing Committee or Sub committee meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but decisions can only be taken after full consideration of the Licensing Officer's report and documents and information considered at the Hearing.

The Standards Board for England have provided advice and guidance on bias and pre-determination which can be obtained from www.standardsboard.gov.uk.

7.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

7.1 This section concerns the position of Members of Leeds City Council who are also Parish Councillors or members of an outside body. These should be recorded on your register of interests.

Do consider if you have a prejudicial interest in a matter by virtue of you being a member of the Parish Council or a Member of the outside body. If the matter affects the financial position of the Parish Council or outside body, or the matter relates to an application made by the Parish Council or outside body then it is capable of being a prejudicial interest.³ (If the matter does not affect the financial position or relate to an application made then it cannot be a prejudicial interest)

If the matter is capable of being a prejudicial interest then you should go onto consider whether the interest is one that a member of the public with knowledge of all the relevant facts would reasonable regard as so significant that it would be likely to prejudice your judgment of the public interest.

Do not take part in the licensing decision making process but withdraw from the meeting or arrange a substitute when you have a prejudicial interest in that matter by virtue of you being on the Parish Council or a member of the outside body.

(However you may make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so)

Do consider yourself able to take part in a licensing debate and vote on a proposal at a meeting of the Parish Council or outside body is a consultee provided:

- The proposal does not substantially affect the well being or financial standing of the consultee body.
- You make it clear that that you are keeping an open mind and may vote differently at the licensing hearing when full details are available.
- You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at a licensing hearing when the proposal is decided.
- You disclose a personal interest regarding your membership or role when the proposal comes to a licensing hearing.

8.0 AREA COMMITTEES

8.1 The introduction of Area Committees within Leeds City Council also requires recognition of the “Dual Hatted” roles which members of the Licensing Committee or Licensing and Regulatory Panel and Area Committees must consider. It is unlikely you would have a Personal and Prejudicial Interest for the purpose of the Members Code of Conduct purely by being a member of the Area Committee but there is a possibility that you may be considered as pre determining a matter if you have spoken in support or against it or are closely associated with such a decision taken at the Area Committee.

Do consider whether it is appropriate for you to speak at the Area Committee if you wish to speak also on the application at a licensing hearing.

Do consider, whatever your own views, whether as Chair of the Area Committee or a member of any Panel, Committee or Sub Committee, you would be so closely associated with that decision that it would be unreasonable to expect you to disregard it.

Do remember that you can speak and vote on an application which is before the Area Committee for consultation so long as you make it clear that you have only formed a provisional view and will still approach the issue with an open mind and be open to persuasion when the matter is discussed at the licensing hearing.

Do remember that it is not always sufficient to make such a statement if it is not demonstrably genuine. The more controversial the application and or the more vehemently you have supported or opposed it, the more difficult it will be to show that you have not predetermined the matter and therefore render the decision susceptible to challenge. In those circumstances you should not attend the hearing for that application.

9.0 SPOUSE/PARTNER COUNCILLORS

9.1 There may be occasions when the spouse or partner of a Member, usually a member for the same Ward, is also a Member of the Licensing Committee or Sub Committee or the Licensing and Regulatory Panel. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather

than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at a licensing hearing.

Be aware that the Members Code of Conduct defines that you have a personal interest in any business of the authority where a decision in relation to that business might reasonably be regarded as affecting your well being or financial position, or ,the well being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.

Relevant persons includes your spouse or partner.

Acknowledge that in certain circumstances, such as a particularly controversial application in the run up to an election, there is the possibility that a Personal and Prejudicial interest could exist.

Consider if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

10.0 EXECUTIVE BOARD MEMBERS

- 10.1 There is no Constitutional or legal reason why an Executive Board Member should not also be a Member of the Licensing and Regulatory Panel or Licensing Committee and take part in the decision making processes which are not part of the executive function.

Be aware that you should not speak or vote on any matter which you have discussed at Executive Board unless you have demonstrated there and can do so at the licensing hearing that you have not predetermined the application.

Do not take part in any meeting of the Licensing and Regulatory Panel or Licensing Committee or Sub Committee on a matter in which you may have been seen as advocating a proposal as an Executive or Deputy Executive Member.

11.0 CONTACT WITH APPLICANTS AND OBJECTORS

- 11.1 In order to maintain impartiality, it is preferable that Members are not involved in pre-application discussions but there will be occasions when this can be unavoidable. The following guidance is given:

Do not agree to any formal meeting with applicants, or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Licensing Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.

Do refer those who approach you for advice to officers.

Do follow the rules on lobbying

Do report any significant contact with the applicant or other parties to the Assistant Chief Executive (Corporate Governance) explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the licensing file.

Do not attend a presentation by an applicant unless an officer is present and/or it has been arranged by an officer.

Do ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.

Do make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

12.0 MEMBERSHIP OF A LOBBY GROUP

12.1 Lobbying by Councillors is a legitimate activity but in the case of Members of the Licensing and Regulatory Panel or Licensing Committee or Sub Committee significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.

Do declare the existence and nature of your interest in any lobby group at a licensing hearing so that members of the public are informed about interests that may relate to your decisions. Often this will be a personal interest and you can continue to participate but note that it can sometimes be a prejudicial interest or lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.

Do not take part in any matter that affects the financial position of the lobby group or that relates to the determination of any application for approval, consent, licence, permission or registration made by the lobby group of which you are a member. If the Licensing and Regulatory Panel or Licensing Committee or Sub committee is discussing such a matter you should consider whether you have a prejudicial interest and should act accordingly.

You may take part in a matter than involves issues upon which your lobby group has simply campaigned as long as your involvement has not resulted in you being biased and/or predetermining the matter. You will have personal interest in this matter as the lobby group should be registered on your register of interests and a personal interest arises when the matter directly affects the lobby group, or where the lobby group is otherwise concerned about the outcome of the matter.

Do weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you are biased or have pre-determined a matter.

The factors are.

- the nature of the matter to be discussed
- the nature of your involvement with the lobby group
- the publicly expressed views of the lobby group
- what you have said or done in relation to the particular issue

Do not lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose licensing proposals. If you do, you may have fettered your discretion (be biased/pre-determined) and have to withdraw.

Do not become a member of an organisation whose primary purpose is to promote or oppose specific licensing proposals or those within a limited geographical area as you may be perceived as having fettered your discretion (be biased/predetermined).

Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals such as a local Civic Society but declare a personal interest where that organisation has made representations on a particular proposal and make it clear to both the organisation and the Panel or Committee that you have not made up your mind on each separate proposal

Do remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as being the Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may consider that you are biased and/or pre-determined and should withdraw from the meeting.

Do not excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the hearing at which the decision is to be made. It is difficult to define 'excessively' but you need to consider whether a member of the public, knowing the facts would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.

Do not publicly support a particular outcome on a proposal or actively campaign for it if you wish to take part in the decision making process. Although in most circumstances this would not amount to a prejudicial interest, it would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the Application in accordance with the law.

13.0 TRAINING

13.1 Members making licensing decisions must attend two training sessions each and every year: a Licensing Update session, to receive guidance in relation to regulations and procedures and a Governance and Conduct session for training on declaration of personal and prejudicial interests.

Failure to undertake either or both sessions will result in the Elected Member being unable to sit on Licensing and Regulatory Panel or Licensing Committee or Sub Committee.

- **Do not** participate in decision making on licensing matters if you have not undertaken mandatory training.

- **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures and Policies beyond the minimum required and assist you in carrying out your role properly and effectively.
- **Do** revisit a sample of implemented licensing decisions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the licensing system, and can help with reviews of planning policies.

14.0 OFFICERS

- 14.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.
- 14.2 The role of the Legal officer is to assist the panel in gathering evidence and understanding all relevant issues in order for Members to make a decision; to advise on the sub committees legal duties under the relevant legislation and on the admissibility of evidence.
- 14.3 All legal advice should be given or repeated in open session for all parties to be made aware of
- 14.4 The role of the Governance Officer is to facilitate the smooth running of The hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications and ensure that decision letters are sent to all parties as soon as possible after the hearing.
- 14.5 The role of the Licensing Officer is neutral. They will make no recommendations to the Panel or Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations.

Do not put pressure on officers to put forward a particular recommendation.

Do recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.

Do recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Code of Conduct for Officers. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence

15.0 RELATIONSHIP WITH THE OFFICER CODE OF CONDUCT

- 15.1 The Council has an approved Officer Code of Conduct.

That Code applies at all times when officers are involved in the licensing process.

This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.

Officers must apply the rules in the Officer Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality maladministration of any related decision put themselves at risk of disciplinary action.

- 15.2 Generally licensing officers have little discretion in making licensing decisions. For example they may only grant licences where there are no objections. However there may be situations where they are called upon to exercise discretion such as deciding whether an objection is relevant.

Other officers such as those employed by Environmental Health or Development have discretion on whether to object. Legal officers and committee clerks remain in the room with Members when decisions are made.

In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-

- Ensure that they have given notice of any financial interest in any contract which has been or is proposed to be entered into by the Council
- Not accept gifts, entertainment, hospitality or any benefits in kind as set out in the Officers Code of Conduct
- Declare to their Director by completing the Register of Interests Form any personal interests which may conflict with licensing applications such as
 - any involvement with an outside organisation which has an interest in any licensing application
 - any financial interest in any licensing application
 - any other interest where others may think that a conflict of interest may arise
 - Examples of such situations include where the officer lives adjacent to any licensed premises or visits the premises in a personal capacity on a regular basis

- 15.3 Officers should also consider whether their spouse, partner or close relative has a financial or other interest in a licensing application which may give rise to the suspicion of the appearance of improper conduct and where the officer may therefore need to declare an interest.

- 15.4 Where an officer has declared an interest he or she should not participate in the processing of a licensing application but should instead refer the matter to his or her Manager who will arrange for another officer to discharge the duties.

16.0 PROCEDURES AT LICENSING HEARINGS

- 16.1 Procedure Rules exist for hearings before the Licensing Committee and Sub committees. Hearings before the Licensing and Regulatory Panel will be governed by the Council Procedure Rules as they apply to Regulatory Panels.

17.0 MONITORING AND REVIEW

- 17.1 The Assistant Chief Executive (Corporate Governance) will report annually to the Standards Committee regarding whether the arrangements set out in this Code have been complied with and will include any proposals for amendment in the light of any issues that have arisen during the year.
- 17.2 In particular, the Assistant Chief Executive (Corporate Governance) shall monitor the following:-
- the number of complaints made about breaches of the Code and the outcome of those complaints
 - the number of appeals upheld
 - any external inspection reports in respect of relevant issues
 - any ombudsman complaints or reports in respect of relevant issues

18.0 BREACHES OF THE CODE OF PRACTICE

- 18.1 Maintaining high ethical standards enhances the general reputation of the Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. This Licensing Code, along with Leeds Council's Members Code of Conduct, and the Officer Code of Conduct are intended to promote these standards.

Do be aware of your responsibilities under this Code and the Members Code of Conduct

Do report any apparent breaches of either Code to the Monitoring Officer.

Do seek advice if you are in doubt.

- 18.2 Failure to comply with the Members Code of Conduct may lead to a complaint to the Standards Committee – Assessment Sub-Committee who can, in certain circumstances disqualify a Councillor. Failure to comply with this Licensing Code may lead to a finding of Maladministration by the Ombudsman or could lead to a decision being challenged in the courts.
- 18.3 Allegations of breach of this Licensing Code of Practice by Members may be referred to the Assistant Chief Executive (Corporate Governance) for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the Party.
- 18.4 Allegations of breach of this Licensing Code by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure.

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**PROTOCOL FOR LICENSING SITE VISITS
BY THE LICENSING COMMITTEE; LICENSING SUB COMMITTEES AND
LICENSING AND REGULATORY PANEL**

1.0 BACKGROUND

- 1.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise.
- 1.2 They are not to be used to determine a proposal prior to a hearing.
- 1.3 Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule
- 1.4 When undertaking a site visit Members should have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters
 - ❖ Paragraph 6 Fettering Discretion in the Licensing Process
 - ❖ Paragraph 11 Contact with Applicants/Objectors

2.0 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

- If a Member feels, on receipt of the report on an application that a site visit would be beneficial, s/he should first discuss their concerns with the Principal Licensing or Gambling Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.
- Views of the parties present must be canvassed and considered before a site visit is agreed since that is likely to result in a delay to the decision making.
- In the case of a Sub Committee hearing, three Members or a 2:1 majority must be in favour of a site visit for arrangements to be made. The same three Members will be expected to undertake the requested site visit and attend the hearing for the application, which will be re-convened at a later date
- In the case of a meeting of the Licensing Committee or the Licensing and Regulatory Panel, a majority of the Members present must be in favour of a site visit
The same Members will be expected to undertake the requested site visit and be able to attend the re-convened meeting which will consider the application subsequent to the site visit

- **DO** raise the need for a site visit at a hearing and be prepared to give reasons why it is of real benefit. The reason will be recorded in the Minutes.
- **DO NOT** request a site visit unless there is a real benefit from viewing the site.

This might arise where:-

- ❖ Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- ❖ There are significant policy or precedent implications and specific site factors need to be carefully addressed or
- ❖ Relevant factors cannot be fully ascertained from any supporting information or the plans submitted to the Licensing Officer and available at the hearing, to Members satisfaction

3.0 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS

- The Principal Licensing or Gambling Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance
- The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the day.
- In such cases it is usual for the site visit to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at 11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.
- Having done this, officers will seek confirmation from the Members able to attend that they are happy to undertake the propose site visit

4.0 ON THE SITE VISIT

- **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.
- **DO** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the hearing

- **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties
- **DO** be aware that Officers will make all parties aware of the site visit. All parties may attend subject to being granted access by the owner (see below). If only one party is present be particularly careful only to obtain information and ensure that that information is repeated at the public meeting where the other parties have a right to comment on it.
- **DO** be aware that access to the site is at the discretion of the owner. The owner can legitimately refuse access to objectors and even Members. If access is to be refused consider whether it is still appropriate to undertake the visit.
- **DO NOT** be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind

Note that the decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party

- **DO** note comments of the applicant or other parties which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the application site.
- **DO NOT** express opinions or views to anyone which can suggest bias or predetermination.

As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the subsequent hearing/meeting.

- **DO NOT** enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

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Originator: Emily Inman

Tel: x51710

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

Subject: Ethical Arrangements in Partnerships

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 informs members of the Standards Committee about the Council's Governance Framework for Significant Partnerships. This is attached as Appendix 1 to this report.
2. The Framework will be complemented by a toolkit providing advice on how to comply with the Framework.
3. Of particular interest to the Committee will be the principles relating to ethical governance which come under Principle 3 of the Framework, and the sections of the toolkit which relate to these principles. These sections are included in draft form, as appendices to the report.
4. Members are asked to consider the Governance Framework for Significant Partnerships, and to comment on the draft toolkit section relating to ethical governance.

1.0 Purpose Of This Report

- 1.1 This report informs the Standards Committee about the Governance Framework for Significant Partnerships, and in particular the principles in place within the Framework relating to ethical governance.
- 1.2 The purpose of the report is also to seek the views of the Committee on the attached draft section of the toolkit for partnership governance which relate to ethical governance, which will complement the Framework.
- 1.3 The report also provides a brief update to the Committee on the progress that has been made in creating a register of the Council's significant partnerships, and proposals to monitor the extent to which these partnerships comply with the requirements set out in the Framework.

2.0 Background Information

Governance Framework for Significant Partnerships

- 2.1 In June 2007 the Corporate Governance and Audit Committee approved the Council's Governance Framework for Significant Partnerships. A revised Framework was approved by the Assistant Chief Executive (Corporate Governance) in December 2008. The revised Framework is attached as Appendix 1.
- 2.2 The Framework is based on the six principles of the Code of Corporate Governance, which are:
- focus on the Council's purpose and community needs;
 - clear responsibilities and arrangements for accountability;
 - good conduct and behaviour;
 - taking informed, transparent decisions that are subject to effective scrutiny and risk management;
 - developing capacity and capability of representatives to be effective; and
 - engaging with local people and other stakeholders.
- 2.3 The purpose of the Framework is to set out:
- the steps which the Council will take before entering into a partnership;
 - the minimum governance requirements each partnership must have;
 - how the Council will support the governance of each partnership; and
 - how the Council monitors and reviews its involvement with each partnership.
- 2.4 To assist compliance with the Framework, a toolkit has been developed, which explains its requirements in more detail. The sections of the toolkit relevant to the work of the Standards Committee is attached as Appendix 2 (see Section 3.0).

Definition of Significant Partnerships

- 2.5 The Framework is only applicable to those partnerships which have been identified as "significant".
- 2.6 Paragraph 2.0 of the Framework sets out the definition of a partnership and explains the criteria against which a partnership's significance will be assessed.

Register of Significant Partnerships

2.7 In November 2007 the Corporate Governance and Audit Committee received a list of the Council's significant partnerships. In January 2009 Directors were asked to review this list. A formal Register of Significant Partnerships is now in place.

2.8 The Council will shortly begin work on monitoring compliance with the Governance Framework. This will coincide with the publication of the toolkit, and training on the Framework and toolkit for Lead Officers.

3.0 Main Issues

3.1 The framework is by necessity quite generalised, because the governance arrangements for different forms of partnership working are determined by their legal form.

