



STANDARDS COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Tuesday, 13th July, 2010
at 10.00 am

MEMBERSHIP

Independent Members

Gordon Tollefson (Chair)	(Independent Member)
Joanne Austin	(Independent Member)
Rosemary Greaves	(Independent Member)
Philip Turnpenny	(Independent Member)

Councillors

C Campbell
JL Carter
RD Feldman
R Gettings
J Harper
E Nash
B Selby

Parish Members

Councillor Mrs P Walker	Pool in Wharfedale Parish Council
Councillor John C Priestley	East Keswick Parish Council
Councillor Paul Cook	Morley Town 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 22nd April 2010.</p>	7 - 12
6			<p>MINUTES OF THE ASSESSMENT SUB-COMMITTEE</p> <p>To note the minutes of the Assessment Sub-Committee meetings held on 13th April and 11th June 2010.</p>	13 - 16
7			<p>MINUTES OF THE REVIEW SUB-COMMITTEE</p> <p>To note the minutes of the Review Sub-Committee meetings held on 12th May and 11th June 2010.</p>	17 - 20
8			<p>MINUTES OF THE CONSIDERATION SUB-COMMITTEE</p> <p>To note the minutes of the Consideration Sub-Committee meeting held on 11th June 2010.</p>	21 - 22
9			<p>MINUTES OF THE HEARINGS SUB-COMMITTEE</p> <p>To note the minutes of the Hearings Sub-Committee meetings held on 11th May and 17th May 2010.</p>	23 - 26

Item No	Ward/Equal Opportunities	Item Not Open		Page No
10			<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 14th April, 12th May and 23rd June 2010.</p>	27 - 38
11			<p>POLITICALLY RESTRICTED POSTS</p> <p>To receive a report of the Chief Officer (Human Resources) providing an updated list of politically restricted posts, and seeking approval of an amended procedure for the consideration of Politically Restricted Posts, in line with legislative changes.</p>	39 - 50
12			<p>LOCAL ASSESSMENT - PROGRESS REPORT</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) providing Members of the Standards Committee with a progress report in relation to all complaints received under the Members' Code of Conduct from 1st January to 30th June 2010.</p>	51 - 64
13			<p>REVIEW OF THE PROCEDURE FOR STANDARDS COMMITTEE HEARINGS</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) asking the Standards Committee to consider amendments to Section 4 of the Standards Committee Procedure Rules and the general procedure for conducting hearings in light of the two recent cases heard by the Hearings Sub-Committee.</p>	65 - 88

Item No	Ward/Equal Opportunities	Item Not Open		Page No
14			<p>OPTIONS FOR AMENDMENT TO THE LOCAL ASSESSMENT PROCESS</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) considering amendments to the local assessment process in Leeds, including the way that complaints are handled prior to being presented to the Assessment Sub-Committee, and presenting revised terms of reference for the four Sub-Committees, along with minor amendments to the Standards Committee Procedure Rules, for the Standards Committee's approval.</p>	89 - 120
15			<p>MEMBERS' INDUCTION PERIOD 2010</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) informing Members of the Standards Committee of new Members' declaration of acceptance of office and undertaking to comply with the Code of Conduct, information on the Members' register of interests, and training of Members.</p>	121 - 124
16			<p>REVIEW OF THE MEMBERS' REGISTER OF GIFTS AND HOSPITALITY</p> <p>To receive a report of the Assistant Chief Executive (Corporate Governance) presenting statistical data in relation to declarations of gifts and hospitality recorded by Members during the period 2009/10, and drawing comparisons with declarations made by Members in 2008/09 and 2007/08.</p>	125 - 138
17			<p>FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS IN 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 First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct.</p>	139 - 160

Item No	Ward/Equal Opportunities	Item Not Open		Page No
18			<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 remainder of the 2010/11 municipal year.</p>	161 - 168

Standards Committee

Thursday, 22nd April, 2010

PRESENT:

Independent Members

Mike Wilkinson (Chair)	(Independent Member)
Joanne Austin	(Independent Member)
Rosemary Greaves	(Independent Member)
Philip Turnpenny	(Independent Member)
Gordon Tollefson	(Reserve Independent Member)

Councillors

C Campbell	B Gettings
R D Feldman	B Selby

Parish Members

Councillor Mrs P Walker	Pool in Wharfedale Parish Council
Councillor John C Priestley	East Keswick Parish Council
Councillor Paul Cook	Morley Town Council

APOLOGIES:

Councillors D Blackburn, J L Carter and J Harper

81 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.

82 Exempt Information - Possible Exclusion of the Press and Public

There were no resolutions to exclude the public.

83 Late items

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

84 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.

85 Minutes of the Previous Meeting

The minutes of the Standards Committee meeting held on 17th February 2010 were approved as a correct record.

Further to Minute 67, the Committee was informed that a flowchart had been created to explain the local assessment process, as well as a list of frequently asked questions, which would be reviewed by the Whips before being sent to all Members.

Further to Minute 70, the Committee was informed that a briefing note prepared by the Head of Human Resources had been circulated by e-mail on 15th April 2010.

86 Minutes of the Assessment Sub-Committee

The minutes of the Assessment Sub-Committee meetings held on 1st February and 23rd March 2010 were received and noted.

Further to Minute 27, the Monitoring Officer informed the Committee that the purpose and retention of Clerks' notes would be reviewed in relation to all Committees.

87 Minutes of the Review Sub-Committee

The minutes of the Review Sub-Committee meeting held on 26th February 2010 were received and noted.

88 Minutes of the Consideration Sub-Committee

The minutes of the Consideration Sub-Committee meetings held on 1st February and 26th February 2010 were received and noted.

(Councillor Selby arrived at 2.10pm during the consideration of this item.)

89 Minutes of the Corporate Governance and Audit Committee

The minutes of the Corporate Governance and Audit Committee meetings held on 10th February and 17th March 2010 were received and noted.

90 Chair's Opening Remarks

As this was the Chair's last Standards Committee meeting, Councillor Campbell expressed his appreciation on behalf of the Committee for the Chair's hard work and contribution to the Committee over the last eight years.

The Chair spoke about the Council's recent success in the 'Standards and Ethics' category of the LGC Awards 2010, and the compliments the Council had received from the judging panel. He thanked the members of the Committee, the Leaders of the Council, and the officers that support the Standards Committee. He also welcomed the new Chair.

91 Local Government Chronicle (LGC) Awards 2010: Standards and Ethics

The Assistant Chief Executive (Corporate Governance) submitted a report notifying members of the Standards Committee that Leeds City Council was successful in its entry for this year's LGC Awards 2010 'Standards and Ethics' category.

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

92 Standards Committee Procedure Rules

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) reviewing the Standards Committee Procedure Rules and making proposals in light of issues that had arisen throughout the year.

The Committee particularly discussed the options that had been suggested in respect of the timescales to be set for the subject Member and the investigator to return the pre-hearing forms.

The Committee discussed the benefits and drawbacks of Option 4 (give the subject Member 10 working days in which to respond with a potential extension of 5 working days, and give the investigator 5 working days to respond). Although this would provide the subject Member with up to 15 days to respond, it may cause difficulties in meeting the statutory deadline of 3 months, by which time the hearing must have been held. The Monitoring Officer explained that this was due to the deadline commencing from the date that the final investigation report is received rather than the date of the Consideration Sub-Committee meeting, and because the pre-hearing process summary must be sent out at least 10 working days prior to the hearing.

Following further discussion, Option 3 (give both parties 5 working days to respond, with a potential extension of 5 days for the subject Member) was agreed. It was also agreed that this decision should be reviewed in 6 month's time (or earlier if problems arise), and that Sub-Committee meetings should be scheduled on a more regular basis to minimise delays in final investigation reports being considered.

RESOLVED – Members of the Standards Committee resolved to:

- (a) Approve the proposed amendment to Procedure Rule 3.2.5 (regarding the publication of the Consideration Sub-Committee’s decision);
- (b) Approve the proposed amendment to Procedure Rule 4.15.3 (regarding the publication of the Hearings Sub-Committee’s decision);
- (c) Give the parties 5 working days each to return their pre-hearing form (with a potential extension of 5 working days for the subject Member following a reminder, after which a series of assumptions will be made about their response), approve the necessary amendments to Procedure Rules 4.2.3 to 4.2.6, and review this decision in 6 month’s time (or earlier if problems arise);
- (d) Approve the proposed deletion of footnote 64 from Procedure Rule 4.2.9 (regarding the parties being required to notify the Committee Clerk at least 10 days before the hearing in order to make representations on the issue of witnesses);
- (e) Approve the proposed amendment to Procedure Rule 4.3.1 (regarding the contents of the pre-hearing process summary);
- (f) Approve the addition of a new paragraph under Procedure Rule 4.3 to clarify that both parties are responsible for arranging the attendance of their requested witnesses on the day of the hearing;
- (g) Approve the addition of a new paragraph under Procedure Rule 4.3 to clarify the procedure for deciding requests for adjournment made after the date of the hearing has been set and at least five clear days in advance of the Hearings Sub-Committee meeting, with the addition of the relevant timescales;
- (h) Approve the other amendments and corrections made for the purposes of clarification (such as page numbering and changes in titles), ensuring that the Procedure Rules are consistent in stating either ‘days’ or ‘working days’; and
- (i) Request that Sub-Committee meetings to deal with the consideration function be scheduled on a more regular basis.

93 Standards Committee Training Programme

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) addressing some outstanding issues and concerns raised by members of the Standards Committee at its meeting on 17th February 2010 regarding the changes to the Standards Committee Training Programme, and proposing some further amendments to address these issues.

The Committee was informed that if the ‘compulsory’ training was not completed, this would only prevent Committee members from sitting on the relevant Sub-Committees, rather than the full Standards Committee. It would be a matter for the relevant Group Whip/Leader or Executive Member to decide what action, if any, to take if any Committee members did not attend the ‘highly recommended’ training.

RESOLVED – Members of the Standards Committee resolved to adopt the proposed training programme attached at Appendix 1 to the report, and recommend to General Purposes Committee that the following learning targets are made compulsory:

- To ensure all independent members of the Committee have the necessary skills to Chair meetings of the Committee (in order to Chair the Standards Committee or any of its Sub-Committees);
- To ensure all members of the Committee have an understanding of the Code of Conduct (in order to sit on any Sub-Committee);
- To ensure all members of the Committee have the necessary skills to assess or review local complaints (in order to sit on the Assessment and Review Sub-Committees); and
- To ensure all members of the Committee have the necessary skills to conduct a local hearing (in order to sit on the Hearings Sub-Committee).

94 Standards for England's Review of the Local Standards Framework

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) summarising the results of the recent review of the proportionality and effectiveness of the local standards framework carried out by Standards for England.

Concerns were raised about the cost of dealing with trivial complaints, and the need to highlight this in Decision Notices was discussed as a step that could be taken now without the need for a change in legislation.

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

95 Standards Committee Annual Report 2009/10

The Assistant Chief Executive (Corporate Governance) submitted a report seeking the Committee's comments on the draft Standards Committee Annual Report 2009/10.

RESOLVED – Members of the Standards Committee resolved to:

- (a) Review the contents of the report and provide the Corporate Governance Officer with any suggestions for amendment by 21st May 2010;
- (b) Give authority to the Assistant Chief Executive (Corporate Governance), in consultation with the Chair, to approve the final report subject to any suggested amendments;
- (c) Agree to forward the report to the Corporate Governance and Audit Committee to constitute the second of its six monthly update reports; and
- (d) Agree to forward the final report to full Council for consideration.

96 First-Tier Tribunal (Local Government Standards in England) - Decisions of Case Tribunals

The Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) summarising recent decisions made by the First-Tier Tribunal (Local Government Standards in England).

The Committee noted that a high number of planning related complaints have arisen nationally and locally, and requested that further consideration be given as to whether a Member should be appointed to a Plans Panel that considers applications from their ward.

RESOLVED – Members of the Standards Committee resolved to:

- (a) Note the latest decisions of the First-Tier Tribunal (Local Government Standards in England) case tribunals; and
- (b) Request that an item is added to the Committee's work programme in relation to whether a Member should be appointed to a Plans Panel that considers applications from their ward.

97 Standards Committee Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report seeking comments from the Committee regarding the draft work programme for the next municipal year.

RESOLVED – Members of the Standards Committee resolved to note the work programme subject to the inclusion of the item referred to in Minute 96 above.

Standards Committee - Assessment Sub-Committee

Tuesday, 13th April, 2010

PRESENT:

Independent Members

Joanne Austin (Chair)

Councillors

C Campbell

B Gettings

28 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.