3.2 The minimum governance arrangements which the framework requires a partnership to adopt were framed by reference to specific CPA requirements for significant partnerships. The framework is not however prescriptive about **how** a partnership should meet the minimum requirements, since it is for each partnership to determine its own governance arrangements¹.

3.3 Principle 3 of the Governance Framework relates specifically to issues of ethical governance for partnerships.

3.4 Principle 3.3.1 of the Framework sets out the **minimum governance requirements** for a partnership. Of particular interest to the Committee will be the requirement for each partnership to:

- promote shared values;
- agree a code of conduct;
- agree procedures for dealing with conflicts of interest.

3.5 The draft toolkit section relating to these requirements is at Appendix 2. The section explains in more detail what the requirement means and what should be included in the relevant document.

3.6 Members who represent their authority on other bodies – except for relevant authorities – are expected to comply with the general obligations contained in Part 1 of the Code. However, the detailed provisions about the disclosure of interests at authority meetings in Part 2 of the Code (paragraphs 9(1) and 12(1)(a) of the Code) do not apply when members attend meetings of the bodies on which they serve (although the Member should follow the partnership's own procedures relating to disclosure of interests). Paragraph 3(5)(b) is relevant where the Code's provisions conflict with the legal obligations of company directors or the trustees of charitable trusts. It provides that the legal obligations override the Code.

3.7 The requirement within the Framework to agree a code of conduct relates to both officers and members of a partnership. The guidance currently contained in the

¹ The Audit Commission guidance points out that "some practitioners would argue that partnerships should not be excessively governed, to do so would jeopardise their principal aim of creating an environment in which innovation can flourish". However, it concludes that this argument "may not serve the public interest well". Clearly, there is a balance to be struck between allowing partnerships to determine their own arrangements, and imposing minimum requirements, to safeguard the council's position.

toolkit will be reviewed following publication of the revised Member code of conduct and the final publication of a model code of conduct for officers.

4.0 Implications For Council Policy And Governance

- 4.1 The elements of the Framework relating to ethical governance outlined in paragraph 3 provide assurance that partnerships, and Members and officers involved in partnerships, will be adhering to good ethical standards.
- 4.2 The draft toolkit section presented to the Committee for comment will help the Council to ensure compliance with these ethical governance standards.

5.0 Legal And Resource Implications

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

6.0 Conclusions

- 6.1 The parts of the Governance Framework for Significant Frameworks relevant to ethical governance are contained in principle 3. To support partnerships in complying with the Framework a toolkit has been produced which explains the principles in more detail.

7.0 Recommendations

- 7.1 Members are asked to consider the Governance Framework for Significant Partnerships, in particular Principle 3 relating to ethical governance.
- 7.2 Members are asked to comment on the section of the toolkit relating to ethical governance which is attached as appendix 2.

Background Documents

Report to Corporate Governance and Audit Committee, 26th November 2008

Leeds City Council's Governance Framework for Significant Partnerships

1.0 Introduction

- 1.1 “**Corporate governance**” describes how organisations direct and control what they do. For a council, this includes how it relates to the community it serves.
- 1.2 Good corporate governance arrangements require the Council to:
- be **accountable**;
 - be **open**;
 - be **inclusive**;
 - be **effective**; and
 - act with **integrity**.
- 1.3 Leeds City Council is committed to working effectively with its partners. Good corporate governance arrangements help the Council to:
- maintain **high quality services**;
 - deliver **improvements**; and
 - know whether partnerships are providing **value for money** and **added value**.
- 1.4 The Council’s **Code of Corporate Governance** sets out six principles behind the Council’s approach to corporate governance. These principles should also support its work with partners.
- 1.5 This framework is based on the six principles. The purpose of the framework is to set out:
- the steps which the Council will take **before entering into a partnership**;
 - the **minimum governance requirements** each partnership must have¹;
 - how the Council will **support** the governance of each partnership; and
 - how the Council monitors and **reviews** its involvement with each partnership.
- 1.6 The framework provides a “one-council” approach to the governance arrangements of the Council’s significant partnerships.

¹ The relevant Director may determine that a particular partnership does not need to comply with any requirement that is not applicable or appropriate to it.

2.0 Scope of the framework

- 2.1 A partnership is an agreement between two or more independent bodies to work collectively to achieve an objective, **excluding**:
- any contractual agreement or
 - any agreement to provide an organization with grant aid, except where these arrangements create a separate decision-making structure².
- 2.2 Some partnerships within this definition will be more significant to the Council than others. This is a framework for **significant** partnerships.³
- 2.3 The Council will assess how significant a partnership is by looking at:
- the **resources** which the Council contributes to the partnership;
 - how the partnership helps the Council to achieve the **outcomes and priorities** in the **Leeds Strategic Plan**;
 - the consequences if the partnership were to **fail**;
 - the types of **decisions** the partnership makes;
 - whether the partnership is **required by law or to secure funding**; and
 - the extent to which the partnership helps the Council to **manage risk**.

3.0 The Corporate Governance Principles

3.1 Principle 1: Focus on the Council's purpose and community needs

3.1.1 Before entering into a partnership

The Council will assess how the partnership will help achieve:

- the **outcomes and priorities** in the Leeds Strategic Plan; and/or
- the **outcomes and priorities** in the Vision for Leeds.

3.1.2 Minimum governance requirements

Each partnership must agree and regularly review:

- the **purpose** of the partnership;
- **objectives** focussed on the outcomes and priorities in the Leeds Strategic Plan and/or the Vision for Leeds;
- a **performance management framework**;
- a **financial performance framework**; and
- a **strategic or business plan**.

Each partnership must have its accounts **externally audited**.

² PFI arrangements are excluded from this definition.

³ Although the framework applies to the Council's **significant** partnerships, it should be taken into account when adopting governance arrangements for other partnerships.

Each partnership must produce an **annual report** on:

- its **performance**; and
- its **financial position and performance**.

3.1.3 **Council support/review**

The Council will **communicate** decisions about its priorities to its partners.

The Council will **annually review** the partnership to assess:

- its **performance**;
- its **financial position and performance**;
- how it helps the Council achieve the **outcomes and priorities** in the Leeds Strategic Plan and/or the Vision for Leeds;
- if it provides **value for money** to the Council;
- if it **adds value**.⁴

After each annual review, the Council will consider whether to continue, change or finish its involvement in the partnership.

3.2 **Principle 2: Clear responsibilities and arrangements for accountability**

3.2.1 **Before entering into a partnership**

The Council will identify an officer to be its **lead officer** for the partnership⁵.

The Council must be clear which body will be the **accountable body** for the partnership⁶.

3.2.2 **Minimum governance requirements**

Each partnership must identify to whom it is **accountable**.

Each partnership must agree and annually review a **governing document** that sets out:

- who **the partners** are;
- its **purpose**;
- the partnership's **functions**;
- how each partner is **represented** on the partnership;
- the **role and authority of each representative**;
- the **roles and responsibilities of the partners** individually and collectively in relation to:
 - **decision-making** (including expenditure decisions)
 - **financial administration**;
 - **resources** (including staff);
 - **assets and liabilities**;
 - **external audit** arrangements;

⁴ that is, the partnership delivers more than the sum of the individual contributions from each partner

⁵ See further paragraph 5 below, which sets out the responsibilities of the lead officer

⁶ Where there is external funding which requires an accountable body to be appointed.

- the **roles and responsibilities of any employees** of the partnership;
- **exit** provisions; and
- how to change the governing document.

3.3 **Principle 3: Good conduct and behaviour**

3.3.1 **Minimum governance requirements**

Each partnership must agree and promote **shared values**.

Each partnership should agree, regularly review and monitor:

- a **code of conduct**;
- procedures for dealing with **conflicts of interest**; and
- a **counter fraud and corruption policy**.

3.4 **Principle 4: Taking informed, transparent decisions that are subject to effective scrutiny and risk management.**

3.4.1 **Before entering into a partnership**

The Council will carry out:

- an **options appraisal**;
- a full **risk assessment**; and
- an **equality impact assessment**.

3.4.2 **Minimum governance requirements**

Informed decision-making

Each partnership must take decisions on the basis of **timely, accurate, clear and relevant advice and information**.

Each partnership must agree, regularly review and monitor

- a **project and programmes management system**; and
- a protocol for **sharing information**.

Transparent decision-making

Each partnership must

- set out how it conducts its **meetings**; and
- **record** and **publish** its most important **decisions**;

Each partnership must agree, regularly review and monitor:

- **access to information** rules;
- how to set and control the partnership's **budget**;
- **financial procedures**;
- a **commissioning strategy**;
- a **procurement strategy** and **procurement procedures**;
- how it will develop, implement and review **key policies**;

- arrangements for keeping its **documents**; and
- how the partnership will resolve **disputes** between its partners;

Effective scrutiny

Each partnership must:

- allow the Council's **internal auditors access** to documents on request; and
- co-operate with any relevant **Scrutiny Board Inquiry**.

Each partnership must agree, regularly review and monitor:

- a **complaints procedure**; and
- a **whistle-blowing policy**.

Managing risk

Each partnership must agree, regularly review and monitor:

- a **risk management framework**; and
- an **internal control and assurance framework** for its governance arrangements.

3.4.3 Council support/review

The Council will:

- prepare an **exit strategy**;
- **share relevant information** with its partners; and
- adopt, regularly review and monitor a **risk management framework** which applies to its significant partnerships.⁷

3.5 Principle 5: Developing the capacity and capability of representatives to be effective

3.5.1 Minimum governance requirements

The partnership will provide appropriate **support and training** so that representatives perform effectively.

3.5.2 Council support

The Council will make sure that its **representatives** on each partnership are clear about:

- **their role and authority**; and
- the **Council's roles and responsibilities** in relation to the partnership.

The Council will provide **support and training** to its representatives.

3.6 Principle 6: Engaging with local people and other

⁷ Under the Council's risk management policy.

stakeholders

3.6.1 Before entering into a partnership

The Council will **consult** relevant stakeholders about the need for and **purpose** of the partnership.

3.6.2 Minimum governance requirements

Each partnership must:

- practice the principles set out in the **Compact for Leeds**⁸; and
- agree, regularly review and monitor a **stakeholder involvement strategy**.

4.0 Monitoring and review

4.1 The Assistant Chief Executive (Corporate Governance) will maintain and annually review a **register** of the Council's significant partnerships.

4.2 The lead officer for each partnership must:

- monitor the steps taken by the Council **before** it entered into the partnership;
- monitor how the partnership complies with the **minimum governance requirements** set out in the framework⁹;
- monitor how the Council **supports** the governance of the partnership; and
- **monitor and review** the Council's involvement with the partnership.

4.3 The Assistant Chief Executive (Corporate Governance) will annually review the framework and report the review to the Corporate Governance and Audit Committee.

4.4 The Assistant Chief Executive (Corporate Governance) will monitor compliance with the framework, and will report on this to all relevant Directors¹⁰.

⁸ Where voluntary sector or faith organisations are partners

⁹ Each partnership is also encouraged to review its own governance arrangements

¹⁰ Or other responsible officer.

Each partnership must promote shared values; agree and monitor a code of conduct; and agree and monitor procedures for dealing with conflicts of interest.

Shared values

The Council is unlikely to get the full benefits from a partnership unless the people involved have good relationships. This is so even if the partnership has put in place appropriate governance arrangements.

However, the partnership may well have partners with different organisational cultures. And partners' representatives may also have different individual perspectives. This may make it difficult for partners and representatives to work together.

A partnership should therefore develop **shared values**, which will create a culture of trust and respect, and encourage all partners to participate.

These values should reflect the General Principles governing the conduct of Members of relevant authorities¹, and should include:

- **trust and respect;**
- **teamwork; and**
- **openness between the partners.**

The partnership should put its shared values into practice by:

- **adopting** relevant codes and protocols that define expected standards of behaviour:
- having procedures in place to enable alleged **breaches** of these codes and protocols to be investigated; and
- **monitoring** compliance with these codes and protocols.

The partnership's [performance management framework](#) and/or appraisal system should also cover compliance with these procedures.

The partnership may also **promote** its shared values by including training about the specific skills and knowledge required for partnership working in its training strategy. The partnership should also include training about relevant procedures in its training strategy.

It may also be appropriate for the partnership's [performance management framework](#) to include non-technical performance targets, relating to conduct and complaints.

¹ As issued by the Secretary of State in accordance with Section 49 of the Local Government Act 2000.

The partnership must also set out how information about its values and procedures is shared, in its [stakeholder involvement strategy](#).

Code of conduct

The partnership should agree a code of conduct². This should set out how it expects representatives on the partnership to behave.

The code should promote reflect the General Principles governing the conduct of Members of relevant authorities³ which currently are:

- selflessness;
- honesty and integrity;
- objectivity;
- accountability;
- openness;
- personal judgement;
- respect for others;
- duty to uphold the law;
- stewardship; and
- leadership.

The code should also address:

- equal opportunities;
- behaviour during meetings;
- behaviour outside meetings; and
- confidentiality.

It could also address:

- hospitality and gifts; and
- conflicts of interest – but these may be addressed in a separate document.

Conflicts of interest

It is likely that conflicts of interest will arise from time to time.

These may arise from:

- the **personal interests** of a representative; or
- the **corporate interests** of partners.

It is important to demonstrate that the partnership does not allow decisions to be influenced by prejudice, bias or conflicts of interest. The partnership should therefore show how conflicts of interest will be dealt with. This could be set out:

- in its code of conduct; or
- in other documents such as the governing document which sets out their arrangements for meetings.

² Partnerships should be careful to ensure that any Code of Conduct adopted is compatible with the Council's Member Code of Conduct and Officer Code of Conduct.

³ As issued by the Secretary of State in accordance with Section 49 of the Local Government Act 2000.

Interests of Members and council officers who act as representatives

Members and council officers who are appointed to be directors of a company, or trustees of a charitable trust, owe their primary duty to the body⁴, rather than to the Council. However, when Members and council officers are Council representatives, they must also follow the relevant codes of conduct that the Council has adopted.

Members have to follow the **Members' Code of Conduct** when they act as a representative, unless the Code conflicts with their legal obligations to the partnership⁵.

In practice, this generally means:

- Members have to comply with the **general obligations** in Part 1 of the code, when they represent the Council on a partnership; and
- if they have a prejudicial interest in a matter being considered by the partnership, they must not try to improperly influence the decision about it⁶.

The Code's requirements about disclosing interests at meetings do **not** apply when a Member attends meetings of the partnership⁷. (They only apply when Members attend meetings of the Council). Members will, however, have to follow the **partnership's** procedures about conflicts of interests.

Officers have to follow the Officer Code of Conduct, when they are representing the Council on the partnership. In particular, they must report any conflict of interest to their relevant chief officer.

There are also statutory obligations that require officers to declare their interest in relation to a contract that the Council may be entering into⁸. These will still apply when they are representing the Council on a partnership.

Procedures

The partnership should adopt a clear procedure that sets out:

- how the partnership **defines** a conflict of interest;
- when and how representatives should **declare** conflicts of interest;
- how conflicts of interest should be **recorded** (for example, in the minutes of the relevant meeting, or in a separate register); and
- how they will be **dealt with** (for example, if it is the chair who decides whether the representative can participate in the meeting); and

⁴ See further Briefing note available from the Assistant Chief Executive (Corporate Governance) for more information on these duties.

⁵ Paragraph 2(5)(b) of the Code. This is relevant where the Code's provisions conflict with the legal obligations of company directors or the trustees of charitable trusts. In the view of the Standards Board for England this rarely occurs.

⁶ Paragraph 12(1)(c) of the Code.

⁷ Except where a partnership is a joint committee.

⁸ Section 117 Local Government Act 1972.

- **sanctions** if the procedure is not followed.

A partnership may also set up separate **registers** to record:

- representatives' **ongoing interests**⁹;
- **gifts or hospitality** received by representatives in their capacity as representatives of the partnership¹⁰.

Conflicts arising from the corporate interests of partners may need to be dealt with under the partnership's [dispute resolution](#) procedure.

⁹ The partnership should specify which interests the representatives should list. These will vary depending on the nature of the partnership, but may include representative's interests in land, organisations or companies.

¹⁰ The partnership could require gifts and hospitality to be approved before acceptance. They could also require refusals to be registered.



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Report of Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

Subject: Annual Report in relation to Standards Committee Procedure Rules

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report is the annual review of the Standards Committee Procedure Rules.
2. The report confirms that the arrangements set out in the Rules have been complied with and recommends to Standards Committee a small number of amendments to the Rules for the purposes of clarification and completeness.
3. The report provides the Standards Committee with details as to the Monitoring Officer's use of her gate keeping role in relation to Local Complaints as required by the Rules. In addition it invites Standards Committee to consider whether complaints in relation to Local Codes should be brought within the Local Assessment regime which applies to complaints brought against Members for breach of the Members' Code of Conduct.
4. Finally, the report revisits the question of whether Members should be advised of the existence of a complaint prior to the consideration of that complaint by the Assessment Sub Committee. The Standards Committee is requested to consider the legislation together with anecdotal evidence in their consideration of this point.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to review the Standards Committee Procedure Rules, to make recommendations for any necessary amendments and to report on the gate keeping role performed by the Monitoring Officer in relation to any Local Complaints.
- 1.2 In addition the Standards Committee are invited to consider whether Local Complaints should be brought within the Local Assessment regime used for the initial assessment of complaints made against Members under the Members' Code of Conduct.
- 1.3 Finally, the report invites the Standards Committee to review their decision in relation to whether Members should be advised of the existence of a complaint prior to the meeting of the Assessment Sub Committee.

2.0 Background Information

- 2.1 The Standards Committee Procedure Rules (the SCPR) are set out in Part 4 of the Constitution. They set out the arrangements to be followed in respect of complaints received under the Members Code of Conduct (Code Complaints), or in relation to the other Codes and Protocols adopted by Leeds City Council (Local Complaints).
- 2.2 The SCPR were last amended in July 2008, incorporating the changes necessary to implement the new regime for the local assessment of complaints. The Standards Committee have considered the procedure adopted for dealing with complaints under the local assessment regime and agreed that the SCPR should not be revised to include the administrative process which is detailed elsewhere. Given the recent amendment to and review of the SCPR it is not considered necessary to review them in detail, however a few amendments are suggested for the purposes of clarification and completeness.
- 2.3 Paragraph 18 of the Standards Committee Procedure SCPR deals with monitoring. It requires the Monitoring Officer to report annually to the Standards Committee in respect of whether the arrangements have been complied with and also in respect of her gate keeping role for local Complaints.

3.0 Main Issues

- 3.1 A number of amendments are proposed which simply footnote the legislative source of the provisions within the SCPR. This enables ease of reference when dealing with matters requiring fine interpretation of those provisions.
- 3.2 Further amendments are recommended to correct the referencing of provisions within the SCPR.

Complaints made under the Local Codes (Local Complaints)

- 3.3 There has been one Local Complaint during the course of the past year. This is currently the subject of an initial investigation and details can not therefore be given in relation to this complaint. The Monitoring Officer is however able to confirm that she is discharging the gate-keeping role set out in paragraph 8.2 of the SCPR.
- 3.4 In contrast to Code complaints (which are automatically referred to the sub committees for assessment), Local complaints are the subject of an initial investigation by the Monitoring Officer. The Monitoring Officer then has the power

to determine whether the complaint should be the subject of a full investigation. The rules converge when a complaint reaches investigation stage. However at hearing stage, in the event of a finding of breach, there would be different sanctions available for Code and Local Complaints.

- 3.5 In addition to the administrative complications brought about by the existence of two separate systems for two different sources of complaint, this distinction between Code and Local complaints could give rise to a perception of injustice against Members dealing with slightly differing complaints.
- 3.6 The table below sets out the points in favour of combining Local Complaints with the Local Assessment Regime and contrasts them with points in favour of keeping the two systems separate.

Points in favour of combining Local Complaints with the Local Assessment process	Points in favour of keeping Local Complaints separate from the Local Assessment process
Consideration of Local Complaints by the Assessment and Review Sub Committees would bring the process out into the open, creating more transparent ethical governance.	
There would be a need for consideration of the status of the Sub Committees in relation to Local Code Complaints. Given that the role would not be devolved to the Sub Committees through the same legislation, it is unclear as to whether the notice and publicity requirements of Part 5A of the Local Government Act 1972 would apply in relation to the consideration of Local Complaints.	Should it be considered that the meetings of the Sub Committees would be subject to the provisions of Part 5A of the Local Government Act 1972 this would create logistical difficulties in terms of agenda setting etc.
There would be consistency of decision making as the same committee would consider all aspects of a complaint whether in relation to Member Code or Local Code matters.	
Further consistency of decision making would arise from the application of the assessment criteria to Local Complaints. Clearly the criteria in relation to the referral of a Member to another authority or to the Standards Board would not apply in relation to Local Complaints.	

Points in favour of combining Local Complaints with the Local Assessment process	Points in favour of keeping Local Complaints separate from the Local Assessment process
<p>There would be a need for clarity in respect of the route of each part of each complaint in order that appropriate outcomes are applied to each. It would not, for example be possible to refer a Local Complaint to the Standards Board for England, regardless of the perceived severity of the complaint or seniority of Members involved. This need to distinguish all parts of the complaint may assist Members in dealing with individual aspects, rather than reaching a 'gut' conclusion in respect of the whole.</p>	<p>Even if complaints are considered together at the assessment stage it may not be possible to keep them together through the investigation process. For example if a Code complaint is referred to the Standards Board for England for investigation it would not be possible to refer the investigation of the Local Complaint at the same time.</p>
<p>There would be consistency of treatment for complainants in that all would have recourse to review of their complaint, not currently available in respect of Local Complaints. In the alternative at the current time a complainant who is not satisfied with the outcome of the initial investigation would presumably have recourse to the Council's corporate complaints procedure.</p>	
<p>The use of the Assessment Sub Committee to perform the initial assessment of a Local Complaint would allow for the separation of Monitoring Officer Roles, leaving the Monitoring Officer untainted in the eventuality of a hearing.</p>	<p>Retention of the initial investigation role by the Monitoring Officer would enable her to deal with complaints relating solely to Local Codes swiftly without recourse to the Assessment and Review Sub Committee.</p>
<p>It would be possible to release details of a complaint to Members prior to the meeting of the Assessment Sub-Committee where that complaint related to a Local Code.</p>	<p>Early release of details in relation to a Local Complaint would highlight the retention of those details in relation to Member Code Complaints. It would create an inconsistency in approach and increase Members' resistance to the Local Assessment regime.</p>
<p>In order to reach conclusions in relation to potential breach of the Local Codes, Committee Members would need training in relation to each of those Codes. This wider knowledge base would be of additional benefit to Members in terms of their wider role in championing ethical governance within the authority.</p>	<p>The pressures of the additional training necessary for Members may be difficult for them to absorb into their already busy schedules. It may however be possible to overcome these concerns through a more flexible approach to the training need, for example through the creation of e-learning materials.</p>

Points in favour of combining Local Complaints with the Local Assessment process	Points in favour of keeping Local Complaints separate from the Local Assessment process
It would be possible to refer full complaints, incorporating both Member and Local Code issues for external investigation, again permitting separation of the Monitoring Officers role, and ensuring that she remains untainted for any eventual hearing.	There would need to be clarity over the grounds for outsourcing an investigation. If the decision to outsource is to be made on a case by case basis then the criteria to be applied to the decision would need to incorporate the consideration of any Local Code aspect of the complaint.
There would be a need to consider the manner in which the results of a Sub-Committee would be presented. For example, would the Local aspect of the complaint be contained within the same decision notice – with all the implications in respect of the public nature of this notice.	Members may be reluctant to increase the publicity given to complaints, especially where those complaints relate to the Local Codes.

- 3.7 If the Standards Committee is of the view that Local Complaints should be incorporated into the Local Assessment regime they are requested to resolve that the Monitoring Officer should have the authority to make the necessary consequential amendments to the SCPR.

Advising Members of the Existence of a Complaint

- 3.8 At the current time, as soon as a complaint is received the subject Member is advised of the existence of the complaint, who has made the complaint, and the relevant paragraphs of the Code. This practice is in line with the indication received from Members that they would like as much information as soon as possible in relation to a complaint.
- 3.9 However it does also cause frustration amongst Members in that it is not possible to give more detailed information in relation to the complaint. This is because the duty to provide a written summary of the complaint rests with the Assessment Sub Committee and the information can not therefore be released before the Sub Committee has met in relation to the complaint.
- 3.10 In practice on a number of occasions the subject Member has been able to ascertain the content of the complaint from the information provided. This undermines the decision making powers of the Assessment/Review Sub Committee when it meets.
- 3.11 Members will be aware that there is an obligation to provide a written summary of the case¹ following the meeting of the Assessment Sub Committee, unless that Committee is of the view that to do so would be contrary to the public interest or would prejudice the investigation of the complaint². Similarly the Monitoring Officer has a duty to inform the subject Member, complainant and any relevant Standards Committee or Parish Council that the matter has been referred for investigation³.

¹ S57C(2) LGA 2000

² Reg 11 The Standards Committee (England) Regulations 2008

³ Reg 14(2) The Standards Committee (England) Regulations 2008

This duty is subject to the proviso that the monitoring Officer should not so inform these people if directed not to by the Standards Committee (for our purposes the Assessment or Review Sub Committee). By implication it must be the same grounds upon which the Sub Committee can direct the Monitoring Officer not to inform the Member etc that the matter has been referred for investigation.

- 3.12 Given the ability of Members to ascertain the nature and detail of the complaint from the limited information released, it would effectively remove any grounds for considering that either to withhold the case summary or to instruct the Monitoring Officer not to inform the subject Member of the referral for investigation, would be contrary to the public interest or would prejudice the investigation.
- 3.13 Aside from these legal provisions the notification to Members of a complaint has in some cases led to significant angst and uncertainty for the subject Members. This is exacerbated by a potential of up to a 5 week delay in learning the outcome of the Assessment Sub Committee. As a result of this and similar instances some subject members have expressed a view that they would favour not being informed of the complaint until after the Assessment Sub Committee has reached a decision. Conversely should a complainant make their complaint public (ie via the media) it may be unreasonable to withhold details of the complaint from the subject member.
- 3.14 The Standards Committee are therefore asked to consider the current practice of advising the subject Member that there is a complaint against them. Two options which may be available to the Committee are as follows:
- 3.14.1 Firstly, to delegate to the Monitoring Officer the task of deciding whether the subject Member should be advised of the existence of the complaint. This would inevitably lead to the Monitoring Officer needing to reach a conclusion as to the likely outcome of the Assessment Sub Committee. Standards Committee may not think it advisable that the Monitoring Officer should try to reach such a conclusion. In addition Standards Committee may think that whilst this would enable information to be given to some Members as soon as possible, there could be a perception of unfair treatment on the part of those Members who do not receive the information. This perception would quite possibly be worsened by the fact that the decision was made by an officer.
- 3.14.2 Secondly Standards Committee could decide that no subject Member should be advised of the existence of a complaint made against them. This would enable the Assessment/Review sub committee to consider the case before deciding whether in fact it would be contrary to the public interest or would prejudice the investigation to inform the subject Member of the complaint.

4.0 Implications For Council Policy And Governance

- 4.1 Clear and transparent governance requires that the rules of procedure are set out fully and accurately within the Constitution. Making the recommended amendments will enable this to take place.
- 4.2 The inclusion of Local Complaints within the local assessment regime would bring about open, transparent and fair decision making in the initial stages of the procedure, which currently could be perceived as not providing a fair basis for consideration of those cases in comparison to Code Complaints.
- 4.3 Providing subject Members with details of complaints to which they are subject prior to the meeting of the Assessment Sub Committee appears to present open and

transparent decision making. However it may reduce the decision making powers of the Sub Committee as they are intended by legislation.

5.0 Legal And Resource Implications

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

6.0 Conclusions

6.1 This report is the annual review of the Standards Committee procedure Rules. It confirms that the arrangements set out in the SCPR have been complied with.

6.2 A small number of amendments to the SCPR are necessary for the purposes of clarification and completeness.

6.3 One Local Complaint has been made during the course of the past year. As the complaint is current no details can be given in relation to the outcome of the Monitoring Officer's gate keeping role in this regard.

6.4 The report sets out the advantages of incorporating Local Complaints within the Local Assessment regime and contrasts them with the advantages of retaining a separate regime for Local Complaints. Standards Committee is invited to consider whether In addition it invites Standards Committee to consider whether complaints in relation to Local Codes should be brought within the Local Assessment regime.

6.5 Finally, the report revisits the question of whether Members should be advised of the existence of a complaint prior to the consideration of that complaint by the Assessment Sub Committee. The Standards Committee is requested to consider the legislation together with anecdotal evidence in their consideration of this point.

7.0 Recommendations

7.1 Members are requested to:

7.1.1 Approve the amendments to the Standards Committee Procedure Rules proposed within this report.

7.1.2 Consider whether to include Local Complaints within the Local Assessment regime, and, if they are so minded, to authorise the Monitoring Officer to approve the consequential amendments to the Standards Committee Procedure Rules.

7.1.3 Consider whether subject Members should be advised of the existence of complaints against them prior to the meeting of the Assessment Sub Committee.

Background Documents

- Local Government and Public Involvement in Health Act 2007
- Local Government Act 2000
- Standards Committee (England) Regulations 2008
- Standards Board for England Guidance - 'Local Assessment of Complaints'

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Originator: Amy Kelly / Maureen Taylor
Tel: 0113 39 50261 / 0113 24 74234

Report of the Director of Resources and the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

Subject: MICE Money and Members' Code of Conduct

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 Standards Committee of some amendments to the "Members Improvements in the Community and the Environment" (MICE) scheme approved by the Executive Board on 1st April 2009.
2. It was recently identified that it is likely that any submission for MICE money in connection with an organisation with whom a Member has a relationship (for example, as an employee, a member of the management board or a trustee of a local charity) is likely to be capable of giving the Member a prejudicial as well as a personal interest under the Members' Code of Conduct, as a grant application clearly affects the financial position of the organisation. Although the Member is not making the final decision, and is only making a proposal to officers, they must still ensure that they are not seen to be improperly influencing the decision, as this would breach another paragraph of the Code of Conduct.
3. A report was presented to the Corporate Governance Board on 12th January 2009, and then to the Executive Board on 1st April 2009 which proposed amendments to the scheme to address the above issues.
4. Members of the Standards Committee are asked to note the information in this report and the decision of the Executive Board.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Standards Committee of some amendments to the “Members Improvements in the Community and the Environment” (MICE) scheme approved by the Executive Board on 1st April 2009.

2.0 Background Information

- 2.1 The MICE scheme was introduced in 1987 and provides an allocation of funds for locally determined projects to be used for qualifying proposals by Ward Members within an annual financial limit. Grants can be made between June and March, with any unspent money being carried over to the next phase of the scheme. Members have an allocation of £3000 each, or £9000 per ward. Members can make applications individually or with one or two of their ward colleagues. There are two separate application forms which can be used for these purposes. Once the Member(s) has completed the application form and made their recommendation, officers check that it falls within one of the categories of eligible projects.
- 2.2 There are a set of guidance notes available for Members which explain which types of projects are eligible for the scheme, how the submissions are approved, and what conditions will be applied to the grant.
- 2.3 A report was provided to the Corporate Governance Board on 12th January 2009 regarding the scheme and implications for Members’ arising from the Code of Conduct. In particular there were concerns that Members may have personal and potentially prejudicial interests in the MICE money applications if they had an involvement with the organisation concerned. These concerns about the process are set out below.

3.0 Main Issues

Advice provided to Members completing the submission form

- 3.1 For a project to be eligible it must be within a Member’s own ward, or in an adjacent ward where there is cross-boundary benefit, or where there is city-wide benefit. Projects must provide benefit to non-profit making organisations or communities within the ward and not confer private benefit to individuals.
- 3.2 The submission form must be signed by the relevant Councillors before being submitted to the Director of Resources for consideration. However, one or two ward Members can submit proposals on behalf of all three ward Members as long as a nomination form has been signed and returned to the Resources Department. This arrangement will then stand until the next phase of the MICE money scheme, it is revoked in writing, or the Member is deselected for some reason.
- 3.3 When completing their submission form, Members are asked to provide details of the project, including any correspondence from the organisation. However there is not a requirement for Members to detail their relationship (if applicable) with the organisation in question.

Approval process

- 3.4 Once the application is received, officers within Financial Development and Legal, Licensing and Registration check to make sure:
- There are sufficient funds available for the proposal to qualify within the Members' limit;
 - That the proposal meets the eligibility criteria;
 - That it is within the legal powers of the Council to make the grant; and either
 - If appropriate, that the Service Director with responsibility for the property of functions which will benefit from or be affected by the submission approves it as being within current Council policies, in the interests of the Council, and as procuring best value and involving no more expenditure than is proportionate to the benefit to be achieved, and is satisfied that there are no other reasons (including alternative proposals) which make it inappropriate to approve the proposal;
 - That the Director of Resources, after consultation with that Service Director, is satisfied that there is no financial reason why the proposal should not be approved; or
 - That any Committee with responsibility for the property or function which will benefit from or be affected by the submission approves it (after consulting with the Director of Resources).

Implications for the Members' Code of Conduct

- 3.5 According to the Members' Code of Conduct, Members have a personal interest in any business of the Council where it relates to or is likely to affect:
- (a) an interest that they must register; or
- (b) an interest that is not on their register, but where the well-being or financial position of the Member, members of their family, or people with whom they have a close association, is likely to be affected by the business more than it would affect the majority of inhabitants of the ward affected by the decision.
- 3.6 Their personal interest will also be a prejudicial interest in a matter if all of the following conditions were met:
- (a) the matter does not fall within one of the exempt categories;
- (b) the matter affects the relevant body's financial interests or relates to a licensing or regulatory matter; and
- (c) a member of the public, who knows the relevant facts, would reasonably think the Member's personal interests is so significant that it is likely to prejudice their judgement of the public interest.
- 3.7 Therefore it is likely that any submission for MICE money in connection with an organisation with whom the Member has a relationship (for example, as an employee, a member of the management board or a trustee of a local charity) is likely to be capable of being prejudicial as well as personal, as a grant application clearly affects the financial position of the organisation. Although the Member is not making the final decision, and is only making a proposal to officers, they must still ensure that they are not seen to be improperly influencing the decision, as this would breach another paragraph of the Code of Conduct.

- 3.8 The Standards Board for England define the term 'improperly influencing a decision' as using your position or attempting to use your position improperly to further your own interests in a way that is not open to ordinary members of the public. As the ability to make submissions for MICE money is only open to Elected Members, making a submission when you have a prejudicial interest could be interpreted as improper influence.
- 3.9 The Standards Board advise Members with prejudicial interests that they can still influence decisions, without breaching this section of the Code of Conduct, in the following ways:
- By making written representations in their private capacity. The Standards Board recommends that the existence and nature of the interest should be disclosed in such representations, and the Member must not seek preferential consideration of their representations. The representations should also be addressed to officers, rather than to other Members of the Council.
 - By using a professional representative to make applications on their behalf.
 - By arranging for another Member of the Council to represent the views of their constituents on matters in which they have a prejudicial interest.