29 Case Reference 0910012

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

RESOLVED – The Assessment Sub-Committee resolved:

- That the subject Member may have potentially breached the Code of Conduct in the circumstances of the complaint; and
- To refer the complaint to the Monitoring Officer for local investigation.

30 Case Reference 0910013

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

RESOLVED - The Assessment Sub-Committee resolved:

- That there was no potential breach of the Code of Conduct disclosed by the complaint; and
- To take no further action on the allegations.

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Standards Committee - Assessment Sub-Committee

Friday, 11th June, 2010

PRESENT:

Independent Members

Philip Turnpenny (Chair)

Councillors

J Harper B Selby

Parish Members

Councillor Paul Cook

1 **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.

2 **Case Reference 0910014**

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

RESOLVED - The Assessment Sub-Committee resolved:

- That there was no potential breach of the Code of Conduct disclosed by the complaint; and
- To take no further action on the allegations.

3 **Lessons to Learn**

The Assessment Sub-Committee resolved to recommend that the Chief Planning Officer reviews whether planning officers should ask Members if they still want an application to be considered by Plans Panel, if officers are minded to refuse the application.

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Standards Committee - Review Sub-Committee

Wednesday, 12th May, 2010

PRESENT:

Independent Members

Joanne Austin (Chair)

Councillors

D Blackburn

Parish Members

Councillor Paul Cook

11 Declarations of Interest

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.

12 Case Reference 0910011

The Monitoring Officer submitted a review request in relation to the above complaint to the Review Sub-Committee for consideration. The complaint was originally considered by the Assessment Sub-Committee on 23rd March 2010.

RESOLVED – The Review Sub-Committee resolved:

- That there was no potential breach of the Members' Code of Conduct disclosed by the complaint; and
- To take no further action on the allegations.

13 Lessons to Learn

The Review Sub-Committee resolved to recommend that the Chief Planning Officer contacts all Members to advise them to clarify that they are representing their constituents' views, when doing so at Plans Panel meetings.

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Standards Committee - Review Sub-Committee

Friday, 11th June, 2010

PRESENT:

Independent Members

Philip Turnpenny (Chair)

Councillors

J Harper B Selby

Parish Members

Councillor Paul Cook

1 **Declarations of Interest**

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.

2 **Case Reference 0910013**

The Monitoring Officer submitted a review request in relation to the above complaint to the Review Sub-Committee for consideration. The complaint was originally considered by the Assessment Sub-Committee on 13th April 2010.

RESOLVED – The Review Sub-Committee resolved:

- That there was no potential breach of the Members' Code of Conduct disclosed by the complaint; and
- To take no further action on the allegations.

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Standards Committee - Consideration Sub-Committee

Friday, 11th June, 2010

PRESENT:

Independent Members

Philip Turnpenny (Chair)

Councillors

J Harper B Selby

Parish Members

Councillor Paul Cook

1 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.

2 Exempt Information - Possible Exclusion of the Press and Public

In relation to agenda item 5 (Minute 5 refers), Appendix 1 (the final report and bundle of evidence of the investigating officer in relation to an investigation into a complaint against a Member), was classified as exempt under Access to Information Procedure Rule 10.4 (7c). Members of the Sub-Committee agreed that the public interest in maintaining the exemption outweighed the public interest in disclosing the information, as the report refers to the health of the subject Member, and a report on performance matters relating to an officer.

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:-

- Appendix 1 of agenda item 5 (Minute 5 refers).

3 Late Items

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

4 **Declarations of Interest**

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.

5 **Final Investigation Report - Case Reference 0809019**

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 Assessment Sub-Committee, who had resolved to refer part of the complaint for investigation.

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

Members agreed that through their actions, the Councillor had not:

- brought their office or authority into disrepute;
- failed to treat others with respect; or
- acted in such a way which compromised or was likely to compromise the impartiality of those who work for, or on behalf of, the authority.

It was also alleged that the Councillor had disclosed confidential information. The Investigator did not make a finding as to whether the information was confidential, however he concluded that if it was, the information was disclosed reasonably, in the public interest, in good faith and in compliance with the reasonable requirements of the Council. The Consideration Sub-Committee agreed with this finding.

Members therefore agreed to accept the Investigating Officer's finding that there had been no failure to comply with the Code of Conduct.

As a result of this case, the Consideration Sub-Committee decided to recommend that paragraph 27.2 of the Council's Access to Information Procedure Rules be amended to say that a Councillor 'must' rather than 'should' give the relevant Director reasonable notice of their intention to make such a disclosure.

RESOLVED – Members of the Consideration Sub-Committee resolved to:

- accept the Investigating Officer's finding of no failure; and
- recommend that paragraph 27.2 of the Council's Access to Information Procedure Rules be amended as above.

Standards Committee - Hearings Sub-Committee

Tuesday, 11th May, 2010

PRESENT:

Independent Members

Mike Wilkinson (Chair)
Philip Turnpenny

Councillors

J L Carter B Gettings

Parish Members

Councillor Mrs P Walker

1 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.

2 Late Items

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

3 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.

4 Case Reference 0910005

The Assistant Chief Executive (Corporate Governance) submitted a report setting out the procedure to be followed by the Hearings Sub-Committee in determining allegations of misconduct against a Member of Leeds City Council. The final report of the investigator and supporting evidence were attached at Appendix 1 to the report.

The Hearings Sub-Committee considered whether the press and public should be excluded from any parts of the hearing, and whether any parts of the agenda should not be made available for public inspection. The Sub-Committee considered representations on behalf of the subject Member and

from the investigator, who requested that the press and public be excluded from the meeting. It was agreed that, in the interests of openness and transparency, the press and public should be allowed to attend the hearing, but that they should be excluded if any sensitive information relating to Council employees needed to be discussed or referred to. It was also agreed that a redacted version of the agenda would be made available after the meeting. Therefore, it was agreed that appendices 1, 2, 3 and 4 should not be exempt under Access to Information Procedure Rule 10.4 (7c).

It was alleged that a Councillor had:

- (a) failed to treat others with respect, contrary to paragraph 3(1) of the Code of Conduct;
- (b) bullied others, contrary to paragraph 3(2)(b) of the Code of Conduct;
- (c) conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute, contrary to paragraph 5 of the Code of Conduct; and
- (d) used her position improperly to confer on or secure an advantage or disadvantage for herself or others, contrary to paragraph 6(a) of the Code of Conduct.

On the basis of its findings of fact, the Hearings Sub-Committee found that there could not be any breach of the Members' Code of Conduct.

The Sub-Committee then considered whether it wished to make any recommendations to the authority as a result of this case. The Sub-Committee recommended that key witnesses are interviewed in person, and that enhanced arrangements be made to seek to ensure that hearings commence on time.

RESOLVED – The Hearings Sub-Committee resolved:

- (a) That the appendices to the report should not be exempt under Access to Information Procedure Rule 10.4 (7c), but that any sensitive information relating to Council employees should be redacted before the appendices are made publicly available;
- (b) That on the basis of its findings of fact, there had been no breach of the Members' Code of Conduct by the subject Member; and
- (c) To recommend to the authority that key witnesses are interviewed in person rather than over the telephone, and that enhanced arrangements be made to seek to ensure that hearings commence on time in future.

Standards Committee - Hearings Sub-Committee

Monday, 17th May, 2010

PRESENT:

Independent Members

Mike Wilkinson (Chair)
Joanne Austin

Councillors

C Campbell J L Carter

Parish Members

Councillor Mrs P Walker

1 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.

2 Late Items

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

3 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.

4 Case Reference 0809006

The Assistant Chief Executive (Corporate Governance) submitted a report setting out the procedure to be followed by the Hearings Sub-Committee in determining allegations of misconduct against a Member of Leeds City Council. The final report of the investigator and supporting evidence were attached at Appendix 1 to the report.

The Hearings Sub-Committee considered whether the press and public should be excluded from any parts of the hearing, and whether any parts of the agenda should not be made available for public inspection. The Sub-Committee considered representations on behalf of the subject Member and

from the investigator, who did not request that the press and public be excluded from the meeting. It was agreed that, in the interests of openness and transparency, the press and public should be allowed to attend the hearing, and that all parts of the agenda should be made available for public inspection.

It was alleged that a Councillor had:

- (a) failed to treat others with respect, contrary to paragraph 3(1) of the Code of Conduct; and
- (b) conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute, contrary to paragraph 5 of the Code of Conduct

On the basis of its findings of fact, the Hearings Sub-Committee found no breach of the Members' Code of Conduct.

The Sub-Committee then considered whether it wished to make any recommendations to the authority as a result of this case. The Sub-Committee recommended that the following issues be considered further:

- Whether Committee Room 6&7 is an appropriate venue for Plans Panel meetings due to its shape and configuration, overall acoustics and the current microphones system;
- The way Plans Panel members interact at Plans Panel meetings;
- Whether guidance should be provided for those who address a Plans Panel, and whether the Chair should provide guidance on how others should behave when someone is making representations to the Panel; and
- The location of speakers addressing Plans Panel meetings.

RESOLVED – The Hearings Sub-Committee resolved:

- (a) That appendices 1, 2 and 3 to the report should not be exempt under Access to Information Procedure Rule 10.4 (7c);
- (b) That on the basis of its findings of fact, there had been no breach of the Members' Code of Conduct by the subject Member; and
- (c) To recommend to the authority that further consideration is given to the issues listed above.

Corporate Governance and Audit Committee

Wednesday, 14th April, 2010

PRESENT: Councillor J Bale in the Chair
Councillors G Driver, G Latty, N Taggart,
C Campbell, G Kirkland, A Lowe and
A Blackburn as substitute for D Blackburn

Co-optee Mr M Wilkinson

Apologies Councillors D Blackburn, P Grahame and
T Leadley

114 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

115 Exempt Information - Possible Exclusion of the Press and Public

There were no appeals against refusal of inspection of documents.

116 Late Items

There were no late items added to the agenda.

117 Declaration of Interests

Councillor Driver declared a personal interest in Agenda item 6 (Minute 121 refers) as a Member of the Aire Valley Homes ALMO.

Councillor Latty declared a personal interest in Agenda item 6 (Minute 121 refers) as a Member of the ALMO Outer North West Area Panel.

118 Apologies for Absence

Apologies were received from Councillors D Blackburn, P Grahame and T Leadley.

119 Minutes of the Previous Meeting

RESOLVED - The minutes of the Corporate Governance and Audit Committee meeting held on 17th March 2010 be approved as a correct record.

120 Matters Arising

Further to minute 56 (Six Monthly Update Report on Risk Management), Mr M Wilkinson asked what action had been made regarding the request to have the Committee's recommendation regarding the publication of the Council's Corporate Risk Map considered by Executive Board before the end of the current municipal year.

The Assistant Chief Executive (Corporate Governance) advised that it had not been considered at the April Executive Board but she would make enquiries

121 Fraudulent Tenancies

The Strategic Landlord and the Housing Policy and Monitoring Manager presented a report which informed the Committee of the work undertaken by the Communities and Local Government Social Housing Fraud Initiative. The report also informed the Committee of policy development and performance information regarding social housing fraud.

Members particularly discussed the options available to the Council to counter tenants who sublet Council properties. Also discussed, was the availability of resources to address subletting and the accessibility of the service that responds to reports of subletting.

RESOLVED – The Committee resolved to:

- (a) note the report; and
- (b) request that a report be submitted to the Committee to outline the types of irregularities to identify where tenancy fraud may be occurring and the information trigger points within the Council.

Councillor A Lowe entered the meeting during the discussion of this item at 10.10 am.

Councillor A Blackburn entered the meeting during the discussion of this item at 10.15 am.

122 Regulation of Investigatory Powers Act 2000 Policy

The Head of Property Finance and Technology presented a report which outlined the Council's proposed policy on covert surveillance conducted within the Regulation of Investigatory Powers Act 2000 (RIPA).

Members discussed the report in detail and use of RIPA as an investigatory need to use as a last resort. Members, though, agreed that in certain circumstances covert surveillance is an essential tool for gathering evidence where it is believed laws are being broken. Members further considered:

- the level of authorisation required to sign off a RIPA request; and

- which elected body should receive the annual report and their view was that it be this Committee

Members also discussed the draft RIPA policy and agreed that further work be done to make the policy more clearly worded and directly linked to the legislation, including greater emphasis on definitions.

RESOLVED - The Committee resolved to request that a further report be submitted with a revised RIPA policy prior to the policy being considered by the Executive Board.

123 Corporate Governance and Audit Committee Annual Report 2009/10

The Corporate Governance Officer introduced a report of the Assistant Chief Executive (Corporate Governance) which presented the Committee with the first draft of the Corporate Governance and Audit Committee Annual Report for 2009/10.