Options for amendment

- 3.10 In order to address these potential issues for Members' in relation to the Code of Conduct, a series of options were presented to the Corporate Governance Board for discussion. These included:
- Amending the submission forms to provide Members with an opportunity to explain whether they have any connection with the organisation.
 - Requiring Members to ask organisations to formally apply to them requesting a grant, and details could then be passed on to officers without the Member making any comments as to its merits. The details of the project could be requested from the organisation directly, instead of from the Member with the interest.
 - Requiring Members to ask their ward colleagues to apply for the grant on the organisations behalf. The only difficulty may be if the ward colleague considered the Member with the interest to be a 'close personal associate', and therefore also have an interest by association. Therefore applications for this type of funding by Members who have prejudicial interests may sometimes be unavoidable.
 - The Council could consider ensuring that as many potentially eligible projects as possible are made aware of the scheme and how to apply to ensure that ward Members are not only provided with potential submissions from organisations they are connected with.
- 3.11 The Corporate Governance Board considered the above proposed amendments and decided that the Assistant Chief Executive (Corporate Governance) should meet with the Chief Officer (Financial Development) to discuss possible solutions to this issue, and, following this, the scheme should be rewritten and taken to Executive Board for approval.
- 3.12 A report was presented to the Executive Board for their consideration on 1st April 2009 which proposed that the following amendments were made to the procedure:

- the application forms for grant awards be amended to provide Members with the opportunity to explain whether they have any connection with the organisation;
- where Members have a prejudicial interest in a MICE application, they can ask their ward colleagues to apply for the grant on the organisations behalf;
- the guidance notes provided to Members on making applications for funding from the MICE scheme will be updated accordingly; and
- the availability of MICE grants will be publicised on the internet with details of how to apply, to ensure that ward Members are not only provided with potential submissions from organisations they are connected with.

3.13 The report also explained that the guidance notes for the MICE money scheme have recently been reviewed following consideration of the scheme by the Corporate Governance Board, specifically in relation to potential conduct issues.

4.0 Implications For Council Policy And Governance

4.1 The guidance notes on the MICE money scheme show that there are strict financial and legal controls in place to ensure that grants are provided to appropriate projects, and that the money is used correctly. The amendments to the procedures agreed by the Executive Board on 1st April 2009 should ensure that Members do not breach the Members' Code of Conduct by submitting recommendations for funding to bodies in which they have a prejudicial interest.

5.0 Legal And Resource Implications

5.1 The legal implications are listed within the report itself. There are no resource implications to the information within this report.

6.0 Conclusions

6.1 It was recently identified that it is likely that any submission for MICE money in connection with an organisation with whom a Member has a relationship (for example, as an employee, a member of the management board or a trustee of a local charity) is likely to be capable of giving the Member a prejudicial as well as a personal interest under the Members' Code of Conduct, as a grant application clearly affects the financial position of the organisation. Although the Member is not making the final decision, and is only making a proposal to officers, they must still ensure that they are not seen to be improperly influencing the decision, as this would breach another paragraph of the Code of Conduct.

6.2 A report was presented to the Executive Board for their consideration on 1st April 2009 which proposed that the following amendments were made to the procedure to address these issues:

- the application forms for grant awards be amended to provide Members with the opportunity to explain whether they have any connection with the organisation;
- where Members have a prejudicial interest in a MICE application, they can ask their ward colleagues to apply for the grant on the organisations behalf;
- the guidance notes provided to Members on making applications for funding from the MICE scheme will be updated accordingly; and
- the availability of MICE grants will be publicised on the internet with details of how to apply, to ensure that ward Members are not only provided with potential submissions from organisations they are connected with.

6.3 The report also explained that the guidance notes for the MICE money scheme have recently been reviewed following consideration of the scheme by the Corporate Governance Board, specifically in relation to potential conduct issues.

7.0 Recommendations

7.1 Members of the Standards Committee are asked to note the information in this report and the decision of the Executive Board.

Background Documents

- Report of the Assistant Chief Executive (Corporate Governance) to the Corporate Governance Board, "MICE Money and the Members' Code of Conduct", 12th January 2009
- Minutes of the Corporate Governance Board - 12th January 2009
- Report of the Director of Resources to the Executive Board, "MEMBERS IMPROVEMENTS IN THE COMMUNITY & ENVIRONMENT (MICE) AND WARD BASED INITIATIVE (WBI) SCHEMES", 1st April 2009
- Members Improvements in the Community and the Environment: Notes for the Guidance of Councillors



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

Subject: Annual Report On The Monitoring Officer Protocol

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report is the annual report of the Monitoring Officer required under Paragraph 5 of the Monitoring Officer Protocol.
2. A copy of the Monitoring Officer Protocol is attached to this report for Members' approval.
3. Members are asked to:
 - Consider the performance information and issues raised within this report; and
 - Approve the revised Monitoring Officer Protocol which has been amended light of the changes made under the Local Government and Public Involvement in Health Act 2007.

1.0 Purpose Of This Report

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

2.0 Background Information

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

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

- Reporting on Contraventions of the Law.
- Reporting on any maladministration or injustice where the Ombudsman has carried out an investigation.
- Establishing and maintaining registers of Members' interests and gifts and hospitality.
- Maintaining reviewing and monitoring the constitution.
- Supporting the Standards Committee.
- Advising on Vires issues, maladministration, financial impropriety, propriety, budget and policy framework issues for all Members.

3.0 Main Issues

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

Resources

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

3.3 The Monitoring Officer is satisfied that so far for the financial year 2008/9 she had a sufficient budget at her disposal to enable her to seek Counsel's opinion on matters concerning her functions as and when necessary during the course of the current Municipal year.

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

Access to information/ meetings

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

Relationships

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

was asked to act as a mentor to a new Ethical Standards Officer of the Standards Board for England.

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

Ombudsman Complaints

- 3.17 It is the duty of the Monitoring Officer under the Local Government Act 1974 and the Local Government and Housing Act 1989 to prepare reports in relation to complaints which have been the subject of investigation by the Local Government Ombudsman and which have revealed maladministration, whether or not that maladministration has been found to cause injustice. The Monitoring Officer carries out this duty by instructing the relevant director to produce a report for the Executive Board.
- 3.18 There have been no reports of this nature presented to the Executive Board since February 2008.
- 3.19 The Monitoring Officer has prepared reports to bring to Members' attention issues of importance arising out of complaints made to the Local Government Ombudsman whether or not those complaints were investigated or maladministration found. These reports are formally considered by the Corporate Governance and Audit Committee. The Monitoring Officer has provided reports to the Corporate Governance and Audit Committee at their meetings on 18th June 2008 and 29th September 2008 showing the numbers of complaints and the departments to whom they related. An additional report on 29th September 2008 highlighted comments made by the Local Government Ombudsman in her annual letter. The Ombudsman was generally complimentary towards the Council and its approach to handling complaints. However, she did draw attention to some areas for improvement, for example, improving the quality and clarity of our response to complaints. She also highlighted the importance of analysing trends and lessons learnt so that the Council can change processes/procedures where failures are identified - this is particularly important for services where the level of complaints remains high.

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

Standards matters

- 3.20 The Monitoring Officer has provided advice to Members of the City Council and Members of Parish Councils. The Monitoring Officer has done so through correspondence, in meetings, and through the provision of guidance and briefing notes on specific issues.
- 3.21 The Monitoring Officer has arranged a programme of training for Members on ethical standards and Code of Conduct Issues. Briefings on the Code of Conduct are delivered through the induction programme, which is delivered to all newly elected Members of Council. In this municipal year, the Monitoring Officer has personally delivered Code of Conduct training to all Members who were newly elected in May 2008. In addition, a programme of training was offered to some officers on the Members' Code of Conduct and the new local assessment process.
- 3.22 Several compulsory training sessions relating to governance and conduct issues have taken place for Members of Plans and Licensing panels this year. These sessions have been well attended and received.
- 3.23 The Monitoring Officer has been involved in drafting the extended programme of training for Parish and Town Clerks and Councillors on the new Code of Conduct, in conjunction with the Standards Committee. A specific training brochure has been developed for Parish and Town Councils by Member Development, which also incorporates training available from the Yorkshire Local Councils Association and other external agencies. In addition, match-funding has been provided for training on planning issues. Finally, the Monitoring Officer has assisted the Chair of the Standards Committee and the Parish and Town Council representatives in analysing the results of the Parish and Town Council Annual Audit and will be offering to meet some Clerks and Chairpersons to discuss any additional help available.
- 3.24 Two final investigations under the previous Standards Committee Procedure Rules have been concluded this municipal year on behalf of the Monitoring Officer. The first investigation was completed by the Deputy Monitoring Officer and involved allegations that a Councillor failed to comply with his Parish Council's code of conduct. The investigating officer was satisfied that he had access to all necessary information and all officers who could assist in the discharge of his functions. The second investigation was delegated to an external solicitor.
- 3.25 The Monitoring Officer is responsible for ensuring that Leeds City Councillors and voting Co-opted Members complete and maintain a register of interests and register any gifts or hospitality that they have received. The Monitoring Officer has delegated responsibility for these matters to Governance Services, but remains updated through regular reports on these matters.
- 3.26 The Monitoring Officer has delegated responsibility to the Parish Clerks for maintaining the Members' register of interests and the register of gifts and hospitality for their Parish Council. The Monitoring Officer seeks confirmation on an annual basis that these registers are being regularly reviewed by the Clerks, and that they are being completed by new Councillors through the annual audit process.
- 3.27 The Monitoring Officer is also responsible for receiving and acting on reports from Ethical Standards officers and decisions of case tribunals. The Monitoring Officer has ensured that the Standards Committee has been made aware of any case summaries published on the Standards Board website as quickly as possible. She

has also reported to the Standards Committee on the number of complaints received regarding Leeds City Councillors and Parish and Town Councillors in Leeds and the outcome of those complaints twice a year, as well as reporting on Adjudication Panel case tribunal decisions at every meeting.

- 3.28 The Monitoring Officer is also responsible for supporting the Standards Committee. Through her support to the Committee the Monitoring Officer promotes and maintains high standards of conduct. The Monitoring Officer has ensured that the Committee are supported through attending meetings of the Committee, ensuring they are able to carry out their functions effectively by the provision of reports and information, and through ensuring that their training needs are met by enabling Committee members to attend internal and external training sessions. Committee members have attended Standards Board for England Annual Conferences, been provided with an e-learning module of the Code of Conduct, and watched Standards Board training DVDs. Members of the Committee have also been provided with guidance on the local assessment process, including locally development tools to assist them with following the Standards Board guidance and considering all aspects of the Code of Conduct. The Committee have also been regularly briefed on changes and developments to the Members' Code of Conduct as well as the development of case law.

Constitution

- 3.29 The Monitoring Officer has kept the Constitution under continuous review and where necessary reports are taken to General Purposes Committee, Corporate Governance & Audit Committee, Standards Committee and Full Council for approval in respect of proposed amendments to the constitution. The Monitoring Officer has consulted with the Chief Finance Officer and the Head of Paid Service when required. Attached at Appendix 2 is a table summarising those changes which have been implemented during this municipal year.

Members and Officer Responsibilities

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

Advice

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

Amendments to the Monitoring Officer Protocol

- 3.32 The new standards arrangements brought about by the Local Government and Public Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008, have meant changes to the role of the Monitoring Officer. A review of the protocol, taking into account these developments, has now been completed. The amended version of the Protocol is attached as Appendix 1 for the Committee's approval.
- 3.33 Several functions have been added to the main body of the protocol in relation to local assessment. These are:

- To refer relevant matters to Standards Committee for initial assessment and review;
- To give relevant notifications as required under the Local Government Act 2000 (as amended) to complainants, subject Members and any other relevant parties;
- To make arrangements for and advise meetings of the Assessment and Review Sub-Committees;
- To carry out any direction from the Standards Committee or an Ethical Standards Officer to take steps other than carrying out an investigation;
- To make arrangements for investigations to be carried out into Code of Conduct complaints or local complaints on the instructions of the Standards Committee;
- To make arrangements for and to advise the Assessment Sub-Committee in its consideration of a final investigation report; and
- To make arrangements for and to advise the Standards Committee with regard to hearings.

3.34 Finally, the requirement for the Monitoring Officer to establish and maintain a register of interests and gifts and hospitality for Members has also been added to the main body of the Protocol as this is already reflected in the summary table.

4.0 Implications For Council Policy And Governance

4.1 The Monitoring Officer is a statutory role which underpins the Ethical Framework of the Council. Annual reporting on the Monitoring Officer's performance of the protocol supports the ethical framework and provides a key assurance to inform the Council's Annual Governance Statement.

5.0 Legal And Resource Implications

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

6.0 Conclusions

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

7.0 Recommendations

7.1 Members are asked to:

- Consider the performance information and issues raised within this report; and
- Approve the revised Monitoring Officer Protocol which has been amended light of the changes made under the Local Government and Public Involvement in Health Act 2007.

Background Documents

- The Standards Committee (England) Regulations 2008
- The Local Government and Public Involvement in Health Act 2007
- Birmingham City Council's Monitoring Officer Protocol, revised May 2008

- “The New Role of the Monitoring Officer”, Association of Council Secretaries and Solicitors, revised 21/11/01)

MONITORING OFFICER PROTOCOL

1.0 INTRODUCTION TO STATUTORY RESPONSIBILITIES

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

2.0 WORKING ARRANGEMENTS

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-

2.2.1 Resources

- (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions,
- (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
- (c) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions.

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Monitoring Officer Protocol

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

2.2.2 Access to information/meetings

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

2.2.3 Relationships

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

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

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

2.2.4 Ombudsman Complaints

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

2.2.5 Standards Matters

- (a) refer relevant matters to Standards Committee for initial assessment and review.
- (b) give relevant notifications as required under the Local Government Act 2000 (as amended) to complainants, subject Members and any other relevant parties.
- (c) make arrangements for and advise meetings of the Assessment and Review Sub-Committees.
- (d) carry out any direction from the Standards Committee or an Ethical Standards Officer to take steps other than carrying out an investigation.
- (e) make arrangements for investigations to be carried out into Code of Conduct complaints or local complaints on the instructions of the Standards Committee or an Ethical Standards Officer.
- (f) make arrangements for and to advise the Assessment Sub-Committee in its consideration of a final investigation report.
- (g) make arrangements for and to advise the Standards Committee with regard to hearings.

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Monitoring Officer Protocol

- (h) give informal advice and undertake relevant enquiries into other allegations of misconduct by Members, and if appropriate make a written report to the Standards Committee, or a written allegation to the Assessment Sub-Committee if in the opinion of the Monitoring Officer, there is a serious breach of the Members Code of Conduct.
- (i) subject to the approval of the Standards Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues.
- ~~(j) establish and maintain relevant statutory registers for the declaration of Members' interests and gifts and hospitality.~~

2.2.6 Constitution

Review and monitor the Constitution in accordance with the Protocol set out at Article 15.1 of the Constitution and consult with the Section 151 Officer and Head of Paid Service before taking any report to the relevant Committee to approve amendments to the Constitution.

3.0 MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

4.0 ADVICE

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

5.0 MONITORING THE PROTOCOL

Annually, the Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

6.0 SANCTIONS FOR BREACH OF PROTOCOL

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

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish and maintain registers of Members' interests and gifts and hospitality.	Section 81 Local Government Act 2000, and Members' Code of Conduct
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Advise Members on interpretation of the Code of Conduct.	Members' Code of Conduct
9	Support the Standards Committee - key role in promotion and maintenance of standards of conduct.	Local Government Act 2000 Part III and DETR guidance paragraph 8.20
10	Receive reports from ethical standards officers and decisions of case tribunals	Local Government Act 2000 Part III.
11	Conduct investigations into misconduct.	Local Government Act 2000 Section 66
12	Perform ethical framework functions in relation to Parish Councils.	Section 83(12) Local Government Act 2000
13	To make arrangements for relevant matters to be considered by the Standards Committee with regard to initial assessment, review, consideration of final investigation reports and hearings, and to advise the Standards Committee on such matters.	Local Government Act 2000 (as amended) and Standards Committee (England) Regulations 2008

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Monitoring Officer Protocol

14	Proper Officer for access to information	Constitution - Article 12, and DETR guidance.
15	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
16	Advise on vires issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance

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Appendix 2

Amendment Control Sheet 1

Amendment Date	Documents Affected	Page	Para	Nature of Amendment
June 2008	Licensing Procedure Rules	561	Rule 6	New provision relating to Quorum of sub-committee And new addendum relating to Site Visits.
July 2008	Terms of Reference – Standards Committee – Assessment Sub Committee Standards Committee Review Sub Committee	92.1 & 92.2	All	Add the terms of reference for the two new sub-committees. Have been created to carry out functions relating to new complaints process, as detailed in the Standards Committee (England) Regulations 2008.
	Standards Committee Procedure Rules	513 – 558.10	All	Changes to complaints process arising from Local Government and Public Involvement in Health Act 2007 and Standards Committee (England) Regulations 2008.
July 2008	Article 9	28	9.3.6/7	New provisions relating to Sub-Committees
	Section 2B: Council Committee Terms of Reference	81	-	New reference to Assessment and Review Sub-Committees
July 2008	Area Functions Schedule	142 – 164.2	All	Revised Area Functions Schedule.