Members reviewed the Annual Report and suggested amendments that could be made to ensure the report more clearly demonstrated the impact which the Committee's work has had over the municipal year.

During discussion of this item, Councillor Bale thanked Members and officers for their hard work and contributions to the Committee over the past three years of his Chairmanship.

RESOLVED – The Committee resolved to:

- (a) approve the draft report subject to the amendments suggested; and
- (b) authorise the Assistant Chief Executive (Corporate Governance) to approve the final report prior to it being received at full Council in the new municipal year.

124 Corporate Governance Statement Action Plan

The Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) which updated the Committee on the progress that has been made in implementing the Corporate Governance Statement Action Plan 2009/10.

Members discussed the progress made with the Corporate Governance Statement Action Plan and commented on the importance of focussing on outcomes and impact with regards to the actions contained in the Action Plan.

RESOLVED – The Committee resolved to note the Corporate Governance Statement Action Plan.

125 Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the draft work programme for the remainder of the 2009/10 and the 2010/11 municipal year.

Members of the Committee expressed their thanks to Councillor Bale for his hard work over the last three years as the Chair, as this was his last Committee meeting.

RESOLVED – The Committee resolved to note the draft work programme.

Corporate Governance and Audit Committee

Wednesday, 12th May, 2010

PRESENT: Councillor Latty in the Chair

Councillors M Wilkinson, D Blackburn,
G Driver, P Grahame, G Latty, N Taggart,
C Campbell, G Kirkland, T Leadley and
A Lowe

Co-optee Mr M Wilkinson

Apologies

126 Appointment of The Chair

Due to the resignation from the Council of the sitting Chair a new Chair was required to be elected by the Committee. Councillor G Latty was nominated and seconded for the position of Chair and was un-opposed.

127 Exempt Information - Possible Exclusion of the Press and Public

There were no appeals against refusal of inspection of documents.

128 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

129 Late Items

There were no late items added to the agenda.

130 Declaration of Interests

No declarations of interest were declared.

131 Apologies for Absence

No apologies for absence were received.

132 Minutes of the Previous Meeting

RESOLVED – The minutes of the Corporate Governance and Audit Committee meeting held on 14th April 2010 be approved as a correct record.

133 Assurance of the Process by Which Planning Decisions are taken by the Council

The Chief Planning Officer presented his report which outlined the arrangements that are in place to underpin the decision making process within the remit of the Chief Planning Officer, these being planning decisions taken by officers under delegated authority. The report also assured the Committee that the operation of the processes in place are accountable, transparent, have integrity and are inclusive.

Members congratulated the Chief Planning Officer on the improving picture in relation to planning decisions. Members discussed the small percentage of planning decisions which get to the Plans Panel. Also discussed was the method for requesting a planning decision to be taken to Plans Panel and the rules that surround this.

RESOLVED – The Committee resolved to:

- (a) request further information about the comparator percentages of decisions taken by officers under delegated authority at other authorities be provided to members;
- (b) receive a similar report on planning decision making on an annual basis; and
- (c) note the report.

Councillor Grahame entered the meeting during the discussion of this item at 10.20 am.

134 Annual Update on the Council's Risk Management Arrangements

The Principal Risk Management Officer presented a report of the Director of Resources which provided an overview of the Council's key risk management developments over 2009/10 focusing on the period following the six monthly report in November 2009. The report also provided assurance on the strength of risk management arrangements.

Members discussed the report in detail particularly the known risks the Council has and the further work that is being done by the Risk Management Unit to ensure exposure to these is minimised. Members noted that the Executive Board is due to consider, as part of the Annual Report on Risk Management proposals by the Committee for the publication of the risk register.

RESOLVED – The Committee resolved to:

- (a) note the report and the progress made on embedding risk management across the Council; and
- (b) continue to review and challenge the Council's risk management arrangements and attend risk management training sessions and briefings provided by the Risk Management Unit.

135 Leeds City Region - Emerging Governance Structures

The Head of Regional Policy (Acting) presented a report of the Assistant Chief Executive (Planning, Policy and Improvement) which updated the Committee on progress made in establishing the Leeds City Region Employment and Skills Board and the Leeds City Region Homes and Communities Agency Board. The report also informed the Committee of the extent to which these Boards have taken account of the governance themes contained within the Governance Framework for Significant Partnerships.

Members raised concerns as to the limited extent to which local elected councillors could contribute to the work of the Leeds City Region. Consideration was given to the potential of elected Members from across the Leeds City Region being given the opportunity to contribute to the work programme other than just Leaders and portfolio holders as is currently the case.

Members also expressed a desire for further work to be undertaken to improve the transparency of the governance arrangements of the various Leeds City Region structures; particularly those relating to the Leeds City Region Employment and Skills Board and the Leeds City Region Homes and Communities Agency Board.

RESOLVED – The Committee resolved to:

- (a) note the progress on establishing decision making arrangements, being developed at the Leeds City Region level, for skills and housing and that a further report was due to be brought addressing the infrastructure required within the Council regarding Members role in shaping the Leeds perspective regarding matters to be considered at City region level ;
- (b) request six monthly reports on the governance arrangements of the Leeds City Region; and
- (c) request that the Committee's concerns be brought to the attention of the Council's appointed nominee to the Leeds City Region Leaders Board.

136 Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the draft work programme for the 2010/11 municipal year.

Members of the Committee expressed their thanks to Mr Mike Wilkinson for his valued contributions to the Committee as this was his last Committee meeting.

RESOLVED – The Committee resolved to note the draft work programme.

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Corporate Governance and Audit Committee

Wednesday, 23rd June, 2010

PRESENT: Councillor G Driver in the Chair
Councillors P Grahame, C Campbell,
G Kirkland, A Lowe, S Smith, J Elliott,
W Hyde and J Lewis

Co-optee

Apologies G Tollefson and Councillor P Harrand

1 First Meeting of the New Chair

Councillor Driver, the new Chair of the Committee, paid tribute to the previous Chair who retired on 6 May 2010. The Chair stressed the importance that the priorities of the Committee be focussed to the needs of the Council and this should inform the work programme to be discussed later in the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no resolutions to exclude the public.

4 Late Items

There were no late items added to the agenda.

5 Declaration of Interests

Councillor Driver declared a personal interest in Agenda item 11 (Minute 148) as a Member of the Aire Valley Homes ALMO.

Councillor Lowe declared a personal interest in Agenda item 11 (Minute 148) as a Director of West North West Homes ALMO.

6 Apologies For Absence

Apologies for absence were received from Councillor Harrand and Gordon Tollefson.

7 Minutes of the Previous Meeting

The Chair confirmed that with regards to Minute 135, a letter had been sent to the Leader of the Council voicing the concerns of the Committee on the governance arrangements of the Leeds City Region.

RESOLVED - The minutes of the Corporate Governance and Audit Committee meeting held on 12th May 2010 be approved as a correct record.

8 Corporate Governance and Audit Committee Terms of Reference

The Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) which presented the Committee with its terms of reference which were approved at the Annual Council Meeting on 27 May 2010.

Members discussed the reasons why references to the Statement on Internal Control had been changed to the Annual Governance Statement.

RESOLVED – The Committee resolved to note its terms of reference for the forthcoming municipal year.

9 KPMG Report - Grants and Returns in 2008/09

The Principal Finance Manager (Resources) presented a report of the Director of Resources which informed the Committee on the result of work undertaken by KPMG on the certification of grant claims for 2008/09. The report was a new requirement from the Audit Commission, who want to raise the profile of the audit grant work with Members.

A representative from KPMG was also in attendance.

Members questioned how the fees were calculated by KPMG for the work that they do on grants and returns.

RESOLVED – The Committee resolved to note the results of the 2008/09 audit of grants and returns.

10 KPMG report - Financial Statements Audit Plan

The Chief Officer (Financial Management) presented a report of the Director of Resources which informed the Committee of KPMG's audit plan for the audit of the Council's Accounts. The attached report from KPMG highlighted the risk based approach to the audit and the main risks identified for 2009/10. The report also highlighted the actions undertaken by officers of the Council to mitigate the risks identified.

RESOLVED – The Committee resolved to:

- note the external audit plan in respect of the Council's accounts and the actions taken by officers to manage risks identified; and
- receive a further report in September from KPMG on the audit of the accounts, including the opinion on the accounts.

11 KPMG - Interim Report on the Statement of Accounts

The Principal Financial Manager (Resources) presented a report of the Director of Resources which summarised KPMG's planning and interim audit work in respect of the Statement of Accounts for Leeds City Council for 2009/10.

Members discussed the abolition of the Use of Resources assessment and highlighted that issues, which had been previously raised by this method of assessment, should not be lost. Members also discussed the need for clarity on the wider audit plan for External Audit to ensure that this addressed the key risks of the Council.

The Chief Officer (Audit and Risk) informed the Committee of the reliance that KPMG place on the good work of Internal Audit when completing their work.

RESOLVED – The Committee resolved to:

- note the findings of the KPMG report along with the officer actions and timeframes for completion; and
- request a timetable of key dates in relation to the commencement and likely conclusion of KPMG Audits forthcoming year.

12 ALMO Re-inspections

The Housing Policy and Monitoring Manager presented a report of the Strategic Landlord which informed the Committee of the outcome of the two ALMO re-inspections in the last 12 months.

Members particularly discussed the challenges facing ALMOs and the improvements that could be made to ALMOs specifically by:

- developing an improved strategic approach; and
- improving services relating to sheltered housing.

Also discussed were concerns about the lack of ALMO information available to Members not on the Boards of ALMOs.

RESOLVED – The Committee resolved to:

- note the inspection outcomes and actions being taken to address Inspection recommendations; and

- receive a further report in September to consider components of the governance assurance framework being introduced by the Strategic Landlord for the ALMOs; and
- to receive an Annual Assurance report from the Strategic Landlord based on the assurances received from the ALMOs.

13 Work Programme

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the draft work programme for the 2010/11 municipal year.

RESOLVED - The Committee resolved to note the draft work programme and to consider it in further detail after receipt of the Annual Governance Statement to inform the discussion.

Originator: Chris Coates

Tel: 0113 39 51598

Report of the Chief Officer (Human Resources)

Standards Committee

Date: 13th July 2010

Subject: List of politically restricted posts

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. Changes to the regime for politically restricted posts have necessitated a full review of the list of politically restricted posts held by the Council.
2. A new draft list has been collated from returns from services and directorates.
3. The changes in legislation mean that some amendments are required to the Standards Committee's procedure for hearing requests to add to, or remove posts from, the list of politically restricted posts.

1.0 Purpose Of This Report

- 1.1 This report sets out the background to work done in early 2010 to update the Council's list of politically restricted posts.
- 1.2 The report seeks the Standards Committee's approval to changes to its processes to bring them into line with legislative changes.

2.0 Background Information

- 2.1 An amendment to the Local Government Housing Act 1989 in the Local Democracy, Economic Development and Construction Act came into force with effect from 12 January 2010. This changed the rules about which posts should be on the list of politically restricted posts.

Before January 2010	After January 2010
Category A The top level of management and the people who report to the top level of management, or who report directly to the Council itself for most of their duties. And political assistants.	Now referred to as " Specified Posts " No change.
Category B All posts at or above scp 44	Now referred to as " posts with sensitive duties "
Category C Post below scp44 with sensitive duties.	All posts not covered by the preceding category which have sensitive duties. (i.e. no blanket application to posts over scp44 – posts are only restricted if their duties warrant it).

- 2.2 The Chief Officer (Human Resources) is accountable for maintaining the list of politically restricted posts, and has, by delegated decision, directed that maintenance be carried out to reflect legislative changes through (1) asking each Director (and Assistant Chief Executive) to exercise their delegated power (under their Council (non-executive) delegation in Part 3, 2C 3(c)(iii) of the Constitution) and (2) delegating responsibility for maintaining the list to colleagues in the Business Support Centre.
- 2.3 Directors have been asked to assess whether posts have sensitive duties by reference to the wording of the Act and the guidance issued by the Independent Adjudicator (who had oversight of these matters before they passed to local Standards Committees). Directors were also asked to warrant that the lists that had been prepared did reflect the politically restricted posts in their areas of control.
- 2.4 Once lists were returned from each Directorate, these were compiled into a single proposed list of politically restricted posts and presented to Corporate Governance Board, for a view as whether this appeared reflective of the posts with sensitive duties they are aware of from their perspective.
- 2.5 As a result of the view from Corporate Governance Board, the draft list for each directorate was emailed directly to each Director (as some returns had not been

routed through Directors in the first instance), and they were asked to reassure themselves that all posts with sensitive duties were included, having reference to guidance prepared by HR.