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Amendment Control Sheet 2

Amendment Date	Documents Affected	Page	Para	Nature of Amendment
10 th September 2008	Members' Allowances Scheme	729 - 739	Schedule 1	Deletion of reference to Overview and Scrutiny Committee and amendments to the level of some allowances.

CONSTITUTION

Amendment Control Sheet 3

Amendment Date	Documents Affected	Page	Para	Nature of Amendment
November 2008	Contents Page	N/A	-	Amended as Part 3 Section 6 has been removed.
	Part 3 Section 6 - Memorandum of Understanding Between Executive Board and Overview & Scrutiny	215 - 220	-	This document is duplicated in Part 4 (page 298), therefore it has been removed from Part 3.
	Article 9 – Governance Committees	28 - 30	9.1	Replacing references to the Constitutional Proposals Committee with General Purposes Committee following full Council’s resolution of 19 th November 2008 to abolish the Constitutional Proposals Committee and appoint the General Purposes Committee.
	Article 15 – Review and Revision of the Constitution	48 - 49	15.2	
	Part 3 Section 2B – title page and contents	81 - 82	-	
	Corporate Governance and Audit Committee Terms of Reference	93	1	
	Constitutional Proposals Committee Terms of Reference	94	All	
	Council Procedure Rules	227 - 246	2.2, 26.1	
	Code of Corporate Governance	717 - 726	-	
	Officer Delegation Scheme (Council (non-executive) functions) for Assistant Chief Executive (Corporate Governance)	110 - 112	-	Functions added relating to changes in executive arrangements.
Scrutiny Board Procedure Rules	257 - 270	4.2, 22.7, 22.10	Amendments to procedure rules relating to the Call In process.	
December 2008	Members’ Allowances Scheme	734 - 735	Schedule 1	Amendments to the level of allowances following confirmation of the 2.45% pay increase.
	Code of Practice for the Determination of Planning Matters	679 - 692	18.2	Requirement to monitor the number of permitted departures from the Unitary Development Plan removed.

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Amendment Control Sheet 4

Amendment Date	Documents Affected	Page	Para	Nature of Amendment
December 2008	Standards Committee Media Protocol	673 - 675	-	Has been revised due to the introduction of the local assessment process.
January 2009	Article 12	35-42	-	Removal of concurrent executive delegation to Chief Officer (Children and Families).
	Scrutiny Board (Children's Services) Terms of Reference	85	Footnote 1	
	Section 3B(a): Executive Member Portfolios	134-135	-	
	Officer Delegation Scheme (Executive Functions) – Chief Officer (Children and Families)	175	All	
	Management Structure	743	-	
	Scrutiny Board Procedure Rules	257 - 270	15.2, 16.7, 22.7, 22.10	Amendments to ensure all Scrutiny Board recommendations are submitted to Executive Board and to require original signatures on the Call In request form.
	Area Committees Terms of Reference	95	1	Amendment for clarification to allow appointments of people other than elected members.
	Member Management Committee Terms of Reference	97	1	
Appointments to Outside Bodies Procedure Rules	345 - 348	1.1		
February 2009	Officer Delegation Scheme (Executive Functions) - Foreword	165-169	17	Amendments to broaden the scope of Directors' decision making powers for staffing matters to include delegated decisions on staffing structures.

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Amendment Control Sheet 5

Amendment Date	Documents Affected	Page	Para	Nature of Amendment
February 2009	Standards Committee Terms of Reference	91	5	Amendment to clarify that the Standards Committee can make representations (on its own behalf) to external agencies about matters relating to conduct.
	Corporate Governance & Audit Committee Terms of Reference	93	6	Additional function to allow the Committee to make representations (on behalf of the Council) to external agencies about matters relating to conduct.
	Officer Delegation Scheme (Council (non-executive) functions) – Assistant Chief Executive (Corporate Governance)	110-112		Amendments to allow the Assistant Chief Executive (Corporate Governance) to appoint Members to vacancies on Committees, Boards and Panels during the period between the local elections and the Annual Council meeting, and to include functions delegated by full Council in relation to Community Governance Reviews.
March 2009	Members' Code of Conduct – title page	567		Correction to the Body/Person with authority to change the document from Standards Committee to Full Council.
March 2009	Scrutiny Board Procedure Rules (Guidance Notes)	279	5.3	Consequential amendments further to full Council's decision of 28 th January 2009 to amend the Scrutiny Board Procedure Rules and the addition of Guidance Note 9.

CONSTITUTION

Amendment Control Sheet 6

Amendment Date	Documents Affected	Page	Para	Nature of Amendment
March 2009	Guidance Notes on Delegated Decision Making	213-214		Amended to include the revised version of the Delegated Decision Notification
April 2009	Financial Procedure Rules	459-461		Amendments to virement limits.



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

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 One case tribunal decisions and three appeals 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

Borough, City or District Councils

Fylde Borough Council

- 3.1 It was alleged that a Councillor had failed to comply with the Members' Code of Conduct by:
- publicly calling for the chief executive of Fylde Borough Council, Mr Woodward, to resign and stating that "You should also tell the truth to the people of Lytham St Annes".
 - during a meeting adjournment, stating that he was "gunning for Phil Woodward big time now."; and
 - in so doing failing to treat Mr Woodward with respect contrary to paragraph 3(1) of the Code of Conduct and bullied him contrary to paragraph 3(2)(b) of the Code.
- 3.2 The case tribunal concluded that due to disagreements over what was said during the meeting adjournment and the differing evidence of witnesses, they could not pursue this particular allegation. With regard to the other incidences the case tribunal was assisted by being able to view the web-cast of the meeting.
- 3.3 The case tribunal was asked to consider the effect of Article 10 of the Human Rights Act on this case. They concluded that although the call for the resignation of the chief executive was within a highly politically motivated speech, when the Councillor departed from his focused attack on the ruling Conservative group and turned his attention on the chief executive he moved away from freedom of political expression and moved into the remit of the Code of Conduct. The case tribunal then went on to

consider whether the comments made during the meeting were a breach of the Code of Conduct as alleged.

- 3.4 Firstly, the case tribunal considered the call for the chief executive to resign, specifically whether this was a call for the chief executive as head of the paid service to resign or a personal attack on Mr Woodward. The tribunal also considered whether this was a call for the chief executive to be accountable for the management of the council at a time when there were questions about the council's finances. The tribunal came to the conclusion that it was the post of chief executive that was being attacked. There was no reference to Mr Woodward's abilities or qualities and there was an absence of malice or insult. This being the case the tribunal could not find a basis for disrespect or bullying.
- 3.5 Secondly, whether the use of 'You' within the statement quoted was intended to refer to Mr Woodward. The tribunal's earlier finding on this point was that the evidence was unclear as to whom the Councillor was referring to when he said this and it has been accepted that it could have been a reference to the ruling Conservative group. The tribunal has concluded that it is more likely than not to have been a reference to the Conservative group because of its context within a politically motivated speech attacking the Conservative group's performance.
- 3.6 Thirdly, the tribunal considered the use of the word 'truth' by the Councillor and whether it was a request for accurate and full information or intended to mean 'stop lying'. If the Councillor intended people to stop lying he could have used those words. In the tribunal's view his words were a request for more accurate information and this did not imply that there had been previous lies.
- 3.7 These three elements led the tribunal to the conclusion that there had not been a breach in respect of paragraph 3(1) and 3(2)(b) of the Code of Conduct and therefore it would not be taking any further action.

Appeals against Standards Committee decisions

North Wiltshire District Council and Calne Town Council

- 3.8 The former Councillor appealed against a decision by North Wiltshire District Council's Standards Committee that he had breached paragraphs 3(1) and 3(2) of the Code of Conduct by failing to treat the Town Clerk with respect and bullying her. The Standards Committee had decided to suspend the Councillor for one month unless he gave a written apology to the Clerk before the date his suspension was due to commence. The former Councillor appealed against the decision that he had breached the Code of Conduct and the sanction applied by the Standards Committee.
- 3.9 Both the Town Clerk and the Councillor agreed that there were no problems in their working relationship prior to the following incidents. The Councillor was strongly in favour of flying the union flag from the Town Hall, but this decision required the agreement of the Town Council. The matter was considered in accordance with the standing orders of the Council, but the resolution was not passed. According to the Town Council's standing orders it was not possible for the matter to be considered again for another six months.

- 3.10 In the Town Clerk's absence the Councillor asked the Deputy Clerk to fly the union flag. When the Town Clerk returned from leave she asked for it to be taken down again as there had been no formal resolution from the Council to fly the flag.
- 3.11 The Councillor then called the Town Clerk to discuss the flag having been taken down. There was a dispute between the parties as to the words used during this conversation and the appeals tribunal noted that the Standards Committee had simply accepted the investigating officer's findings of fact without giving reasons. The appeals tribunal accepted the former Councillor's version of the facts, that he said "I don't like your attitude".
- 3.12 Following the telephone conversation the Councillor sent an email to a number of people, including the press and the Town Clerk's PA (but not to the Town Clerk herself). In this email he states that the Town Clerk told him "the town council is under no obligation to take any notice of the Parish meeting" and he goes on to say "she will find herself with a virtual war on her hands". The Clerk responded to the email to dispute his words and stating that the Council "had a duty to consider the proposal".
- 3.13 The Councillor then sent the Clerk a further two emails in which he suggests that the Clerk had failed to comply with her legal obligations by failing to explain the implications of the Council's decision at the meeting and in which he suggests that she may wish to seek legal advice as they would not be letting the matter rest.
- 3.14 The final incident involved the Councillor querying a petty cash claim made by the Clerk in relation to breakfast sandwiches for a meeting with external consultants. The Councillor allegedly questioned why the Clerk did not pay for such things out of her own salary as she earned much more than Councillors and the previous Clerk paid for refreshments for Council staff from her own salary. However, the former Councillor disputes this version of the incident and had been led to believe that they were refreshments provided during a staff training event.
- 3.15 The former Councillor also objected to the fact that the Standards Committee hearing was held in private and that certain witnesses he had suggested had been disallowed by the Committee. The appeals tribunal considered the explanation of the Monitoring Officer on these points, that there was a concern that the hearing would stray into wide ranging criticism of the Town Clerk which would go beyond the scope of the complaint, and therefore agreed that the Standards Committee had properly exercised its discretion in this regard. In relation to the witnesses the appeals tribunal considered that the Councillor had not provided an outline testimony for the witnesses and that investigating officers report was suitably detailed that the Councillor had not been disadvantaged by this decision.
- 3.16 The appeals tribunal went on to consider whether the facts revealed a breach of the Members' Code of Conduct. In relation to the disagreements regarding the flying of the union flag the appeals tribunal considered that it would have been helpful if the Clerk had explained the legal implications of the Council's decision at the time of the meeting and felt that the Councillor was genuinely confused about the nature of the decision that had been taken. Accordingly they felt that the telephone call, although uncomfortable for the Clerk, was nothing more than a direct and robust challenge of an officer decision by a Councillor.

- 3.17 With regard to the emails the appeals tribunal concluded that the terms of the emails were not directed at the Clerk personally and were more general. The steps referred to by the Councillor in the emails, such as the Parish Poll, would have been actions against the Council rather than the Clerk. The appeals tribunal concluded that all the actions taken by the Councillor were forceful and direct, but given that the Clerk was the most senior officer of the Town Council she should be expected to deal with robust and direct challenges by Councillors. The tone used by the Councillor was unfortunate at times but did not amount to disrespect or bullying.
- 3.18 With regard to the expenses claim incident the appeals tribunal considered that the Councillor should not have raised the matter during a public meeting and should not have suggested that the Clerk should pay for such things from her own salary, regardless of what the previous Clerk had done. They also felt that the Councillor had failed to treat her with respect by referring to her salary level in a public meeting and had therefore breached paragraph 3(1) of the Code of Conduct.
- 3.19 The appeals tribunal did not agree that the Councillor had bullied the Town Clerk as there was no pattern of behaviour (given that they had decided that the Councillor had not breached the Code through the telephone call or emails to the Clerk) and the incident relating to expenses was not sufficiently serious to amount to bullying.
- 3.20 With regard to the sanction imposed by the Standards Committee, the appeals tribunal did consider that the breach was serious enough to warrant a period of suspension. Furthermore the Councillor could have mitigated the period of suspension by providing an apology, which he had failed to do.

Berwick-Upon-Tweed Borough Council

- 3.21 A Councillor had appealed against the Standards Committee's finding that he had failed to follow paragraphs 3(1) and 5 of the Council's Code of Conduct. The Councillor had been reported in a local newspaper under a headline "Planning Chief attacks own department." The report quoted him as saying that the relevant council department was not performing as it should. He was also quoted as saying that there was a problem in Berwick about the Council being officer-led and that people who came into jobs in the Council lacked local knowledge and a commitment on the future of Berwick.
- 3.22 The Hearings Sub-committee found that the Councillor had made the comments attributed to him in the press article and rejected his claim to have been misquoted. The Hearings Sub-committee found that the Code of Conduct did apply to the Councillor during his conversation with the journalist. The Hearings Sub-committee found that therefore the Councillor had failed to treat the staff of the Development Services department with respect. The reason given was that the comments had been made in a very public forum, rather than through the appropriate channels within the authority, which had given the staff concerned no opportunity for redress.
- 3.23 The Hearings Sub-committee also found that the Councillor had conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. The reason given was that in their view, the comments were likely to result in a reduction in public confidence not just in the Development Services staff and the planning function but also in the local authority generally. They noted that the Councillor had shown no remorse in respect of his comments at any time

despite the obvious concern and distress which these had caused the Development Control Services staff at the Council.

- 3.24 The Councillor also appealed against the action, which the Standards Committee decided to take in the light of their decision that he had failed to follow the provisions of the Code of Conduct. That action was to suspend the Councillor for six months.
- 3.25 The appeals tribunal heard that a journalist employed by the Newcastle Journal received an anonymous tip off to the effect that a planning application submitted to the Council in the name of the Councillor's grandson represented a conflict of interest for the Councillor. Following initial researches, he telephoned the Councillor. This was an unarranged, speculative telephone call and there had been no previous contact between the journalist and the Councillor. Although the Councillor contends that the telephone call was made to him in his private capacity, having regard to the substance of the interview (which is not seriously challenged by the Councillor), the appeals tribunal preferred the evidence of the journalist that the call was made to the Councillor in both his private capacity and as a member of the Council.
- 3.26 The first part of the telephone call was concerned with whether there was any basis for the allegation of a conflict of interest. There is no dispute that this part of the conversation was conducted off the record. The journalist quickly established by his questions that there was no conflict of interest. As a result, he informed the Councillor that the angle of his story had changed and the interview became focussed, although not exclusively, on the Council's Planning Department. There is a dispute between the journalist and the Councillor as to whether this second stage of the interview was on or off the record. The appeals tribunal was satisfied that the Councillor remained genuinely uncertain as the status of the interview. Those parts of it which related to his private capacity he regarded as on the record as addressing the anonymous complaint. Those parts which related to his public capacity as a member of the Council he regarded as being off the record.
- 3.27 The appeals tribunal then went on to consider whether when talking to the journalist on the telephone, the Councillor was acting in his official capacity for the purposes of the Code i.e. conducting the business of the Council or acting, claiming to act or giving the impression that he was acting as a representative of the Council, and if so, whether what he said:
- failed to treat others with respect; and/or
 - was such as could reasonably be regarded as bringing his office or the Council into disrepute.
- 3.28 In the appeals tribunal's view, the content of the interview coupled with the statements made by the Councillor to the investigating officer in his interview during the investigation are such that the Councillor did give the impression that he was acting as a representative of his authority. The Code therefore applied to his conduct in giving the interview regardless of the fact that he saw it as off the record. However, the appeals tribunal did not consider that any of the statements made to the journalist by the Councillor failed to treat any other person with respect within the scope of the Code.
- 3.29 Having regard to the evidence before the appeals tribunal in the form of various reports on the Council's performance in the processing of planning applications, it was a fair comment that the Development Services Department was not performing

as it should be. The appeals tribunal noted the conclusion of the Investigating Officer that what he termed the Councillor's "frustration" on this issue was "entirely justified". The comment was not unfair, unreasonable or demeaning. It was not on any assessment disrespectful. It was not expressed in intemperate or offensive terms. Whilst Council officers might have wished for such criticism to be made directly and privately to them, with an opportunity to respond, this was criticism directed at the functioning of a department of the Council. There was no personal criticism raising issues of competence or integrity levelled at any individual and the appeals tribunal was satisfied that none was intended. This was generalised comment of a political nature and those who elected him would expect him to voice concerns of this kind on their behalf.