- 2.6 Following that re-checking exercise, all Directors and Assistant Chief Executives have each personally taken a decision confirming the assessment of political restriction of posts in their area of control.

3.0 Main Issues

- 3.1 The list of politically restricted posts will be kept and maintained on the Council's SAP database. Directors will maintain this list through recruitment and SAP maintenance methods. All new posts will be assessed by Directors (or their nominees) to establish an appropriate level of political restriction.
- 3.2 The appendix to this report shows a revised process for the Standards Committee to consider applications for exemption, or requests from post holders or third parties (although not from Directors) for a post to be added to the list of politically restricted posts.
- 3.3 Whereas previously an exemption was required even where the Director believed that a post over spinal column point 44 should be exempted (normally on the basis that it had no sensitive duties), this will no longer be the case, as there is no blanket inclusion any longer. The only Leeds City Council case to come before the Standards Committee or be referred to the Independent Adjudicator in (approximately) the last 15 years was of this type.
- 3.4 The Standards Committee will continue to make determinations:
- Where the postholder (or a job applicant to whom the post has been (conditionally) offered) seeks a determination from the Standards Committee because they believe that the post does not have sensitive duties, but the Director has certified that it does;
 - Where the postholder (or a job applicant to whom the post has been (conditionally) offered) seeks a determination from the Standards Committee because they believe the post is not a specified post, but the Director certifies that it is a specified post; and/or
 - Where the postholder (or a job applicant to whom the post has been (conditionally) offered, or the Director) seeks an exemption because they believe that the post *does* have sensitive duties, but that the post should nevertheless for some reason be exempted from political restriction.
- 3.5 The Standards Committee Terms of Reference have been reviewed and no amendments are required as a result of the change in legislation.

4.0 Implications For Council Policy And Governance

- 4.1 The revised Standards Committee process represents a streamlining of the process, which should serve to increase its accessibility. The process includes a brief summary of the legislative framework to enable Standards Committee members to use the procedure without need to cross-reference reports such as this one.
- 4.2 Processes will be in place once the new list is published to ensure that Directors can maintain the list of politically restricted posts through Business Support Centre

(BSC) systems. A requirement will be incorporated into the BSC systems to require the Director (or his/her nominees) to assess the level of political restriction applicable to any new post before it can be created. This represents a significantly enhanced level of reassurance that consideration is being given to the issue of political restriction in day to day recruitment activity.

5.0 Legal And Resource Implications

- 5.1 The legislative changes should serve to make even more remote the chance of a referral being made to the Standards Committee for a post to be exempted from or added to the list of politically restricted posts.
- 5.2 Work required within the Business Support Centre and Human Resources teams will be met from existing resources.

6.0 Conclusions

- 6.1 The changes to the legislative framework address concerns previously raised about posts being included on a blanket basis on the criterion of grade.
- 6.2 The more streamlined framework of two categories provides greater clarity.
- 6.3 The removal of the grade-based criterion gives Directors greater discretion to maintain an appropriate and proportional list of politically restricted posts.
- 6.4 Improved administrative arrangements will provide a greater degree of assurance that the list of politically restricted posts is being continually maintained.

7.0 Recommendations

- 7.1 That the Standards Committee notes the work done to maintain the list of politically restricted posts.
- 7.2 That the Standards Committee reviews and adopts the revised Standards Committee procedure for the consideration of applications to exempt posts from, or add posts to, the list of politically restricted posts.

Background Documents

Local Government Housing Act 1989

Local Democracy, Economic Development and Construction Act 2009

Reports to the Standards Committee, 19 August 2009, "Standards Committee Procedure: Politically Restricted Posts" and "Application for exemption from the list of politically restricted posts"

Report to Standards Committee, 15 October 2009, "Politically Restricted Posts"

Standards Committee

Procedure for consideration of Politically Restricted Posts

1. Introduction

- 1.1. The Local Government and Housing Act 1989 established a requirement for each Local Authority to maintain a list of Politically Restricted Posts (“the List”) within the meaning of that Act.
- 1.2. This procedure has been put in place to provide a framework for the Standards Committee to consider applications to:
 - have a post added to the List upon application from any person, or otherwise;
 - grant or revoke an exemption to inclusion for a post which is on the List upon application from the “postholder”.
- 1.3. This procedure will be subject to review by the Standards Committee.

2. Directors’ Initial Assessments

- 2.1. Directors make the initial assessment as to whether or not a post falls within the categories set out below in the section “Categories of Restricted Posts”. Such posts will be placed on the list of politically restricted posts (“the List”) unless an exemption has been granted. This decision is made by the Director and not the Standards Committee. Directors are accountable for ensuring that the List is updated.
- 2.2. Directors may also perform maintenance on the list of politically restricted posts and add or delete posts where their assessment of those posts makes it appropriate to do so, for example if the duties or reporting lines of a post have sufficiently changed to mean the post no longer falls within the categories of restricted posts.

3. Categories of Restricted Posts

Post type	Overview	Exemption from list ?
Specified Posts	Further guidance on this category is provided in appendix 1. Political Assistants are also specified posts.	No right to seek exemption
Posts with sensitive duties	Further guidance on this category is provided in appendix 2. Posts are only added to the list on the basis of their duties, where their duties have been assessed as warranting inclusion.	Right exists to seek exemption

4. Applications for a post to be included on the List

- 4.1. Where any person believes that a post which is not on the List should be on the List, they may submit a written request to the Standards Committee who will decide whether the post should be included on the List.

5. Applications for exemptions

- 5.1. A person who is in a politically restricted post, “the post holder”, may apply for an exemption for the post, where it has been included in the List by virtue of its duties.
- 5.2. Where a post is vacant, the Director may make an application as “the post holder”. A job applicant to whom a (conditional) offer of employment has been made shall also be considered to be “the post holder” for these purposes.

6. Dealing with Applications and Exemptions

- 6.1. The person applying to the Standards Committee will do so in writing, setting out the basis of their application and any supporting evidence. An example of how this information could be supplied is included as an “Application for Review of Politically Restriction”, set out in appendix 3.
- 6.2. The Director shall be informed of the application. In all cases, the Director shall complete a “Certificate of Opinion” (an example template is included in appendix 4), which he/she will provide to the Standards Committee and to the applicant.
- 6.3. If the applicant has asked for a reassessment of whether a post should be on the list (by virtue of being specified or having sensitive duties) and the Director concurs with the applicant’s view then the Director shall arrange for the List to be amended, then the application need proceed no further.
- 6.4. If the Director does not concur with the applicant, or if the application is for an exemption for a post which does have sensitive duties, then the Director should also provide a brief report to the Standards Committee. An example of appropriate content is included at appendix 5.
- 6.5. All paperwork shall be provided to Corporate Governance at least ten working days prior to the meeting of the Standards Committee. Corporate Governance will ensure that the Standards Committee is provided with the application, the Certificate of Opinion and their report.
- 6.6. The Standards Committee will consider the application, having due regard to such guidance as may be issued by the Director of Resources. The Standards Committee may seek advice from officers as they see fit, including legal and human resources advice where appropriate.
- 6.7. The Standards Committee will determine, as the case may be, whether the post should be included on the List, or whether to grant an exemption. If an exemption is granted by the Standards Committee, the post will be removed from the List. Exemptions can only be granted if the post is not “specified”. The Committee may also advise the Director of its determination that a post does not meet the criteria for inclusion on the List.
- 6.8. The Standards Committee will inform the applicant, the Director, and the Chief Officer (Human Resources) of their determination.

7. Appeals process

- 7.1. There is no appeal against the determination of the Standards Committee.

Appendix 1

Guidance on “specified” posts

A post is politically restricted, and cannot be granted an exemption, if:

(a) the post is that of a statutory chief officer as defined in s2(6) of the Local Government and Housing Act 1989, which includes:

- director of children’s services appointed under section 18 of the Children Act 2004;
- director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970;
- chief officer of a fire brigade maintained under the Fire Services Act 1947 and appointed under section 18(1)(a) of that Act;
- officer responsible for section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 of the Local Government Finance Act 1988 or section 6 of the Local Government and Housing Act 1989 or for the authority’s financial affairs.

OR

(b) the post is that of a non-statutory chief officer as defined in s 2(7) of the Local Government and Housing Act 1989, which includes any:

- person for whom the head of the authority’s paid service is directly responsible, other than teachers, lecturers and those with secretarial, clerical and support service duties;
- person who is required to report directly or is directly accountable to the head of the authority’s paid service in relation to most or all of the duties of the post, other than teachers, lecturers and those with secretarial, clerical and support service duties;
- person who is required to report directly or is directly accountable to the local authority or any committee or sub-committee of the authority in relation to most or all of the duties of the post, other than teachers, lecturers and those with secretarial, clerical and support service duties.

OR

(c) the post is that of a deputy chief officer as defined in s 2(8) of the Local Government and Housing Act 1989, which includes any person who is required to report directly or is directly accountable to one or more statutory or non-statutory chief officers in relation to most or all of the duties of the post, other than teachers, lecturers and those with secretarial, clerical and support service duties.

Appendix 2

Guidance on posts with “sensitive duties”

A post which has been deemed to have “sensitive duties” may be exempted if the determination of the Standards Committee is that the nature of the duties been undertaken is not such as to require political restriction.

A posts has sensitive duties if it meets one or both of the following criteria:

- (a) the post involves giving advice on a regular basis to the authority itself, to any committees or sub-committees of the authority, or to any joint committees on which the authority is represented, or to any member of the Executive who is also a member of the authority; and/or
- (b) the post involved speaking on behalf of the authority on a regular basis to journalists or broadcasters.

Part (b) of the above test has three key points: (i) giving advice (ii) on a regular basis, (iii) to a relevant audience.

- i) Advice may, for example, be in person, or in the form of reports or submissions; it may be in writing or oral. Note that many reports end in recommendations for the committee (etc) to take a particular course of action. If this is more than a mere formality (e.g. a recommendation to note the contents), it could be that the report is advising a course of action.
- ii) There is no specific level at which advice becomes "regular", and you should use your discretion in making this judgement. The only guidance is from the Independent Adjudicator (who had oversight of these matters before they passed to local Standards Committees): "something more than an occasional attendance to present a formal report to a committee is needed to establish that advice is given on a regular basis."
- iii) Bodies/committees/meetings that should be considered include: Full Council, Scrutiny Boards, the Corporate Governance and Audit Committee, the Area Committees, the General Purpose Committee, Standards Committee, Member Management Committee, Licensing Sub-Committee, Licensing and Regulatory Panel, Plans Panel, Development Plan Panel and the Executive (including both individual members of the Executive, and/or the Exec Board).



You can use this form to apply to the Standards Committee for them to consider adding or removing a post from the list of politically restricted posts maintained by the Council (“the List”).

You should read the Process for Standards Committee consideration of Politically Restricted Posts, which highlights the relevant legislation.

1. About you

If you are making an application to have the Standards Committee consider whether a post (which is not currently on the List) should be added to the list, you do not have to tell us who you are; but it may aid the Committee to be able to contact you if there are any details about which they would like further information. Only the post holder can apply for an exemption for a post (unless the post is empty, in which case the Director, or a job applicant to whom the post has been offered, may apply).

Your name: _____

Are you: The post holder / the Director / someone else*

If the Standards Committee were to want to hear from you in person would you be willing to attend a meeting of the Committee? Yes / No *

Can we contact you about this application? Yes / No *

If so, please provide contact details (e.g. phone number, email):

*delete as appropriate

2. The post you want to be reviewed

Please give the job title, and any details of the team and Service where the post is located. If you are able to provide detail of the pay scale of the post, or the current postholder, this will help ensure that the Standards Committee considers the post you intend it to consider.

(Attach further sheets if you need to)

3. Your application

Please indicate which one of the following best describes your application:

<input type="checkbox"/>	The post is not on the List. It should be added to the List because it is one of the posts specified in the legislation. This is a specified post in the legislation.
<input type="checkbox"/>	The post is not on the List. It should be added to the List because the post has sensitive duties. Any exemption should be removed.
<input type="checkbox"/>	The post is on the List. I am the “post holder”. The post should be granted an exemption and be removed from the list because (1) it is not one of the posts specified in the legislation, and (2) the duties of the post are not sensitive.
<input type="checkbox"/>	The post is on the List. I am the “post holder”. The post should be granted an exemption and be removed from the list because (1) it is not one of the posts specified in the legislation, and (2) although the duties of the post are sensitive, an exemption should be granted for this post.

4. Supporting Information

Please give as much detail as you can supporting your application. In particular (unless your application is simply that the post is one of the specified posts) you should, where possible, give details of the job description and actual duties of the post holder.

(Attach further sheets if you need to)

If you have any documents which would support your application, please attach copies, and list those documents here.

(Attach further sheets if you need to)

If you are aware of any individuals who may be able to assist the Standards Committee in deciding issues of fact in regard to your application, please provide details here. You should provide details of the person, and also the information you believe they have.

(Attach further sheets if you need to)

5. Sending the form in

Send this form to

The Standards Committee (Review of Politically Restricted Posts)
Leeds Civic Hall
Calverley Street
LEEDS
LS1 1UR

Appendix 4: Certificate of Opinion



Originator: Tel:

LOCAL GOVERNMENT AND HOUSING ACT 1989
(Political Restriction of certain posts)
CERTIFICATE OF OPINION

I, [name of Director], having been duly authorised as set out in the local authority's constitution in accordance with section 3 of the Local Government and Housing Act 1989, hereby certify that in the opinion of Leeds City Council the duties of the post of [give title of post and its Directorate/Service] do/do not* fall within subsection (3) of section 2 of the 1989 Act as the duties do/do not* consist of or involve either (or both)* of the following:

- (a) giving advice on a regular basis to the council themselves, to any committee or sub-committee of the council, or to any joint committee on which the council is represented, or, where the authority is operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority.

- (b) speaking on behalf of the council on a regular basis to journalists or broadcasters.

Signature _____

Date _____

(*delete as appropriate)

Appendix 5: Example text for any report to accompany a Certificate of Opinion

1. Introduction

- 1.1. The Local Government and Housing Act 1989 (as amended) (“the 1989 Act) places on Local Authorities the duty to maintain a list of politically restricted posts, as defined within that act.
- 1.2. The 1989 Act was amended to transfer the responsibility for granting exemptions for inclusion on the List to the Standards Committee of the relevant Council.
- 1.3. The Standards Committee is required to consider applications, and the Certificate of Opinion issued by the Council as to whether the post should, or should not, be on the List. It is the responsibility of each Director to provide such Certificates when required.
- 1.4. The opinion of the Director is set out in the certificate above; the remainder of this report provides the Director’s reasoning, to assist the Standards Committee in its consideration of an application before it.

2. Details of the post

- 2.1. [Give brief details of the history of the post, indicating when it was established (this may need to be an “established before” date in some cases) and any pertinent major changes to the job role since.]
- 2.2. [Explain whether the post is a specified post and explain to which post the post holder reports to, and whether that post is in a specified post.]
- 2.3. [Explain whether the post has sensitive duties. Include a current job description and details of what advice has been given (and to whom), or communication with the press has taken place in, for example, the last year.]

3. Considerations in reaching the Opinion

- 3.1. [Indicate the scope of evidence considered, and where information came from, for example, have the postholder’s views been considered; have the views of the post’s managers been considered? If the key issue is around dealings with the media, has the Corporate Communications team been consulted? If the issue is around whether the post is specified has advice been sought from Corporate Governance/HR/Legal? For new posts the Director may wish to provide evidence of a comparable post in another Authority.]
- 3.2. [Include a summary of the views of those consulted; where the director’s opinion diverges from that of the consultee(s), please acknowledge this and indicate why.]

4. Conclusion

- 4.1. [It is the Director’s view that this post is specified in the legislation; it is a post which cannot be exempted from inclusion on the list of politically restricted posts maintained by the Council.]

[OR]

- 4.2. [The Director’s view as to whether this post has sensitive duties within the meaning of the Act is certified above.]

5. Sign-off

Signature _____

Date _____

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: Local Assessment – Progress Report

<p>Electoral Wards Affected:</p> <div style="border: 1px solid black; width: 40px; height: 20px; display: inline-block; vertical-align: middle;"></div> Ward Members consulted (referred to in report)	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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1.0 Purpose Of This Report

1.1 The purpose of this report is to provide Members of the Standards Committee with a progress report in relation to all complaints received under the Members' Code of Conduct since 1st January 2010 to 30th June 2010. The report also provides the Committee with some statistical analysis regarding the complaints, including a comparison with the national statistics from Standards for England.

2.0 Background Information

2.1 Between the 1st January 2010 and the 30th June 2010, the Assessment Sub-Committee has considered 5 allegations, of which 3 are closed, and 2 have been referred for investigation. The referred complaints concern a total of 2 Leeds City Councillors, and 0 Parish or Town Councillors.

2.2 The Review Sub-Committee has reviewed 3 allegations since 1st January 2010, none of which have been referred for investigation or other action.

3.0 Main Issues

3.1 The table attached at Appendix 1 shows further detail in relation to each complaint, including the source of the complaint, whether the complaint is about a Parish or Town Councillor, and the decision made in relation to the complaint. The table shows information about complaints that have been received since 1st January 2010, although some complaints have been carried over as some information may have been updated since the previous report to the Standards Committee.

3.2 The information in the table shows that the allegations received since 1st January 2010 were initially assessed within an average of 22 working days. This was due to one complaint (0910012) taking 34 days from receipt to initial assessment. The

reason for this delay was that the Monitoring Officer attempted to resolve the case informally before it was referred to the Assessment Sub-Committee. The attempts at informal resolution subsequently failed, meaning that the complaint had to be referred to the Assessment Sub-Committee anyway and causing a delay in the process. Without this particular complaint being included, the average is 19 working days from receipt to initial assessment between 1st January 2010 and 30th June 2010.

- 3.3 The average for the whole municipal year is 21 working days from receipt to initial assessment. This includes the two cases which took 34 and 35 working days to reach the Assessment Sub-Committee, for reasons which have previously been explained. Without these two cases included the average is 19 working days.
- 3.4 The table also shows that review requests between 1st January 2010 and 30th June 2010 were considered in an average of 14.6 working days, and the average for the whole municipal year is 17 working days. In the previous municipal year (2008/09) the average number of working days to consider a review request was 34.8. The average timescale is now within of the recommended 20 working day limit set by Standards for England for the first time since May 2008. This is most likely due to Sub-Committee meetings being scheduled on a monthly basis since June 2009. Members of the Standards Committee can also be assured that all review requests were considered within the statutory three month deadline as set out in Section 57B of the Local Government Act 2000.
- 3.5 The table attached at Appendix 2 provides further detail in relation to those complaints that have been referred for investigation, including when the investigation was commissioned and the estimated date of completion.
- 3.6 The last column of the table in Appendix 2 provides Members with details of the duration of the investigation (from the date of the Assessment Sub-Committee decision to the completion of the final report). Members will recall that Standards for England advise that investigations should be completed within 6 months where possible, and that this is also reflected in the "Procedure for external Code of Conduct investigations" produced by the Council.
- 3.7 Appendix 3 provides some statistical analysis regarding all complaints received, and this information is compared with the national statistics available from Standards for England.
- 3.8 Members of the Standards Committee should note that Standards for England's monitoring requirements are currently under review and may shortly change. This is in response to the Government's plans to abolish the Standards Board regime, and also due to budget cuts during this financial year. The Board is currently conducting a review of Standards for England's activities and will be updating the business plan. The most recent quarterly return has therefore been postponed and the Monitoring Officer will be notified of the future monitoring requirements as soon as the Board has concluded its review.

4.0 Implications For Council Policy And Governance

- 4.1 This report provides assurance to the Standards Committee that the Assessment and Review Sub-Committees are complying with their statutory responsibilities as set out in the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.

- 4.2 Members will note that two of the investigations which were recently completed resulted in a hearing. The Hearings Sub-Committee meetings took place on 11th May and 17th May 2010, and both these hearings took place outside of the three month timescale set out the Regulations. The Hearings Sub-Committee held on 11th May was 1 month and 27 days outside of the timescale, and the meeting on 17th May was 8 days outside of timescale. The delays were unavoidable due to the local elections, the unavailability of the subject Members and their key witnesses, and one of the subject Members engaging legal representation for the first time during the pre-hearing process.
- 4.3 The specific lessons learned from these cases are detailed in a separate report on this agenda for discussion by Members of the Standards Committee.

5.0 Legal And Resource Implications

- 5.1 The resource implications for each investigation vary depending on the length and complexity. The costs will have been specified in a quote produced for the Head of Governance Services, and can be contained within the existing budget. A breakdown of the costs involved in each investigation can be seen in the table below:

Case Reference Number	Cost of investigation	Additional cost for attending Consideration Sub-Committee	Additional cost for attending Hearings Sub-Committee	Total cost of case
0809001	£3,756.17	£625.00	n/a	£4,381.17
0809006	£2,270.00	£1,050.00	£1,500.00	£4,820.00
0809008	£3,752.47	£625.00	n/a	£4,377.47
0809014(i)	£20,000.00 (carried out by Standards for England)	n/a (completed by an Ethical Standards Officer)	n/a	£20,000.00 ¹
0809014(ii)	£1,762.13	£708.73	n/a	£2,470.86
0809019	£2,404.00	£900.00	n/a	£3,304.00
0910001(2)	Investigation completed internally.			
0910004	£3,639.78	£625.00	n/a	£4,264.78
0910005	£3,950.00	£650.00	£1,100.00	£5,700.00
Total cost for Leeds City Council²:				£29,318.28

¹ This amount is not included in the total cost to Leeds City Council, as this investigation was paid for out of Standards for England's budget.

² Excluding VAT and travel expenses.

6.0 Conclusions

- 6.1 Both the Assessment Sub-Committee and Review Sub-Committee are meeting the statutory deadlines in relation to the timescale for considering complaints and review requests.

7.0 Recommendations

- 7.1 Members of the Standards Committee are asked to note the contents of this report.

Background Documents

Minutes of the Assessment Sub-Committee meetings held on 25th June 2009, 13th July 2009, 14th August 2009, 27th August 2009, 21st September 2009, 14th December 2009, 1st February 2010, 23rd March 2010, 13th April 2010, and 11th June 2010.

Minutes of the Review Sub-Committee 13th July 2009, 14th August 2009, and 11th November 2009, 26th February 2010, 12th May 2010, and 11th June 2010.

www.standardsforengland.gov.uk

Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, "Local Assessment – Progress Report", 17th February 2010

Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, "Procedure for external Code of Conduct investigations", 15th October 2009

Local Government Act 2000

Standards Committee (England) Regulations 2008

Complaints received since 1st January 2010 – 30th June 2010

Case Reference	Date received	Source of complaint	Type of Member	Referral decision made	Date of referral decision	Has a review been sought?	Review decision made	Date of review decision
0910007*	27/10/2009	Member of the public	Leeds City Councillor	No action	14/12/2009	Yes	No action	26/02/2010
0910010	05/01/2010	Council officer	Leeds City Councillor	Local investigation	01/02/2010	n/a	-	-
0910011	24/02/2010	Member of the public	Leeds City Councillor	No action	23/03/2010	Yes	No action	12/05/2010
0910012	22/02/2010	Council officer	Leeds City Councillor	Local investigation	13/04/2010	n/a	-	-
0910013	18/03/2010	Council officer	Leeds City Councillor	No action	13/04/2010	Yes	No action	11/06/2010
0910014	11/05/2010	Member of the public	Leeds City Councillor	No action	11/06/2010	No (review deadline not yet expired)	-	-

* This complaint is shown in the table for completeness because the Review Sub-Committee has considered it after 1st January 2010.