- 3.30 As to the reference to the Council being "officer led", the Councillor's genuinely held view was that the history of the Council had led to an executive weakness which officers had to respond to. In his view, this led to the Council being perceived to be officer led. Some may have regarded this view as offensive and it may have had little or no justification. However, it was the Councillor's genuinely held view on the balance of power within the Council and his expression of it was a political statement. It was not derogatory of any individual and was not capable of being seen as an attack on the integrity of any individual or body of officers. It was not expressed in a way which was unreasonable, unfair or demeaning to any identifiable individual or body of officers. It did not as a matter of fact fail to treat any person with respect.
- 3.31 The comment "There are people who come into jobs who don't have the local knowledge, and they lack the commitment on the future of Berwick" was looked at in context by the tribunal. Better recruitment and retention of staff had been identified as essential if performance was to improve. The Councillor's view, as expressed in interview and evidence was that the proper approach was to recruit locally because "...there are people who lived in Berwick who can do the jobs and that the people that do the jobs, to be committed, should work and reside in the same area".
- 3.32 This comment may have been regarded by others as misguided, naïve and unsupported by evidence. However, it was the Councillor's view and, given the substance of it, he was entitled to express it. This was a general comment of a political or quasi political nature made in the context of a single, ad hoc telephone interview, discussing the Council's performance as planning authority generally. It was not of a personal nature, there is no evidence of any "history" between the Councillor and planning officers from which a personal attack could be implied, nor any evidence that the Councillor was engaged in a course of conduct intended to undermine any individual officer or, indeed the small department as a whole. Looked at in the context of all of the circumstances, this comment could not reasonably have been taken to be a criticism of any existing individual officers in any department of the Council nor did it fail to treat any person with respect. It did not meet the threshold for a breach of paragraph 3(1) of the Code and, in the appeal tribunal's view, it would be a disproportionate restriction on the Councillor's right to freedom of expression to find such a breach.
- 3.33 In the appeals tribunal's view, expressing such views does not meet the threshold set by the words of paragraph 5 of the Code of Conduct. Neither looked at objectively would have any material bearing on public confidence in either the office of councillor or the authority itself. Both are comments of a very general political or quasi political kind which respect for the freedom of expression of (possibly)

unpalatable views in the political context must allow for. Their content properly understood, the manner and forum in which they were expressed and the absence of any personal criticism are such that they could not reasonably be regarded as affecting the essential trust between officers and the Councillor and his ability to perform his functions. In the appeals tribunal's view it would not be proportionate for the Code to prevent the expression of such genuinely held views even though they may be contentious.

- 3.34 For these reasons, the appeals tribunal determined that the Councillor did not fail to follow the provisions of the Code. Therefore the appeals tribunal rejected the finding of the Standards Committee and the decision of the Standards Committee ceases immediately to have effect.

West Wiltshire District Council and Westbury Town Council

- 3.35 A Councillor appealed against a finding by the Hearings Sub-committee of the Standards Committee that he had failed to follow the provisions of the Code of Conduct adopted by Westbury Town Council but that no further action need be taken. The decision of the Sub-committee referred to a breach of Paragraph 7(1) of the Code. That sub paragraph defines when a member of the Town Council had a personal interest. It is not of itself a paragraph which can be breached: the breach would come if the member failed to follow the provisions of Paragraph 8 of the Code which requires the member to declare an interest of the kind defined in paragraph 7(1).
- 3.36 The Councillor himself referred the matter to the Standards Board for England saying he had inadvertently forgot to declare a personal interest arising from his brother's part-ownership of a shop business in Westbury High Street.
- 3.37 The Notice of Decision issued by the Hearings Sub-committee indicated that the Sub-committee did consider that the matter under discussion at the Town Council (a traffic management scheme for Westbury) could reasonably be regarded as affecting the financial position of the Councillor's brother to a greater extent than other council tax payers and inhabitants. Assuming that the facts supported such a conclusion there would be a breach of paragraph 8 of the Code as the Councillor had not declared the interest at the relevant meeting. The Notice of Decision did not go on to reflect any consideration of whether the particular interest should also have been regarded as a prejudicial interest which, if in existence, would have meant that the Councillor would not have been able to participate in the relevant meeting.
- 3.38 The appeals tribunal noted that the exact nature of that interest was not established, the company name used in the report was inconsistent, no company search appears to have been undertaken, and no enquiries were made directly of the Councillor's brother. The need for more and clearer information should perhaps have been picked up by the Sub-committee which, according to its own minutes of the meeting, had experienced difficulty in obtaining confirmation from the Councillor as to whether his original statement was correct. However the appeals tribunal concluded that the Councillor undoubtedly had made a statement to the effect that his brother had an interest arising from part-ownership of a shop in Westbury High Street.
- 3.39 The Investigator stated in her report that she had taken it in the round that the Councillor's brother had a legal interest in Chantry TV Limited which has an interest in a lease and runs a business from the shop. There was no evidence in the papers

before the appeals tribunal (which include the papers before the Sub-committee) of the lease or the parties to it. However, it was common knowledge that a business with the name of Chantry TV operated from a shop in Westbury High Street and the Councillor had not sought to dispute that his brother has an interest in that business. That being so it was reasonable for the Sub-committee to conclude that there was a personal interest of the kind identified by paragraph 7(1)(a) of the Code of Conduct. There may also have been interests of a different kind but the evidence was not clear about this, and the appeals tribunal felt that those further possible reasons for finding there was a personal interest did not need to be explored.

- 3.40 The Councillor argued that the particular shop would not be affected by his proposals to any greater extent than other nearby shops. The appeals tribunal concluded that that argument was based on a mistaken understanding of the Code of Conduct. The relevant test was whether the Council's decision on the matter under consideration (a proposal to reverse the traffic flow in High Street) would affect his brother to a greater extent than other council tax payers, ratepayers or other inhabitants of the council's area, i.e. the whole area of Westbury Town Council. It was self-evident that a proposal to reverse the traffic flow in a particular street would have a greater effect on properties within that street, and those living or conducting business in them, than on other properties and residences in the whole town.
- 3.41 Although it does not appear from its decision that the Sub-committee addressed its mind to the issue of whether the Councillor had a prejudicial as well as a personal interest, it was clear that the Investigating Officer had given the matter some consideration. However the report contained no reasoning to explain her conclusion that the wellbeing or financial position of the Councillor's brother would not be affected by the matter under consideration. Although not referred to in her reasoning, her report did contain a statement from the County Council's Principal Highways Engineer that although he did not know what the effect of the reversal of the traffic flow would be on Chantry TV, in his opinion any impact would be negligible. If the Engineer did not know what the effect would be, the appeals tribunal was puzzled as to how he could express a view about its impact.
- 3.42 The appeals tribunal was of the view that had the Councillor's brother still been a councillor (as he had formerly been) the brother would have had a prejudicial interest and thus would have been precluded from participating in the discussion. Although possibly of no great impact on the brother's overall business interests, the evidence from the Councillor's own statements is that his proposal was likely to be to the financial advantage of shops, including that in which the brother had an interest. Nevertheless, it does not automatically follow that the Councillor who, as far as the appeals tribunal knows, had no direct financial interest, should have been precluded from such participation.
- 3.43 The key question is whether a member of the public with knowledge of the relevant facts would reasonably regard the Councillor's interest (arising from his brother's involvement with Chantry TV and thus with a shop on the affected street) as likely to prejudice his own judgement of the public interest. In addressing that question the Investigating Officer stated: "There is no indication that the response (to Wiltshire County Council) in relation to the reversal of traffic flow was likely to prejudice the Councillor's judgement of the matter, despite the brother having a legal interest in the shop on the High Street." In the appeals tribunal's opinion, that seemed to be dealing with the question the wrong way round. The Committee discussion was

about formulating the response (to Wiltshire County Council) so the question was whether the brother's interest could be seen as prejudicing the Councillor in participating in the decision as to how to frame such a response.

- 3.44 There is some evidence that in the past the Councillor has supported proposals (about the proposed Westbury by-pass) which were opposed by his brother. Thus, there would be some basis for a member of the public to recognise that the Councillor was capable in putting to one side any effect on his brother when considering what was in the public interest. Bearing that in mind, and (in the absence of hard factual evidence) the appeals tribunal's impression that the proposal was not likely to have a major impact on the fortunes of Chantry TV, the appeals tribunal has concluded that while a cynical member of the public might have suspicions, on a reasonable view the Councillor should not be regarded as having a prejudicial interest.
- 3.45 As the only part of the Code which has not been followed is that involving the failure to declare a personal interest, the appeals tribunal concurred with the view that no further action needs to be taken.
- 3.46 This case highlights the importance of considering each stage of a complaint and ensuring that the Committee consider the investigator's reasoning thoroughly. In Leeds, during the initial assessment and review stage, the Assessment flowchart and Code matrix must be used by the Sub-Committee to evidence their consideration of each stage of the process and section of the Code in relation to every complaint.**

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.

Background Documents

- APE0410, Councillor Hayhurst of Fylde Borough Council, 3rd February 2009
- APE0413, Councillor Ireland of Calne Town Council (appealing decision of North Wiltshire District Council), 23rd January 2009
- APE0414, Councillor Douglas of Berwick Upon Tweed Borough Council, 10th February 2009
- APE0416, Councillor Hawker of Westbury Town Council (appealing decision of West Wiltshire District Council), 13th March 2009

(All above case tribunal decisions available at:

<http://www.adjudicationpanel.tribunals.gov.uk/Public/Decisions.aspx>)

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Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

Subject: Standards Committee Annual Report 2008/09

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to seek the approval of Members of the Committee for the second draft of their Annual Report for 2008/09.
2. The first draft of the Annual Report was presented to the Standards Committee at the meeting on 17th February 2009. At that meeting some Members of the Committee made suggestions for amendment to their biographies and were asked to forward any suggestions for additional content to the report author. The amended Annual Report is attached as Appendix 1.
3. Members of the Committee are asked to:
 - Approve the second draft of the Standards Committee Annual Report 2008/09 attached at Appendix 1;
 - Give authority to the Assistant Chief Executive (Corporate Governance), in consultation with the Chair, to approve the final report with an updated number of complaints (to include those received up to May 2009);
 - Agree to forward the final report to the Corporate Governance and Audit Committee to constitute the second of their six monthly update reports; and
 - Agree to forward the final report to the first meeting of Council for their consideration.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to seek the approval of Members of the Committee for the second draft of their Annual Report for 2008/09.

2.0 Background Information

- 2.1 This is the fourth Standards Committee Annual Report, and as before it is proposed that the Annual Report be submitted to the Council to outline the achievements of the previous year and plans for the year 2009/10.
- 2.2 Last year's Annual Report was well received by the Corporate Governance and Audit Committee and full Council, was published on the Council's website and was advertised with a Council press release.
- 2.3 The Annual Report also forms part of the reporting arrangements with the Corporate Governance and Audit Committee and will be submitted to them at their first meeting of the 2009/10 municipal year as the second of the six monthly updates.

3.0 Main Issues

Amendments to the draft report

- 3.1 Following the presentation of the draft report to the Committee on 17th February 2009, a few minor amendments have been made to the report including some small amendments to the membership biographies of the Committee.
- 3.2 The number of complaints received by the Standards Committee regarding Leeds City Council and Parish Council Members in Leeds, will need to be updated to show those complaints received up to May 2009. As these details are not yet available, the final version of the report cannot be approved at this meeting.

The Work of the Committee 2008 - 2009

- 3.3 The section regarding the work of the Committee in the previous year has remained broadly the same since the first draft of the annual report was presented to the Committee. However, additions have been made to bring the report up to date with the work completed since February 2009.

4.0 Implications For Council Policy And Governance

- 4.1 There are no implications for Council policy.
- 4.2 Producing a report which details the Committee's work throughout the year and the key decisions it has taken promotes transparency in the Committee's actions.
- 4.3 The annual report is also a method by which Members and officers can be informed of the Committee's role and its inputs and outputs. This is an objective of the Committee's communication plan which seeks to cascade regular information to Members and officers. The annual report will therefore have a fundamental contribution to the corporate governance arrangements of the Council.

5.0 Legal And Resource Implications

5.1 There are no legal or resource implications.

6.0 Conclusions

6.1 This report summarises the contents of the final draft of the annual report for the year 2008-2009.

6.2 The publication of this Annual Report will support the Council's governance arrangements by promoting transparency in the Committee's actions and help fulfill the Standards Committee's Communication Plan.

7.0 Recommendations

7.1 Members of the Committee are asked to:

- Approve the second draft of the Standards Committee Annual Report 2008/09 attached at Appendix 1;
- 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 2009);
- Agree to forward the final report to the Corporate Governance and Audit Committee to constitute the second of their six monthly update reports; and
- Agree to forward the final report to the first meeting of Council for their consideration.

Background Documents

- Previous Standards Committee agendas between 1st July 2008 and 21st April 2009
- Report of the Assistant Chief Executive (Corporate Governance) to Corporate Governance & Audit Committee, "Standards Committee half year progress report", 11th February 2009

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Leeds City Council

Standards Committee

Annual Report 2008 – 2009



Introduction

The Local Government Act 2000 requires councils to set up a standards committee. Standards committees have a proactive role in creating an ethical framework which governs the relationship between high standards of conduct and transparency and openness in decision making. As a result of the Local Government and Public Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008, the role of the Standards Committee has recently developed to include the local assessment of the complaints.

This is the Committee's fourth Annual Report and it presents a summary of the Leeds City Council Standards Committee's work during 2008/2009. This report supports the Corporate Governance arrangements of the Council by promoting good conduct and cascading information.

Our Ambition

“To help develop and maintain a climate of mutual trust and respect in which Members, officers and partners work effectively together to deliver the Council's strategic and operational priorities and where the public can be assured that this is done in an honest, objective and accountable way.”

Foreword from the Chair



This year the Standards Committee of Leeds City Council was shortlisted in the Standards and Ethics category of the Local Government Chronicle Awards 2009. Six local authorities were shortlisted, from a total of 22 entries, for their dynamic approach to improving and promoting ethical standards among members while boosting public confidence in local democracy. Unfortunately Leeds did not win the award this year, although all the finalists were congratulated at the event.

This year the Standards Committee has successfully met the challenge of adapting to their new local assessment role, and the Council has decided to expand their membership to assist them with this. The additional Members of the Standards Committee will take up their positions on the Committee at the beginning of the 2009/10 municipal year.

We hope you enjoy learning about the Standards Committee and its work throughout the 2008/09 municipal year.

A handwritten signature in black ink that reads "M. Wilkerson". The signature is written in a cursive style with a large, sweeping underline.

Chair of the Standards Committee



Members of the Committee

The Standards Committee is composed of three independent members, five City Councillors, and two Parish Councillors.

Independent Members

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

Mike Wilkinson

has been an independent member and Chair of the Committee since 2002. He is also the Chair of the Standards Committee at the West Yorkshire Fire and Rescue Authority. Until 2001 he was a University Secretary and Clerk to the Board at Leeds Metropolitan University. He is a magistrate on the Leeds Bench and also acts as an Independent Assessor to the Student Loans Company. He is a Director of UNIPOL Student Homes. His final term of office runs until the Annual Meeting in 2010.



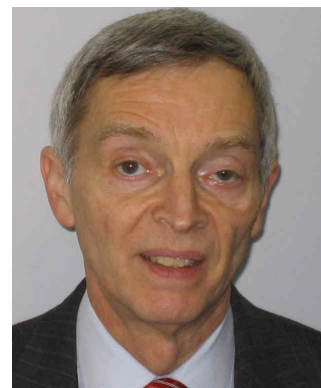
Rosemary Greaves

joined the Standards Committee in 2004 as a reserve independent member. Rosemary previously worked for BT as a Business Manager specialising in business development and strategy which includes developing significant new business propositions or identifying potential acquisition requirements. Rosemary became a full independent member in 2007 and her current term of office runs until the Annual Meeting in 2011.



Philip Turnpenny

joined the Standards Committee in April 2008. Philip is the retired Director of Human Resources at Moores Furniture Group in Wetherby, and now acts as a consultant. Philip is a Magistrate sitting in both the Adult and Family Proceedings Courts in Bradford and a governor at Tadcaster Grammar School as well as the Chairman of their Finance Committee. Philip also sits on the Boards of Foundation Housing and Northcall. Philip's current term of office runs until the Annual Meeting in 2012.



Leeds City Councillors

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

Councillor Les Carter

is a member of the Conservative Group and has been a Leeds City Councillor since 1973. He represents the Adel and Wharfedale ward on Leeds City Council and is also an Executive Board Member with responsibility for Neighbourhoods and Housing. Councillor Carter's areas of responsibility include housing policy and strategy, community safety, regeneration, homelessness and environmental health.



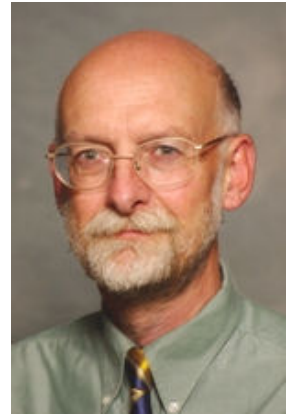
Councillor Elizabeth Nash

is a member of the Labour Group and has been a Leeds City Councillor from 1973 to 1988, and 1989 to present. She was also a member of the Leeds County Borough Council from 1972 to 1974. She represents the City and Hunslet ward on Leeds City Council, has been a member of the Committee since 2003, and is also a member of the City Centre Plans Panel.



Councillor Colin Campbell

is a member of the Liberal Democrat Group and represents the Otley and Yeadon ward on Leeds City Council. Councillor Campbell is also the Chair of Plans Panel (West), and a member of the Corporate Governance and Audit Committee and Scrutiny Board (City and Regional Partnerships).