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Complaints referred for investigation since 1st July 2008

Case Reference	Date received	Referral decision made	Date of referral decision	Date investigation commissioned	Date of completion (or estimated date)	Outcome of investigation	Duration of investigation
0809001	01/07/2008	Local investigation (part)	22/07/2008	22/09/2008	Final Report issued on 13/07/2009	No failure to comply with the Members' Code of Conduct – Decision of the Assessment Sub-Committee 27/08/2009	12 months
0809006	01/07/2008	Local investigation	29/07/2008	05/09/2008	Final Report issued on 29/01/2010	Referred to the Hearings Sub-Committee – Decision of the Consideration Sub-Committee on 26/02/2010 No failure to comply with the Members' Code of Conduct – Decision of the Hearings Sub-Committee on 17/05/2010	18 months
0809008	01/07/2008	Local investigation (part)	29/07/2008	22/09/2008	Final Report issued on 05/08/2009	No failure to comply with the Members' Code of Conduct – Decision of the Assessment Sub-Committee 27/08/2009	13 months

Case Reference	Date received	Referral decision made	Date of referral decision	Date investigation commissioned	Date of completion (or estimated date)	Outcome of investigation	Duration of investigation
0809014(i)	18/02/2009	Referred to Standards for England (part)	05/03/2009	02/04/2009	Final Report issued on 22/07/2009	No failure to comply with the Members' Code of Conduct – Decision of the Ethical Standards Officer	4 months
0809014(ii)	18/02/2009	Local investigation (part)	05/03/2009	09/04/2009	Final Report issued on 11/12/2009	No failure to comply with the Members' Code of Conduct – Decision of the Consideration Sub-Committee 01/02/2010	9 months
0809019	09/04/2009	Local investigation (part)	18/05/2009	04/06/2009	Final Report issued on 20/05/2010	No failure to comply with the Members' Code of Conduct – Decision of the Consideration Sub-Committee 11/06/2010	12 months
0910001(2)	22/07/2009	Local investigation (part) by Leeds City Council Officer	14/08/2009	14/09/2009 (investigation conducted internally)	Final Report issued on 16/06/2010	No failure to comply with the Members' Code of Conduct – Decision of the Consideration Sub-Committee 29/06/2010	10 months

Case Reference	Date received	Referral decision made	Date of referral decision	Date investigation commissioned	Date of completion (or estimated date)	Outcome of investigation	Duration of investigation
0910004	15/07/2009	Local investigation (part)	14/08/2009	15/09/2009	Final Report issued on 10/02/2010	No failure to comply with the Members' Code of Conduct – Decision of the Consideration Sub-Committee 26/02/2010	6 months
0910005	16/07/2009	Local investigation	14/08/2009	15/09/2009	Final Report issued on 14/12/2009	No failure to comply with the Members' Code of Conduct on one allegation. Refer the second allegation to the Hearings Sub-Committee for a hearing - Decision of the Consideration Sub-Committee on 01/02/2010 No failure to comply with the Members' Code of Conduct – Decision of the Hearings Sub-Committee on 11/05/2010	4 months

Case Reference	Date received	Referral decision made	Date of referral decision	Date investigation commissioned	Date of completion (or estimated date)	Outcome of investigation	Duration of investigation
0910010	05/01/2010	Local investigation (being monitored by the Monitoring Officer of Bradford City Council)	01/02/2010	12/02/2010	Draft report expected on 23/06/2010	-	Estimated completion in 5 months
0910012	11/02/2010	Local investigation	13/04/2010	28/04/2010	Draft report was expected on 03/06/2010 but the investigation has been held in abeyance pending discussions with the Monitoring Officer	-	Estimated completion in 2 months

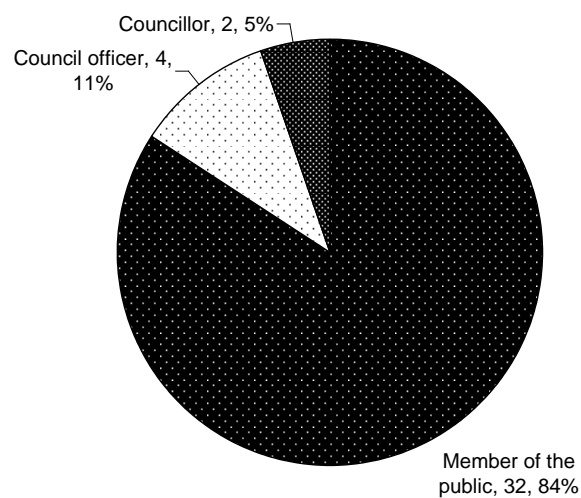
Local Assessment Statistics – 8th May 2008 to 31st March 2010

1. Source of Complaint

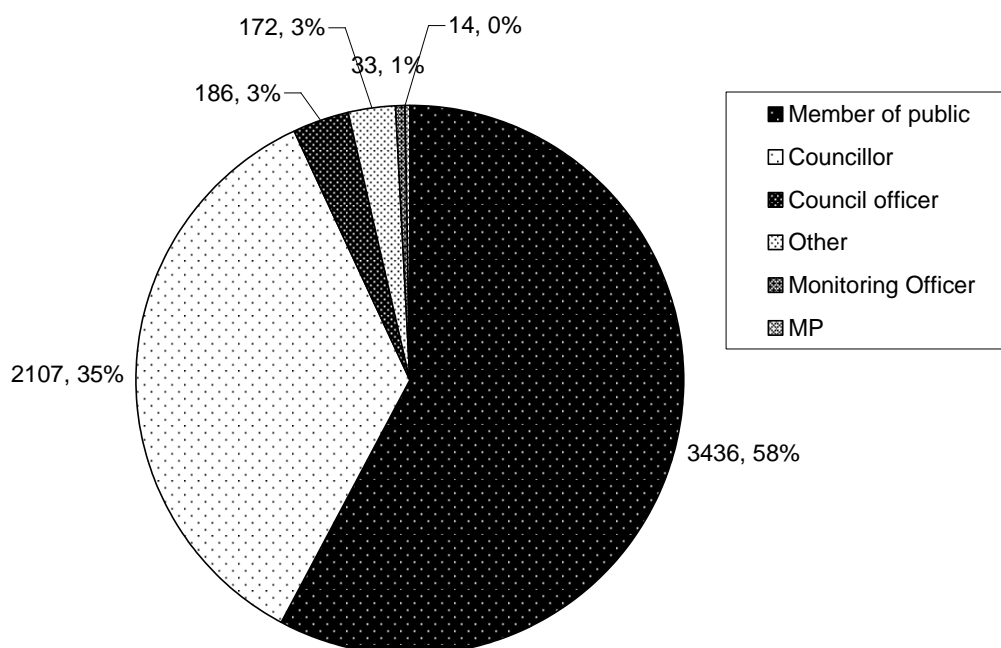
Between 8th May 2008 and 31st March 2010, Leeds City Council has received a total of **38** allegations, compared with a national average of **20** for Metropolitan Councils. Comparing Leeds to other Metropolitan Councils, and taking into account the number of Councillors in Leeds, Leeds City Council should have expected a total of **29** complaints during this period.

The charts below show the source of the complaints for Leeds City Council, and the national figures from Standards for England.

Leeds City Council:



Standards for England:

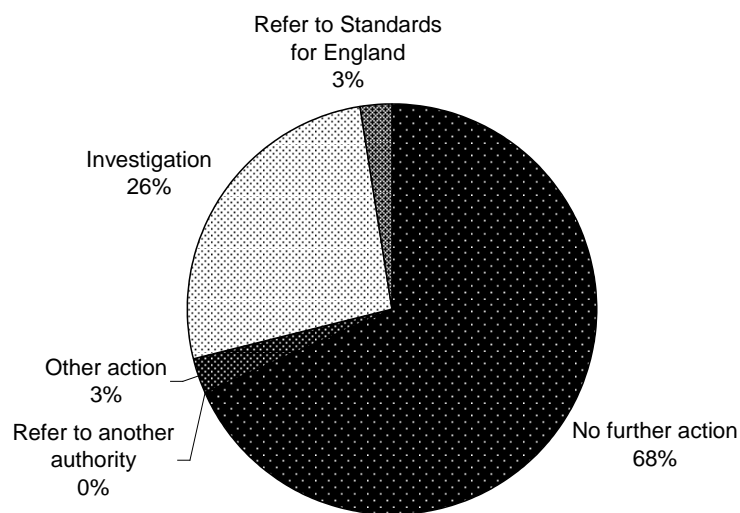


2. Decision of Assessment Sub-Committee

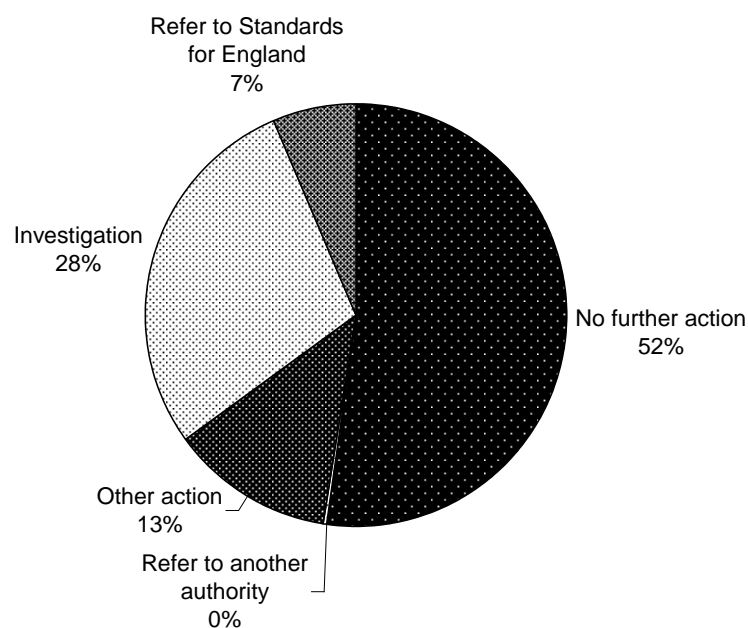
The charts below show the decisions made by the Leeds City Council Assessment Sub-Committee, and the national percentages from Standards for England.

The average Metropolitan Council decides to take no further action on 58% of cases, refers 0% to other authorities, refers 10% for other action, 25% for investigation, and 7% to Standards for England. This shows that Leeds City Council refers less cases to Standards for England or for other action than average, and takes more no further action decisions.

Leeds City Council:



Standards for England:

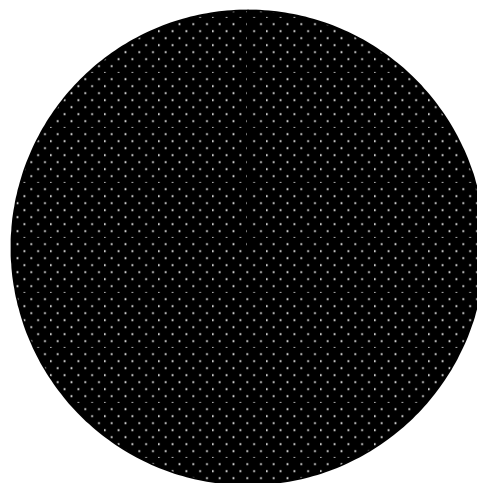


3. Decision of Review Sub-Committee

Between 8th May 2008 and 31st March 2010, 13 review requests have been considered by the Review Sub-Committee out of a total of 34 cases where the initial assessment decision was to not refer the complaint, or part of the complaint, any further. This represents **38%** of cases compared to **36%** cases nationally.

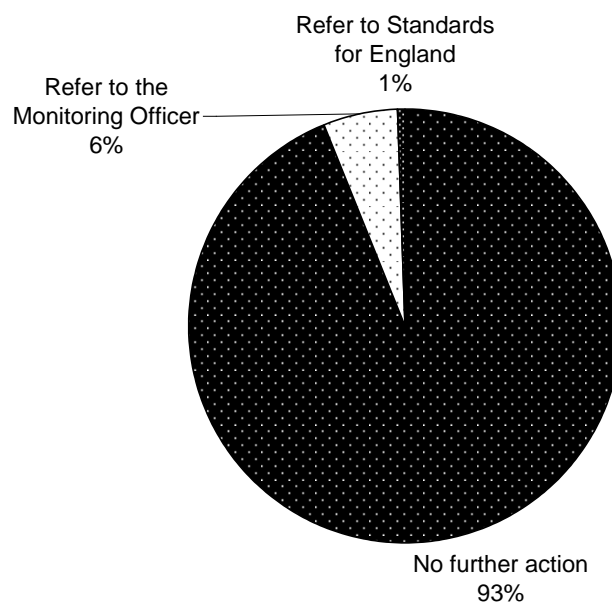
The Review Sub-Committee decided to take no further action in relation to all 13 complaints. The charts below show the decisions made by the Leeds City Council Review Sub-Committee, and the national percentages from Standards for England.

Leeds City Council:



No further action,
13, 100%

Standards for England:



4. Timeliness of Decisions

The Assessment Sub-Committee's target deadline for considering complaints is 20 working days. During the 2009/10 municipal year the average is **21** working days.

Nationally, Standards for England's statistics show that **64%** of initial assessment decisions were made in 20 working days or less during the 2009/10 year. In Leeds, **62%** of initial assessment decisions were made in 20 working days or less. The table below shows the timeliness of initial assessment decisions in Leeds during the 2009/10 municipal year compared to the national figures.

Assessed within (working days)	National average for 2009/10	Leeds City Council for 2009/10
0-5 days	5%	0%
6-10 days	15%	0%
11-15 days	22%	7.6%
16-20 days	22%	53.8%
21-25 days	14%	23%
26-30 days	6%	0%
More than 30 days	16%	15.3%

The statutory timescale for considering review requests is 3 months (approximately 90 calendar days), and during this municipal year in Leeds on average the Review Sub-Committee has been held with in **24** calendar days of the review request being made.

The table below shows the timeliness of review decisions in Leeds during the 2009/10 municipal year compared to the national figures.

Reviewed within (calendar days)	National average for 2009/10	Leeds City Council for 2009/10
0-30 days	43%	75%
31-60 days	38%	25%
61-90 days	17%	0%
More than 90 days	3%	0%

5. Investigations

Nationally, between 8th May 2008 and 31st March 2010, 1638 complaints have been referred for investigation. This represents **28%** of the total number of initial assessment decisions recorded by Standards for England. In Leeds, 11 complaints have been referred for investigation, out of a total of 38 allegations, representing **28.9%** of initial assessment decisions.

Nationally, a finding of no breach has been made in **3.3%** of cases. In Leeds, **100%** of the investigations which have been completed have resulted in a finding of no breach.



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: Review of the procedure for Standards Committee hearings

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 consider amendments to Section 4 of the Standards Committee Procedure Rules and the general procedure for conducting hearings in the light of the two recent cases heard by the Hearings Sub-Committee.
2. The Standards Committee has set up a Hearings Sub-Committee to hold determination meetings. The Hearings Sub-Committee met on 11th May 2010 and again on 17th May 2010. Paragraph 1.3.1 of the Standards Committee Procedure Rules states that the Standards Committee will review Section 4 of the procedure (Hearings Sub-Committee Procedure) at the completion of each local hearing.
3. The investigators, the subject Members and their representatives, the complainants, and the Members of the Hearings Sub-Committees have all been invited to make comments and suggestions for amendment following the Hearings Sub-Committee meetings. Officers involved in the pre-hearing process and the hearings have also made suggestions for amendment.
4. The table attached as Appendix 1 lists each of the issues identified by the participants along with their suggestions for improvement. The last column of the table also contains proposals for amendment to the 'Procedure for external Code of Conduct investigations', the Standards Committee Procedure Rules, and the general procedure for Hearings Sub-Committee meetings.
5. Members of the Standards Committee are asked to note the issues raised by the hearing participants, comment on the proposals for amendment to the 'Procedure for external Code of Conduct investigations', and agree the proposed amendments to the Standards Committee Procedure Rules and general procedure for Hearings Sub-Committee meetings listed in paragraph 7 of this report.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to consider amendments to Section 4 of the Standards Committee Procedure Rules and the general procedure for conducting hearings in the light of the two recent cases heard by the Hearings Sub-Committee.

2.0 Background Information

- 2.1 The Standards Committee has set up a Hearings Sub-Committee to hold determination meetings. The Hearings Sub-Committee met on 11th May 2010 and again on 17th May 2010. Paragraph 1.3.1 of the Standards Committee Procedure Rules state that the Standards Committee will review Section 4 of the procedure (Hearings Sub-Committee Procedure) at the completion of each local hearing.
- 2.2 As the two hearings were held within a short timescale, it is not considered necessary to conduct two separate reviews and therefore this report contains proposals for amendment arising from both meetings.

3.0 Main Issues

- 3.1 The investigators, the subject Members and their representatives, and the Members of the Hearings Sub-Committees have all been invited to make comments and suggestions for amendment following the Hearings Sub-Committee meetings. Officers involved in the pre-hearing process and the hearings have also made suggestions for amendment.
- 3.2 The proposals for amendment can be categorised into the following areas:
- The investigation;
 - The pre-hearing process; and
 - The Hearings Sub-Committee meeting.
- 3.3 The table attached as Appendix 1 lists each of the issues identified by the participants along with their suggestions for improvement. The last column of the table also contains proposals for amendment to the 'Procedure for external Code of Conduct investigations', the Standards Committee Procedure Rules, and the general procedure for Hearings Sub-Committee meetings. An amended extract of the Standards Committee Procedure Rules is also attached as Appendix 2.

The investigation

- 3.4 In summary, the proposals for amendment to the 'Procedure for external Code of Conduct investigations' are as follows:
- That the Procedure be amended to clarify that the Council's preference is for subject Members and complainants to be interviewed face to face, unless they request otherwise.
 - The Procedure currently states *"If there are significant changes to the report, the Investigator may wish to consider issuing a second draft. Any such draft should be sent to the Monitoring Officer, Head of Governance Services and Senior Corporate Governance Officer for comment prior to being sent to the parties. Once the Investigator has considered whether the responses add anything of substance to the investigation, they will be able to make their final conclusions and recommendations."* It is proposed that this is amended to say that the investigator **must** issue a second draft in such circumstances.

- To amend the Procedure to include the subject Members' representatives in the list of recipients of the draft and final reports.
- That the Procedure be amended to state that where the investigator has to travel a significant distance, appropriate arrangements should be made for their prompt attendance at the Hearings Sub-Committee e.g. an overnight stay in Leeds. Such issues should be discussed with the Head of Governance Services so that these costs can be prepared for.
- That the Procedure be amended to require the investigator to send the final report to the Monitoring Officer first, before issuing it to the parties. This will have two advantages: it will ensure the Monitoring Officer is happy with the final report as drafted; and will also help to speed up the process of arranging the Consideration Sub-Committee meeting. This amendment is in accordance with Section 2 of the Procedure which clearly states that the Monitoring Officer reserves the right to decide when the investigation is complete and when the report is of an acceptable quality to be put before the Standards Committee for consideration.

- 3.5 These amendments will need to be approved by the Assistant Chief Executive (Corporate Governance) who, as Monitoring Officer, has responsibility for Code of Conduct investigations. However, Members of the Standards Committee are invited to comment on these proposals in order to assist the Monitoring Officer in reaching a view as to how to improve the process.
- 3.6 The hearing participants raised more general issues with the investigations process, particularly that the subject Members and complainants did not understand the investigation process and were not kept up to date on the progress of the investigator. To address these issues it is proposed that a plain-English guide to the investigations process be created for Members incorporating useful information from both the 'Procedure for external Code of Conduct investigations' and the Standards Committee Procedure Rules. This document would be provided to the subject Member and the complainant at the same time as the Assessment or Review Sub-Committee Decision Notice. The Head of Governance Services also proposes to provide regular updates on progress to the subject Member and the complainant, as considered appropriate.
- 3.7 Finally, issues were also raised regarding the Consideration Sub-Committee meetings. Namely that these took place in private which means that the subject Member and their representative cannot attend and begin preparing for the hearing sooner, and that they took place too long after the final report had been issued. The Monitoring Officer does not accept that Consideration Sub-Committee meetings should generally be held in public, because if the matter was referred to a hearing, the Hearings Sub-Committee agenda would be public and could not be made exempt again, and attending the Consideration Sub-Committee meeting would not assist the subject Member and their representative in preparing for a hearing.
- 3.8 There are no proposals for amendment regarding the timescales for the Consideration Sub-Committee meeting, as following a previous decision of the Standards Committee, Sub-Committee meetings are now scheduled to take place every three weeks. It is anticipated that more regular Sub-Committee meetings will alleviate the concerns raised by the subject Members' representatives.

The pre-hearing process

- 3.9 It is not proposed to amend the Standards Committee Procedure Rules following the comments made about the pre-hearing process. Comments were raised about the timescales for the parties to return the forms to the Committee Clerk, but as these were recently amended by the Standards Committee and will be kept under review, it is not proposed that these are amended now.
- 3.10 However the forms which are sent to the parties to complete will be amended to ensure that the form clearly identifies the findings of fact in the investigator's report and to ensure that it only invites comments on those points. The subject Member will no longer be asked to provide alternative wording for the investigator's report, and will only be asked to state the reasons why they disagree with the investigator's findings. This should ensure that the information provided by the subject Member or their representatives is relevant and limited to the facts that are disputed, and will therefore assist the Committee Clerk, Monitoring Officer and the Chair in preparing the pre-hearing process summary and scheduling the hearing.
- 3.11 Both forms will also be amended to include space for the parties to provide contact details for their requested witnesses, and also details on what arrangements have been made for their attendance. This will ensure that the Committee Clerk is able to contact the witnesses regarding any changes in the arrangements, such as delays, as soon as possible.
- 3.12 Subject to comments from Members of the Standards Committee, amendments to the pre-hearing form will be made by the Monitoring Officer.

The Hearings Sub-Committee meeting

Witnesses

- 3.13 Particular concerns were raised by the participants regarding witnesses. Specifically that witnesses should not be allowed to remain in the room before they give evidence to the Sub-Committee, and should not be able to talk to other witnesses after they have done so, to avoid creating the appearance of collusion or bias. In order to remedy these concerns, it is proposed that wherever possible, officers will seek to reserve a room each for the parties and their witnesses (which the witnesses would be unable to return to after giving their evidence), and a room for the Sub-Committee to withdraw to in order to deliberate. It is proposed that these arrangements should be reflected in the Standards Committee Procedure Rules under "General points regarding the Hearings Sub-Committee meeting".
- 3.14 The hearing participants also raised a concern that the witnesses seemed unprepared for the hearing and unsure of the process. In order to address this it is proposed that a briefing note be sent out to the witnesses in advance of the Hearings Sub-Committee which explains the procedure for the hearing and the role of the Sub-Committee. This will also ask the witnesses not to speak to other after they have given evidence.

Stages of the hearing

- 3.15 Specific issues were raised about the process for the hearing, which may require amendments to the “Stages of the Hearing” section of the Standards Committee Procedure Rules.
- 3.16 Firstly, there was a concern that the decision to exclude the press and public from the hearing was not made early enough in the proceedings. This is currently scheduled to take place during Stage 1 of the hearing (Setting the Scene), after the parties have been formally introduced, and the Chair has explained the role of the Sub-Committee. Stage 1 was the fifth item on the agenda following the standard items. It is proposed that the decision on whether to exclude the press and public from all or part of the meeting could be included as a separate item on the agenda. This could still take place after the Chair has introduced the parties and explained how the hearing will run, if Stage 1 takes place prior to the other items on the agenda i.e. appeals against refusal of inspection of documents, and declarations of interest.
- 3.17 In connection with the above point one of the Hearings Sub-Committee Members expressed a concern that if members of the press were allowed to observe the hearing they may take statements from witnesses when they are leaving the room which could then be published prior to the Sub-Committee’s findings being announced and be detrimental to the subject Member. There are no options for amendment to address this concern. The Chair of the Hearings Sub-Committee could verbally instruct the press not to publish anything about the hearing until the decision has been announced, but the press would not be bound by such an instruction.
- 3.18 It is also proposed that the information about Stages 2 and 3 of the Hearings Sub-Committee procedure are amended to clarify that the Monitoring Officer will explain the outstanding preliminary issues arising from the pre-hearing process for the Hearings Sub-Committee to take a view on these, before the parties raise any other issues, and that Stage 3 is amended to allow the parties to make final submissions to the Sub-Committee before they withdraw to deliberate.

Practical issues

- 3.19 Some of the participants raised issues about the lack of comfort breaks during the hearings, and the fact that the time allowed for a lunch break was insufficient. In addition, some Members commented that it would not be unreasonable for the Council to provide lunch for such meetings. The Chief Democratic Services Officer has been asked to consider the comments made by the hearing participants, but has confirmed that it would not be possible to provide lunch for the Hearings Sub-Committee.
- 3.20 Instead, to address these issues, it is proposed that the Chair’s guidance note is updated to remind the Chair that a lunch break of at least 25 minutes is required and to prompt him to suggest a comfort break every two hours or thereabouts.
- 3.21 Some of the Hearings Sub-Committee Members also suggested that both hearings were too long, one taking approximately 10 hours from start to finish. It is not possible to shorten the process in any way, but it is proposed that where a case is especially complex or is likely to involve several witnesses, the Committee Clerk could attempt to seek a second date where the parties and the Sub-Committee Members are available, to give the Sub-Committee the option to adjourn if

necessary. This second date will be as close to the original date as possible, and ideally on the following working day. However, Members of the Standards Committee should note that the Committee Clerk experienced significant difficulties in securing any suitable date for the hearings in the two recent cases due to the limited availability of the Sub-Committee Members.

3.22 Finally, all those who responded stated that the room used for the hearings was too small. This was Committee Room 2. It is proposed that, as a preference, Committee Rooms 6 and 7 will be sought for future Hearings Sub-Committee meetings, in view of the size of the room and the in-built recording equipment. If this is not possible, i.e. due to a Scrutiny Board, Plans Panel or Executive Board meeting, a room which is large enough for the relevant parties and public to be sufficiently separated will be sought. As previously stated officers will also seek to book an additional three rooms for each of the parties and their witnesses, and a room for the Hearings Sub-Committee to withdraw to.

4.0 Implications For Council Policy And Governance

4.1 Reviewing the Standards Committee Procedure Rules after every hearing ensures that the Procedures remain fit for purpose.

5.0 Legal And Resource Implications

5.1 There are no legal implications to the proposals in this report. There are cost implications to allowing the investigator to stay in Leeds the night before a Hearings Sub-Committee, although it is anticipated that these costs can be met from within existing budgets.