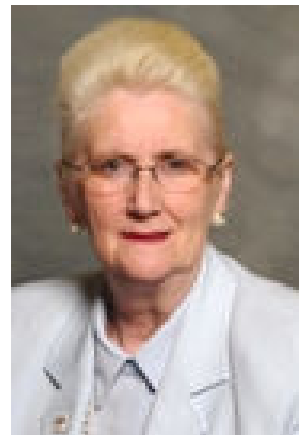
Councillor David Blackburn

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



Councillor Judith Elliott

is a member of the Morley Borough Independent Group and represents the Morley South ward on Leeds City Council. Councillor Elliott is also a member of the Children's Services Scrutiny Board and a member of Morley Town Council. Councillor Elliott will be leaving the Committee next year as she takes up her position as Lord Mayor of Leeds for the municipal year 2009/2010.



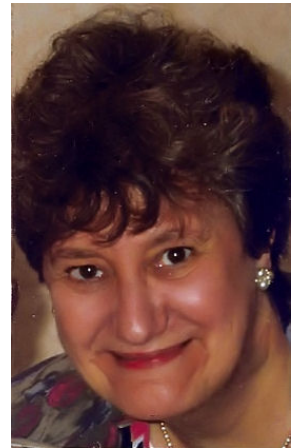
Parish Councillors

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

Committee demonstrate that parish issues are going to be dealt with fairly. They also bring an additional independent perspective to the Committee as they are not able to be members of Leeds City Council.

Councillor Mrs Pat Walker

is a member of Pool-in-Wharfedale Parish Council which she was elected to for the first time 7 years ago. She is lead member on conservation matters. Previously a Harrogate District Councillor, she has been involved in politics at local, national and European levels. A business manager in Leeds and Harrogate for 25 years, she is now an active member of the Ruskin Society and is presently a Foundation Governor of Prince Henry's Grammar School, Otley. Councillor Walker's current term of office runs until the Annual Meeting in 2009, where she is expected to be reappointed for another term.



Councillor John C Priestley

joined the Committee in 2005 as a reserve parish member. He is a retired (litigation) solicitor and was a senior partner of Booth & Co. Leeds. He retired in 2002 and is now the Chairman of East Keswick Parish Council. He is also a Trustee of the W.W. Spooner Charitable Trust. Councillor Priestley's current term of office runs until the Annual Meeting in 2011.



Monitoring Officer to the Committee

Nicolé Jackson – Assistant Chief Executive (Corporate Governance) and Monitoring Officer

After qualifying as a solicitor at Calderdale Council, Nicolé worked at Bradford and Kirklees Councils, prior to moving to Leeds in June 1990. Nicolé became Senior Assistant Director and subsequently Chief Legal Officer in 1994 and 1999 respectively, and was appointed to her current role of Assistant Chief Executive (Corporate Governance) in 2007. Nicolé is also a part time Chair of the Midland Rent Assessment Panel.



Introduction to the Standards Committee

The general functions of the Standards Committee are:

- ▶ Promoting and maintaining high standards of conduct by Members and co-opted members; and
- ▶ Assisting Members and co-opted members to observe the Code of Conduct.

The terms of reference for the Committee are:

- ▶ Promoting, monitoring and reviewing the rules controlling the behaviour of Councillors and Officers (Code of Conduct);
- ▶ To initially assess and review complaints against Leeds City Councillors and Parish and Town Councillors in Leeds and to decide what action (if any) to take;
- ▶ To consider the results of any investigation into the behaviour of Councillors and decide whether their behaviour has broken the rules described above. If the Councillor is found to have broken the rules, the Committee decide what punishment to impose;
- ▶ To make suggestions to and work with other agencies about standards issues and the different codes of conduct. This involves taking part in research projects and consultation exercises, as well as making suggestions for improvement and best practice to the Standards Board for England;
- ▶ To provide advice and guidance to Members and officers and to make arrangements for training them on standards issues; and
- ▶ To advise the Council about changes which need to be made to the code of conduct for Officers and to promote, monitor and review this code.

Please note that the Local Government and Public Involvement in Health Act 2007 also imposed new duties on standards committees in relation to politically restricted posts. However, the relevant regulations to enable the Standards Committee to take up these duties have not yet been released.

The Work of the Committee 2008 – 2009

Promoting, monitoring and reviewing the Codes of Conduct

The Standards Committee exists to promote and maintain high standards of conduct within the Council, and has considered several important standards issues over the past year.

- ▶ **Members' Code of Conduct 2009** – The Standards Committee responded to the Communities and Local Government consultation document "Codes of conduct for local authority Members and employees: a consultation" in December 2008. Members of the Committee considered feedback from various Member and officer fora, including the Member Management Committee, the Council's Corporate Leadership Team, the Corporate Governance Board and the Group Whips, before finalising the Standards Committee response.
- ▶ **Reviewing the Codes and Protocols** - The Standards Committee has responsibility for several codes and protocols in the Constitution. To ensure that these are operating effectively, are being complied with, and are fit for purpose the Standards Committee has added regular reports regarding these codes and protocols to its work programme. This year the Standards Committee has reviewed:
 - the Code of Practice for the Determination of Licensing Matters
 - the Code of Practice for the Determination of Planning Matters;
 - the Monitoring Officer Protocol; and
 - the Standards Committee Media Protocol.

The Committee also extensively reviewed its own Procedure Rules in July in line with the Standards Committee (England) Regulations 2008 and the new guidance from the Standards Board for England. The Standards Committee has delayed reviewing any of the codes and protocols which would be affected by the new Member and employee Codes of Conduct due to be released in May 2009.

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- ▶ **Ethical Audit 2007** - The Standards Committee considered the final results of the Ethical Audit 2007 in October this year, and approved an action plan to address these results and remaining issues from the Ethical Audit 2006. In the new action plan the Standards Committee particularly focused on the Ethical Framework Training and Awareness programme to be developed by Human Resources and made available to employees as appropriate. The Standards Committee agreed that they would monitor progress against this action through receiving regular reports from Human Resources.

 - ▶ **Monitoring compliance with the Code of Conduct** - The Standards Committee receives six monthly reports on the number and types of complaints that have been referred to the Standards Board regarding Leeds City Council Members and Parish and Town Councillors in the Leeds area. The report also identifies any trends in the information so that the Committee can seek to address these matters through guidance and training. The Standards Committee received the last of these reports on October 2008, as complaints from May 2008 are received by Leeds City Council rather than the Standards Board. See the separate section on Local Assessment for more details of the complaints received since May 2008.

 - ▶ **Considering final investigation reports** – The Standards Committee has considered two final investigation report since May 2008, which contained a finding of no failure. In the first case the complainant alleged that the Councillor had breached paragraphs 2(b) of the Members’ Code of Conduct by demonstrating a lack of basic manners and respect for others. However the investigating officer found no evidence of any failure to comply with the Code of Conduct. The Standards Committee agreed with the investigating officer that the Councillor had not breached the Code of Conduct as alleged.

In the second case the complainant had alleged that the former Councillor had breached paragraph 5 of the Members’ Code of Conduct

by bringing his office or authority into disrepute. The Standards Committee agreed with the investigator's finding that the former Councillor had only been acting in his official capacity from the point at which he identified himself as a Councillor, and that his conduct from then on would not have brought his office or authority into disrepute.

The Standards Committee were also assured that the new local assessment procedures would safeguard against any delays in processing future complaints.

- ▶ **Register of Interests and Gifts and Hospitality** - The Standards Committee seeks to reassure itself that the Members' register of interests is being reviewed and updated by Members on a regular basis and that the rules surrounding the registration of gifts and hospitality are being observed. The Committee receives annual reports to this effect, the last report on this subject having been considered on 1st July 2008. In this report the Committee were informed of the results of an Internal Audit Inspection carried out at the end of 2007 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. A substantial assurance opinion was provided both in respect of the control environment and compliance. The Standards Committee were satisfied that the review arrangements in place are fit for purpose.
- ▶ **Officer Code of Conduct** - The Standards Committee received a report in October 2008 from Human Resources which reported on the requirement to ensure that development of key competencies and behaviours for managers included appropriate reference to ethical framework. The Head of Human Resources Strategy reported that the results of the Ethical Audit 2006 were being addressed by:

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- Manager Briefings - using a standard briefing for Human Resources staff to consider ethical audit findings with groups of managers;
 - Clearer induction – updating induction materials for new staff; and
 - Developing leadership standards which include governance matters.

It was agreed that the Head of Human Resources Strategy would report back on progress on these issues in due course.

Local Assessment of Complaints

Since May 2008, the Standards Committee has had responsibility for initially assessing and reviewing complaints against Leeds City Councillors and Parish and Town Councillors in the Leeds area. During this year the Standards Committee has both initially assessed 18 cases, and reviewed five of these.

- ▶ **Creation of the Assessment and Review Sub-Committees** – The Standards Committee considered how it would discharge its new duties under the Standards Committee (England) Regulations 2008 in July 2008. The Committee established two Sub-Committees to assess and review complaints against Members of Leeds City Councillors and the Parish and Town Councils within Leeds. The Standards Committee also decided to give the Assessment Sub-Committee the additional function of considering final investigation reports and deciding whether they agree with the investigators findings.

The table below shows the number of complaints which have been made about Councillors in Leeds during this municipal year, and the number which have been referred for further investigation. The Assessment Sub-Committee has met eight times to consider a total of 18 complaints, and the Review Sub-Committee has carried out five reviews over four meetings.

Authority	Number of Complaints	Number referred for further investigation
Leeds City Council	15	5
Parish and Town Councils	3	0

- ▶ **Adopting the Local Assessment Procedures** – At their meeting in July 2008, the Standards Committee also had to consider how they would make decisions regarding whether complaints should be referred for investigation, other action, or to take no action at all. Using the

Standards Board for England's guidance the Standards Committee developed a set of local assessment criteria which has helped them decide what action to take in relation to each complaint. The Committee also developed local criteria for deciding if a complainant can have their complaint considered confidentially. These criteria are contained in the guidance leaflet "How to complain about the behaviour of a Councillor" and also within the Standards Committee Procedure Rules.

The Standards Committee also agreed the format of their decision notices, whether case summaries would be published on the Council's website, and when to tell the subject Member that a complaint has been submitted about their behaviour.

- ▶ **Review of Local Assessment Procedures** – The Standards Committee also agreed that these practices should be reviewed after three months of operation. To ensure that all questions and issues raised by the Sub-Committee Members were recorded a standard item was added to each Sub-Committee agenda, titled 'Lessons to Learn'. The issues raised were then used to inform the review process. Some of the issues raised by Members were not able to be resolved satisfactorily as they were either direct from legislation or from statutory guidance. However Members were presented with a report on all the issues that had been raised, along with possible amendments, during their meeting on 16th December 2008.

In addition, officers distributed questionnaires to all the complainants and subject Members who had been involved in the process since 8th May 2008 and asked for their comments on their experiences. These responses, along with general representations from some of the political groups, were considered by the Standards Committee.

The Standards Committee made a series of amendments to their procedures as a result, and have agreed to review their procedures

again in September 2009 to assess whether these changes have improved the process as a whole.

- ▶ **Raising awareness of the Local Assessment Process** – Every authority was required to publish a notice detailing where the complaints should be sent from 8th May 2008, and what the Council’s new responsibilities are.

The Standards Committee chose to do so 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. The information on the Council’s website has been viewed 865 times since June 2008.
- 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 are also able to advise members of the public about the new arrangements.

The Standards Committee also chose to send relevant information to all the Citizen’s Advice Bureaux in Leeds so that they could assist members of the public with completing complaints form where necessary.

The Committee also created an information leaflet for potential complainants and a specific complaints form, which is available via the Council’s website and distributed in hard copy when requested. They also agreed that a special complaints helpline, email address and online form should be created for complainants to use.

In order to raise awareness amongst Members and officers:

- a letter and copy of the information leaflet was sent to all Parish and Town Councils in the area;

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- a briefing note was sent to each of the political groups;
 - a seminar was provided to officers within Democratic Services; and
 - information about local assessment has been included in all training on the Members' Code of Conduct, including the compulsory Governance updates for Members of Planning and Licensing Committees.

► **Training and Guidance for Members of the Sub-Committees** – In order that Members of the Standards Committee were prepared for their role on the Assessment and Review Sub-Committees, the Committee amended their training plan to include a separate skill area on Local Assessment. In February 2009, the Committee considered further updates to their training plan which included a training day on Local Assessment and Standards Committee Hearings from an external facilitator. The Committee has also sought to ensure that the external members of the Committee are aware of the role of a City Councillor, and has agreed that external members of the Committee could be given the opportunity to attend the ward surgeries of City Councillors to observe.

The Sub-Committees are also provided with a set of guidance notes for their reference when considering allegations of misconduct against Members. These include a locally created Assessment Flowchart and Code Matrix which assist Members in ensuring that all the assessment criteria are considered and that the allegation is a potential breach of the Code of Conduct. These documents were formally adopted by the Committee at their meeting in December 2008.

Providing Guidance and Training

The Standards Committee has a special responsibility for ensuring that Members are trained in matters relating to the Code of Conduct and arranging for appropriate training to be provided. During this year, the Standards Committee has both reviewed and recommended training for City Councillors and Parish and Town Councillors.

- ▶ **Induction for City Councillors** – The Standards Committee has supported the induction training programme for new Members; all new Members received the required training on the Code of Conduct and had completed their Acceptance of the Code of Conduct and Register of Interests forms.
- ▶ **Governance Matters** - The Standards Committee also features heavily in the regular bulletin 'Governance Matters' which is distributed to all Members of the Council, Directors, Chief Officers and all officers within Legal, Licensing and Registration, Procurement and Democratic Services. This bulletin contains a 'spotlight on' section which provides advice on specific standards or governance issues, front page news and feedback from the Council's governance committees. Issues are published on a bi-monthly basis and are available to download from the Council's website¹.

¹

http://www.leeds.gov.uk/Council_and_democracy/Councillors_democracy_and_elections/Council_documents/Governance_Matters_Newsletter.aspx

Relationship with Parish and Town Councils

The Standards Committee has sought to develop its relationship with the Parish and Town Councils in the Leeds area during this municipal year.

- ▶ **Addressing the results of the Annual Audit** - The Standards Committee asked each Parish Clerk to complete a questionnaire at the end of 2007, which asked questions about their register of interests, how interests are declared and recorded and what training the Parish Councillors had received on the new Code of Conduct. The results of the audit were considered by the Monitoring Officer, the Chair of the Standards Committee and the Parish and Town Councillors at a meeting on 16th December 2008. The Committee decided that those Councils who were of concern to the Monitoring Officer should be offered support and assistance by Leeds City Council, and other Parish and Town Councils. The Clerks from these Councils will be invited to a meeting with the Monitoring Officer, Chair of the Standards Committee and the Parish and Town Councillors on the Committee in order to discuss their results and how the Committee can assist them. Those whose results had some weaknesses but were not of particular concern to the Monitoring Officer will be offered further training on the Code of Conduct from Leeds City Council and more guidance on personal and prejudicial interests. Finally, the Committee agreed that those Councils who had good results would be congratulated and asked whether they would wish to assist their fellow Councils with any issues they may be facing.
- ▶ **Parish and Town Council Conference** – Representatives from the Parish and Town Council Liaison Forum and officers of Leeds City Council organised the second Parish and Town Council Conference in Leeds this year. This took place on 13th May 2009 at Civic Hall. Some Members of the Standards Committee attended the conference in order to introduce themselves. Officers updated the delegates on the rules surrounding the declaration and registration of interests, and briefed

them on the role of Assessment and Review Sub-Committees. The delegates were even able to try some cases for themselves, to assist them with understanding the new process and how the Code of Conduct applies in different circumstances.

- ▶ **Training for Parish and Town Councillors** – In October 2008 the Standards Committee received a report from the Member Development Officer updating them on progress with the project to review learning and development provision for parish and town councillors. As the role of Parish Councillors is extremely varied, the report put forward a number of learning options; some joint with City Councillors, and others specifically tailored and delivered on an area basis. The Standards Committee decided that training should be provided jointly with City Councillors, that Parish and Town Clerks should also be offered training, and that training on planning and financial awareness should be prioritised. The Standards Committee also sought to encourage Parish and Town Councils to discuss their requirements with officers to ensure that the correct training was being offered.

Working with Other Agencies

During the year, the Standards Committee has taken part in research and policy development on a national scale through various consultation exercises.

- ▶ **Consultation and Research** – Members of the Standards Committee have responded to the consultation paper published by Communities and Local Government called “Codes of conduct for local authority Members and employees: a consultation” in December 2008. It is hoped that the relevant Orders will be in place by May 2009.
- ▶ **Local Government Chronicle Awards 2009** - The Standards Committee submitted an entry to the ‘Standards and Ethics’ category of the Local Government Chronicle (LGC) Awards 2009, much of which was drawn from the Standards Committee Annual Report and the Council’s Corporate Governance Statement for 2008. It was announced in November 2008 that the Council had been shortlisted.
- ▶ **The Centre for Local & Regional Government Research** - In March 2008, the Standards Board for England commissioned Cardiff University to assess the impact and effectiveness of the ethical framework in local government. The research is being carried out over five years using in-depth case studies of nine local authorities. Leeds City Council was selected to take part and accepted. It will focus on the impacts of standards frameworks on processes, systems, cultures and values within local government. The project will also use public surveys and focus groups to explore any impacts of local standards frameworks on levels of public trust in local government.

Case study work is being conducted with Councils at two-yearly intervals, the first round of which took place in September 2008. This included interviews being conducted with Members, key officers, local stakeholders and public focus groups.

► **Standards Board for England - The Chair of the Standards**

Committee and the Monitoring Officer attended the Seventh Annual Assembly of Standards Committees held by the Standards Board for England on 13th and 14th October 2008, which provided opportunity for training and guidance and also feedback to the Standards Board on their work. The Chair of the Standards Committee was also a member of the steering committee for this year's conference, and was a speaker on the issue of the leadership and skills required of the Independent Chair. The Chair was also asked to appear in a DVD package to be shown to the delegates, where various Standards Committee members from different local authorities were asked to comment on several current ethical issues.

As finalists for the LGC award mentioned above the Chair of the Standards Committee has also appeared in a short film published on the Standards Board for England website². The film concentrates on examples of good practice in Leeds and in the other shortlisted authorities.

Finally, officers from Leeds City Council have also been involved in piloting the Standards Board for England Annual Return which will collect data to supplement the monthly returns regarding local complaints. The Standards Board will use this information from next year to assist authorities and to identify good practice.

The Standards Committee is kept up to date on national conduct issues by receiving regular Standards Board Bulletins and issues of the Town and Parish Standard. The Standards Committee also received and considered the Standards Board's Annual Report at their meeting in October 2008.

► **Association of Independent Members of Standards Committees in England (AIMSce) - The Chair of the Standards Committee is a**

² Available to view at <http://www.standardsboard.gov.uk/Resources/Standardsandethicsaward/>

Director of AIMScE. The Association provides support and guidance to independent members in carrying out their statutory responsibilities, and also acts as a forum for exchanging views and ideas with other organisations and stakeholders.

Issues for 2009 – 2010

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

- ▶ **Implementation of the Ethical Audit Action Plan** – The action plan formulated by the Standards Committee during this municipal year will continue to be implemented and monitored by the Standards Committee throughout the new municipal year.
- ▶ **Increased interaction between the Standards Committee and the Council’s leadership** – The Chief Executive and the leaders of the Council’s political groups will attend some meetings of the Standards Committee during this year to explain their roles and to explain what they are doing to improve ethical governance in their areas of responsibility.
- ▶ **Implementation of the new Member and Officer Codes of Conduct** – The Standards Committee will recommend the adoption of the new Members’ Code of Conduct to the Full Council, consider whether to add any local provisions, and provide guidance to the Council on the adoption of the new model Employee Code of Conduct. The Standards Committee will also devise a training plan to ensure that all Members are aware of the provisions of the new Code of Conduct.
- ▶ **Retirement of the current Chair** – The current Chair of the Standards Committee, Mike Wilkinson, ends his final term of office a the Annual Meeting in 2010. During this municipal year, the Standards Committee will need to appoint a new Chair and an additional Independent Member.

Useful Links

If you would like to find out more about standards issues and the work of the Committee, as well as keep up to date with national issues, you may find the following links useful:

- ▶ **The Standards Board for England** (for guidance on standards issues, standards committees and outcomes of recent cases)
www.standardsboard.gov.uk
- ▶ **The Adjudication Panel for England** – www.adjudicationpanel.co.uk
- ▶ **The Audit Commission** – www.audit-commission.gov.uk
- ▶ **Department for Communities and Local Government** –
<http://www.communities.gov.uk/corporate/>
- ▶ **Leeds City Council** – www.leeds.gov.uk
- ▶ **National Association of Local Councils** – www.nalc.co.uk
- ▶ **Yorkshire Local Council Association** -
www.visionwebsites.co.uk/Contents/Text/Index.asp?SiteId=490&SiteExtra=13134021&TopNavId=459&NavSideId=5536
- ▶ **Chartered Institute of Public Finance and Accountancy** –
www.ipf.co.uk
- ▶ **Association of Independent Members of Standards Committees in England** – www.aimsce.org.uk

Parish Councils

The Standards Committee has a special responsibility to the Parish and Town Councils in Leeds. The Standards Committee is responsible for ensuring high standards of conduct are met within the parishes and that every Member is aware of their responsibilities under the code of conduct.

The Parish and Town Councils in the Authority's area are:

Aberford & District	Collingham with Linton	Morley
Allerton Bywater	Drighlington	Otley
Alwoodley	East Keswick	Pool-in-Wharfedale
Arthington	Gildersome	Pudsey
Austhorpe	Great and Little Preston	Scarcroft
Bardsey Cum Rigton	Harewood	Shadwell
Barwick in Elmet & Scholes	Horsforth	Swillington
Boston Spa	Kippax	Thorner
Bramham cum Oglethorpe	Ledsham	Thorp Arch
Bramhope and Carlton	Ledston with Ledston Luck	Walton
Clifford	Micklefield	Wetherby
Wothersome (Parish Meeting)		

The Monitoring Officer

In Leeds City Council, the role of the Monitoring Officer rests with the Assistant Chief Executive (Corporate Governance). The Monitoring officer has a key role in promoting and maintaining standards of conduct.

As well as acting as legal advisor to the Standards Committee, the Monitoring Officer carries out the following functions:

- ▶ reporting on contraventions or likely contraventions of any enactment or rule of law and reporting on any maladministration or injustice where the Ombudsman has carried out an investigation;
- ▶ establishing and maintaining registers of Members' interests and gifts and hospitality;
- ▶ maintaining, reviewing and monitoring the Constitution;
- ▶ advising Members on interpretation of the Code of Conduct;
- ▶ supporting the Standards Committee;
- ▶ receiving reports from Ethical Standards Officers and decisions of case tribunals;
- ▶ conducting investigations into misconduct;
- ▶ performing ethical framework functions in relation to Parish Councils;
- ▶ acting as the proper officer for access to information;
- ▶ making arrangements for relevant matters to be considered by the Standards Committee with regard to initial assessment, review, consideration of final investigation reports and hearings, and to advise the Standards Committee on such matters;
- ▶ advising whether executive decisions are within the budget and policy framework; and
- ▶ advising on vires issues, maladministration, financial impropriety, probity, and budget and policy issues to all Members.



Report of the Assistant Chief Executive (Corporate Governance)

Corporate Governance and Audit Committee

Date: 21st April 2009

**Subject: Standards Committee and Corporate Governance and Audit Committee
Terms of Reference**

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 To inform Members of the revised Terms of Reference for the Standards Committee and Corporate Governance and Audit Committee, as detailed at Appendix 1 to this report.

2.0 Background Information

2.1 Amendments to the Terms of Reference of the Standards Committee and the Corporate Governance and Audit Committee were approved by full Council at its meeting on 25th February 2009. As this is the first meeting of the Committee since the revisions were approved, the current Terms of Reference are being presented to Members for their information.

3.0 Main Issues

3.1 At its meeting on 20th January 2009, General Purposes Committee resolved to recommend that full Council amend the Terms of Reference of the Standards Committee and the Corporate Governance and Audit Committee as set out in Appendix 1 to this report. Full Council approved this recommendation at its meeting on 25th February 2009.

3.2 The amendments allow the Corporate Governance and Audit Committee to make representations (on behalf of the Council) to external agencies about matters relating to conduct. As Member and officer conduct are an element of corporate governance, the Corporate Governance and Audit Committee was considered the most appropriate Committee to undertake this function. The amendments to the Standards Committee's Terms of Reference allow the Committee to make recommendations to the Corporate Governance and Audit Committee where

representations are to be made on behalf of the Council, and clarify that the Committee can make representations on its own behalf.

4.0 Implications For Council Policy And Governance

4.1 The Standards Committee and Corporate Governance and Audit Committee arrangements have a key role in the Council's governance arrangements. The amendment of their Terms of Reference will enable enhanced Member engagement in the responses to consultation documents.

5.0 Legal And Resource Implications

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

6.0 Conclusions

6.1 The recently revised Terms of Reference for the Standards Committee and Corporate Governance and Audit Committee, as agreed by full Council, are appended to the report for Members' information.

7.0 Recommendations

7.1 Members are asked to note the revised Terms of Reference for the Standards Committee and Corporate Governance and Audit Committee as set out in Appendix 1 to this report.

Background Documents

Report to full Council, 'Amendments to the Constitution', 25th February 2009

Minutes of full Council meeting held on 25th February 2009

Corporate Governance and Audit Committee

The Corporate Governance and Audit Committee is authorised to discharge the following functions¹:

1. to consider the Council's arrangements relating to accounts including:
 - (a) the approval of the statement of accounts and any material amendment of the accounts recommended by the auditors;
 - (b) the approval of the Statement on Internal Control; and
 - (c) with the exception of any matter, which may result in the accounts being qualified, responding to the Council's auditors in respect of any matter where it is not considered appropriate to make the amendments recommended by the auditors.
2. to consider the Council's arrangements relating to external audit requirements including:
 - (a) agreement and review of the nature and scope of the annual audit plan,
 - (b) the receipt of external audit reports so as to:
 - (i) inform the operation of Council's current or future audit arrangements; and
 - (ii) provide a basis for gaining the necessary assurance regarding governance prior to the approval of the Council's accounts.
3. to review the adequacy of policies and practices to ensure compliance with statutory and other guidance
4. to review the adequacy of the Council's Corporate Governance arrangements (including matters such as internal control and risk management)
5. to consider the Council's arrangements relating to internal audit requirements including:
 - (a) considering the Annual Internal Audit Report
 - (b) monitoring the performance of internal audit
6. to make, on behalf of the Council, and having had regard to any recommendations of Standards Committee, representations to external agencies² about any matter relating to general principles of conduct, model codes of conduct and the codes of conduct or protocols approved from time to time by or on behalf of the Council

¹ Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

² Such external agencies may include, but are not restricted to, the District or Approved Auditor, the Commission for Local Government, the Standards Board for England, an Ethical Standards Officer, the Adjudication Panel for England or an adjudication case panel

The Standards Committee

The Standards Committee is authorised to discharge the following functions³:

1. to consider and determine one or more codes of conduct for Members or protocols for Member/officer relations and to promote, monitor, review and amend such codes of conduct or protocols;
2. to appoint sub-committees⁴ to consider and initially assess⁵ or review decisions not to act⁶ in respect of any written allegations⁷ of misconduct⁸ made against Members.
3. to consider and determine any allegations⁹ of misconduct¹⁰ made against Members and to determine any sanction to be imposed on a finding of misconduct;
4. to consider and determine applications for dispensations¹¹;
5. to make recommendations to the Corporate Governance and Audit Committee where representations (on behalf of the Council) are required to be made to external agencies,¹² about any matter relating to general principles of conduct, model codes of conduct and the codes of conduct or protocols approved from time to time by or on behalf of the Council and to make representations on its own behalf;
6. to provide advice and guidance to Members and officers and to make arrangements for training in matters relating to codes of conduct and protocols.
7. to consider and advise the Council with respect to the adoption or amendment of a Code of Conduct for Officers and to promote, monitor and review the Code of Conduct.¹³

³ 'Functions' for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions. The functions derive from Part 3 of the Local Government Act 2000 and 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.

⁴ Regulation 6, Standards Committee (England) Regulations 2008 No. 1085/2008

⁵ Section 57A Local Government Act 2000

⁶ Section 57B Local Government Act 2000

⁷ written allegations made by any person under section 57A Local Government Act 2000

⁸ "misconduct" for these purposes means a breach of the Members Code of Conduct adopted by Leeds City Council

⁹ Such allegations shall include complaints referred to the committee by the Monitoring Officer under Part 3 of the Local Government Act 2000 and may include other allegations considered in reports submitted to the Council or the Standards Committee by external agencies.

¹⁰ "misconduct" for these purposes means a breach of

- the Members Code of Conduct adopted by Leeds City Council; or
- the National Code of Local Government Conduct where the alleged breach is committed before 5 April 2002; or
- any of the Authority's Local 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.

¹¹ In accordance with the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002

¹² Such external agencies may include, but are not restricted to, the District or Approved Auditor, the Commission for Local Government, the Standards Board for England, an Ethical Standards Officer, the Adjudication Panel for England or an adjudication case panel

¹³ It is not the function of the Committee to determine or become involved in individual officer conduct or disciplinary cases but rather to provide an overview of the application of the provisions of the Code across the Council.



Originator: Laura Ford

Tel: 0113 39 51712

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 21st April 2009

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 remaining items on the work programme for the rest of this municipal year and to seek comments from the Committee regarding the draft work programme for the next municipal year.

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 remaining items for the remainder of the municipal year 2008/09 have been added to the draft work programme for the new municipal year.

3.2 Members of the Committee should note the proposed dates for the five Committee meetings in 2009/10. Dates for next year's Assessment/Review Sub-Committee meetings will be circulated to Committee members as soon as possible.

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 2009/10

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Meeting date: 8th July 2009		
Review of the Members' Register of Gifts and Hospitality	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 2008/09.	Senior Corporate Governance Officer Amy Kelly
Update on the implementation of the Ethical Framework Training and Awareness Programme for Officers	To receive a report providing Members with an update on the implementation of the Ethical Framework Training and Awareness Programme for Officers.	Head of Human Resources Alex Watson
Protocol for Elected Members/Officer Relations and Protocol for Elected Members / Education Leeds Relations	The Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocols have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year. The Monitoring Officer will also report on any amendments made to the various codes of practice referred to in the Protocols which have been made since the last report.	Senior Corporate Governance Officer Amy Kelly
Parish and Town Council Annual Audit 2007	To receive a report outlining the action taken by the Monitoring Officer and the Chair of the Standards Committee in addressing the results of the Parish and Town Council Annual Audit.	Senior Corporate Governance Officer Amy Kelly
Arrangements for Conducting Local Hearings	To receive a report containing proposals to establish a Hearings Sub-Committee in light of the increased membership of Standards Committee.	Senior Corporate Governance Officer Amy Kelly

STANDARDS COMMITTEE - WORK PROGRAMME 2009/10

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Meeting date: 15th October 2009		
Adjudication Panel Decisions/Notable Cases	Regular report detailing the most recent Adjudication Panel decisions and any other notable standards cases.	Senior Corporate Governance Officer Amy Kelly
Adjudication Panel Annual Report 2008/09	To receive a report advising Members of the Committee of the contents of the Adjudication Panel's Annual Report for the year ending 31 st March 2009.	Corporate Governance Officer Laura Ford
Standards Board for England Annual Review 2008/09	To consider a report outlining the contents of the Standards Board for England Annual Review 2008/09.	Corporate Governance Officer Laura Ford
Parish Council Annual Audit 2009	To consider a report on the results of the Parish Council Annual Audit and proposals for addressing these results.	Senior Corporate Governance Officer Amy Kelly
Review of Local Assessment Procedures	To receive a report providing details of the outcomes of the review of the Local Assessment procedures.	Senior Corporate Governance Officer Amy Kelly
Meeting date: 16th December 2009		
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 Laura Ford

STANDARDS COMMITTEE - WORK PROGRAMME 2009/10

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Ethical Audit Action Plan – Progress Report	To receive a report outlining the progress against the Ethical Audit Action Plan over the last year.	Principal Corporate Governance Officer Kate Sadler
Standards Committee Media Protocol	To consider the annual review of the Standards Committee Media Protocol.	Principal Corporate Governance Officer Kate Sadler
Standards Committee Communications Plan	To consider a report reviewing the Standards Committee Communications Plan including any proposals for amendment.	Corporate Governance Officer Laura Ford
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
Standards Committee Half Year Progress Report	To receive a report of the Assistant Chief Executive (Corporate Governance) on the work completed by the Standards Committee in the last six months to be reported to the Corporate Governance and Audit Committee in February 2010.	Corporate Governance Officer Laura Ford
Meeting date: 17th February 2010		
Draft Standards Committee Annual Report 2009/10	To seek Members' input on content of the Standards Committee annual report 2009/10. The report provides proposals and suggestions for content, and a draft report.	Corporate Governance Officer Laura Ford
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	Senior Corporate Governance Officer Amy Kelly

STANDARDS COMMITTEE - WORK PROGRAMME 2009/10

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
	issues that have arisen during the year.	
Standards Committee Training Plan	To receive a report reviewing the Standards Committee training plan, and seeking the Committee's approval of any amendments to the plan.	Corporate Governance Officer Laura Ford
Meeting date: 22nd April 2010		
Final Standards Committee Annual Report 2009/2010	To seek Member's approval for the final draft of the Standards Committee Annual Report 2009/2010.	Corporate Governance Officer Laura Ford
Adjudication Panel Decisions/Notable Cases	Regular report detailing the most recent Adjudication Panel decisions and any other notable standards cases.	Senior 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 2009/10

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
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	Head of Human Resources Alex Watson
Results of the 2008 Case Study	To receive a report from Cardiff University informing Members of the results of the study undertaken at the Council in September 2008.	Senior Corporate Governance Officer Amy Kelly
Standards Regulations 2009	To receive a report informing Members of the Standards Regulations 2009, which will: allow councils to establish joint standards committees; enable the Standards Board to suspend a standards committee's powers to assess Code of Conduct allegations (in certain circumstances where they consider this to be in the public interest); and revise the existing dispensation regulations.	Principal Corporate Governance Officer Kate Sadler
Review of Effectiveness of Standards Committee	To receive a report considering the effectiveness of the Standards Committee.	Head of Governance Services Andy Hodson

¹ Consultation on the new officer Code of Conduct closed on 24th December 2008. It is anticipated that the new Officer Code will be released prior to the Annual Meeting in 2009.

² Regulations regarding this process are not due to be released until later in 2009.

STANDARDS COMMITTEE - WORK PROGRAMME 2009/10

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Increased Interaction between the Standards Committee and the Council's Leadership	To receive a report presenting proposals to increase interaction between the Standards Committee and the Council's Leadership.	Corporate Governance Officer Laura Ford