6.0 Conclusions

6.1 The Standards Committee has set up a Hearings Sub-Committee to hold determination meetings. The Hearings Sub-Committee met on 11th May 2010 and again on 17th May 2010. Paragraph 1.3.1 of the Standards Committee Procedure Rules state that the Standards Committee will review Section 4 of the procedure (Hearings Sub-Committee Procedure) at the completion of each local hearing.

6.2 The table attached as Appendix 1 lists each of the issues identified by the participants along with their suggestions for improvement. The last column of the table also contains proposals for amendment to the 'Procedure for external Code of Conduct investigations', the Standards Committee Procedure Rules, and the general procedure for Hearings Sub-Committee meetings.

6.3 An amended extract of the Standards Committee Procedure Rules is attached as Appendix 2 to this report for the Standards Committee's approval.

7.0 Recommendations

7.1 Members of the Standards Committee are asked to:

- note all the issues raised by the hearing participants and the suggestions for amendment (as listed in Appendix 1 to this report);
- comment on the proposals for amendment to the 'Procedure for external Code of Conduct investigations' outlined in this report (as follows);

- That the Procedure be amended to clarify that the Council's preference is for subject Members and complainants to be interviewed face to face, unless they request otherwise.
 - It is proposed that the Procedure is amended to say that the investigator **must** issue a second draft report for the parties to comment on if there have been significant changes since the first draft report.
 - To amend the Procedure to include the subject Members' representatives in the list of recipients of the draft and final reports.
 - That the Procedure be amended to state that where the investigator has to travel a significant distance, appropriate arrangements should be made for their prompt attendance at the Hearings Sub-Committee e.g. an overnight stay in Leeds. Such issues should be discussed with the Head of Governance Services so that these costs can be prepared for.
 - That the Procedure be amended to require the investigator to send the final report to the Monitoring Officer first, before issuing it to the parties.
- comment on the proposed amendments to the pre-hearing forms (as listed below):
 - The forms which are sent to the parties to complete will be amended to ensure that the form clearly identifies the findings of fact in the investigator's report and to ensure that it only invites comments on those points.
 - Both forms will also be amended to include space for the parties to provide contact details for their requested witnesses, and also details on what arrangements have been made for their attendance.
- agree the proposed amendments to the general procedure for the hearing, including scheduling and accommodation for the hearing, the order of the agenda, and amendments to the Chair's guidance note (as follows);
 - It is proposed that a plain-English guide to the investigations process be created for Members incorporating useful information from both the 'Procedure for external Code of Conduct investigations' and the Standards Committee Procedure Rules. This document would be provided to the subject Member and the complainant at the same time as the Assessment or Review Sub-Committee Decision Notice.
 - It is proposed that wherever possible, officers will seek to reserve a room each for the parties and their witnesses (which the witnesses would be unable to return to after giving their evidence), and a room for the Sub-Committee to withdraw to in order to deliberate.
 - It is proposed that a briefing note be sent out to the witnesses in advance of the Hearings Sub-Committee which explains the procedure for the hearing and the role of the Sub-Committee. This will also ask the witnesses not to speak to other after they have given evidence.

- It is proposed that the decision on whether to exclude the press and public from all or part of the meeting could be included as a separate item on the agenda. This could still take place after the Chair has introduced the parties and explained how the hearing will run, if Stage 1 takes place prior to the other items on the agenda i.e. appeals against refusal of inspection of documents, and declarations of interest.
 - The Chair of the Hearings Sub-Committee could verbally instruct the press not to publish anything about the hearing until the decision has been announced, but the press would not be bound by such an instruction.
 - It is also proposed that the information about Stages 2 and 3 of the Hearings Sub-Committee procedure are amended to clarify that the Monitoring Officer will explain the outstanding preliminary issues arising from the pre-hearing process for the Hearings Sub-Committee to take a view on these, before the parties raise any other issues, and that Stage 3 is amended to allow the parties to make final submissions to the Sub-Committee before they withdraw to deliberate.
 - It is proposed that the Chair's guidance note is updated to remind the Chair that a lunch break of at least 25 minutes is required and to prompt him to suggest a comfort break every two hours or thereabouts.
 - It is proposed that where a case is especially complex or is likely to involve several witnesses, the Committee Clerk could attempt to seek a second date where the parties and the Sub-Committee Members are available, to give the Sub-Committee the option to adjourn if necessary. This second date will be as close to the original date as possible, and ideally on the following working day.
 - It is proposed that, as a preference, Committee Rooms 6 and 7 will be sought for future Hearings Sub-Committee meetings, in view of the size of the room and the in-built recording equipment. If this is not possible, i.e. due to a Scrutiny Board, Plans Panel or Executive Board meeting, a room which is large enough for the relevant parties and public to be sufficiently separated will be sought.
- agree the proposed amendments to the Standards Committee Procedure Rules, as highlighted in Appendix 2, which reflect the recommendations listed above.

Background Documents

“Procedure for external Code of Conduct investigations”, available from <http://intranet.leeds.gov.uk/page.aspx?pageidentifier=8de826e1-b19c-4ca0-a100-3645cfef15cc>, last updated 6th May 2010

“Standards Committee Determinations”, by Standards for England, available from <http://www.standardsforengland.gov.uk/determinations/>, last updated 11th March 2010

Review of Standards Committee Procedures following Hearings

INVESTIGATIONS

Issues identified	Suggestions / Comments	Proposals
Subject Members do not understand the investigation process. One of the complainants also raised the issue that the investigation process was not properly explained to them.	Subject Members should be given more information at the start of the process, including a copy of the Procedure for external Code of Conduct investigations and Standards Committee Procedure Rules.	The purpose of the Procedure for external Code of Conduct investigations is primarily as a guide for the investigator and so will not be useful for this purpose. Instead, a plain-english guide to the investigations process will be created for Members and complainants incorporating the useful information from both Procedures.
Subject Members are not kept up to date on the progress of the investigation.	Subject Members should be provided with information from the investigation plan by the investigator or the Council.	That the Head of Governance Services will provide regular updates on progress to the subject Member, as considered appropriate.
Subject Members should not be interviewed over the telephone. One of the complainants also stated they were dissatisfied with the investigation process, as the interview was conducted over the telephone and only lasted five minutes.	Subject Members and complainants should be interviewed face to face and should not be expected to request such an interview as they do not know what to expect.	That the Procedure for external Code of Conduct investigations be amended to clarify that it is the Council's preference for subject Members and complainants to be interviewed face to face, unless they request otherwise.

INVESTIGATIONS

Issues identified	Suggestions / Comments	Proposals
Investigators have mentioned the costs of the investigation to the Member when requesting further witnesses be interviewed.	This is inappropriate as the subject Member should have the right to make sure that the investigation is as thorough as possible in order to be fair.	This is a performance issue which has been raised by the Head of Governance Services with the investigator concerned.
Subject Members (and their representatives) are not always provided with a copy of the draft report in order to pass comments on the findings.	Where the investigator makes significant amendments to their report or carries out further investigation, they should always send a second draft report for the parties to comment on before issuing the final report. This second draft should initially be sent to the Monitoring Officer.	<p>The Procedure for external Code of Conduct investigations currently says <i>“If there are significant changes to the report, the Investigator may wish to consider issuing a second draft. Any such draft should be sent to the Monitoring Officer, Head of Governance Services and Senior Corporate Governance Officer for comment prior to being sent to the parties. Once the Investigator has considered whether the responses add anything of substance to the investigation, they will be able to make their final conclusions and recommendations.”</i></p> <p>It is proposed that this is amended to say that the investigator must issue a second draft in such circumstances.</p>
The investigators do not consistently send the representatives a copy of their report.	That the Council require the investigator to send a copy of their report directly to the representatives at the same time as the subject Member.	To amend the Procedure for external Code of Conduct investigations to include the subject Members’ representatives in the list of recipients of the draft and final reports.

INVESTIGATIONS

Issues identified	Suggestions / Comments	Proposals
<p>Consideration Sub-Committee meetings are normally held in private.</p>	<p>Consideration Sub-Committee meetings should generally be held in public so that the subject Member and their representative can attend. This will allow them to begin preparing for the hearing sooner and would be consistent with the approach to Hearings. Officers could ask the subject Member for their opinion first.</p>	<p>The Monitoring Officer does not accept this view, because if the matter was referred to a hearing, the Hearings Sub-Committee agenda would be public and could not be made exempt again, and attending the Consideration Sub-Committee meeting would not assist the subject Member and their representative in preparing for a hearing.</p>
<p>Consideration Sub-Committee meetings take place too long after the final report is issued.</p>	<p>Consideration Sub-Committee meetings need to be arranged in advance of the final report being issued.</p>	<p>Sub-Committee meetings are now scheduled to take place every 3 weeks and the Procedure will be amended to require the investigator to send the final report to the Monitoring Officer first, before issuing it. This will ensure the Monitoring Officer is happy with the final report as drafted and also help to speed up the process of arranging the Consideration Sub-Committee meeting.</p>

PRE-HEARING PROCESS

Issue identified	Suggestions / Comments	Proposal
<p>The time allowed for the subject Member to complete pre-hearing forms is too short.</p>	<p>The time should be extended from 5 working days. This is too short a time for the representatives to meet with the subject Member and complete the forms.</p>	<p>The subject Member has a total of 10 working days to return the completed forms, not 5. This has been reduced from a total of 15 days, and this decision will be kept under review by the Standards Committee.</p> <p>Officers will continue to extend the timescales in exceptional circumstances, wherever possible, whilst still complying with the statutory timescales for the hearing.</p>
<p>The subject Members representatives provided a lot of irrelevant information on the pre-hearing forms in relation to the facts that were in dispute.</p>	<p>That the information provided should be limited to those facts which are disputed, and not other areas of the report and/or Hearing.</p>	<p>To amend the pre-hearing forms to list the findings of fact in the investigators report and to only invite comments on those points. Also to no longer ask the subject Member to provide alternative wording for that section of the report.</p>
<p>Officers did not have contact details for the witnesses and were not aware what arrangements had been made for their attendance.</p>	<p>That the investigator and subject Member should notify the Committee Clerk of these details before the hearing.</p>	<p>That the pre-hearing forms should be amended to include space for these details, whilst still making it clear that it is each of the parties responsibility to arrange the attendance of witnesses.</p>

HEARINGS SUB-COMMITTEE MEETING

Issues identified	Suggestions / Comments	Proposals
<p>The investigator was not able to attend for a hearing starting at 9am.</p>	<p>That arrangements should be made so that the investigator or any other party can attend in time for the hearing.</p>	<p>That the Procedure for external Code of Conduct investigations be amended to state that where the investigator has to travel a significant distance, appropriate arrangements should be made for their prompt attendance e.g. an overnight stay in Leeds. Such issues should be discussed with the Head of Governance Services so that these costs can be prepared for.</p>
<p>The room provided for both hearings was too small.</p>	<p>A room should be large enough to allow proper separation between the parties and the Hearings Sub-Committee Members in order to avoid the perception of bias or confusion over roles. There also needs to be an appropriate distance between the 'evidence' table and the chairs for witnesses and public, to avoid concerns of intimidation.</p>	<p>That, as a preference, Committee Rooms 6 and 7 will be sought for future Hearings Sub-Committee meetings, in view of the in-built recording equipment. If this is not possible, i.e. due to a Scrutiny, Plans Panel or Executive Board meeting, a room which is large enough for the relevant parties and public to be sufficiently separated will be sought.</p>
<p>There was no area for the parties to withdraw to.</p>	<p>There should be a separate room (or rooms) for the parties to go to to prepare arguments and take refreshments etc.</p>	<p>This may not always be possible given the shortage of rooms in the Civic Hall. However, wherever possible, officers will seek to reserve a room for the parties, in addition to a room for the witnesses and a room for the Sub-Committee to withdraw to.</p>

HEARINGS SUB-COMMITTEE MEETING

Issues identified	Suggestions / Comments	Proposals
<p>There were insufficient comfort breaks and time to buy and eat lunch during the hearing.</p>	<p>There should be comfort breaks every two hours, and either a longer lunch period, or lunch should be provided by the Council.</p>	<p>The Chair's guidance will be updated to prompt him to suggest a comfort break every two hours or thereabouts, and to remind him that a lunch break of at least 25 minutes is required. There is currently a policy in place which prevents lunch being provided for Council meetings, and the Chief Democratic Services Officer has confirmed that an exception cannot be made for the Hearings Sub-Committee.</p>
<p>The decision regarding whether to exclude the press and public was not made early enough in the proceedings, and was not included on the agenda front sheet.</p>	<p>The decision about whether to exclude the press and public is currently scheduled to take place during Stage 1 of the hearing (Setting the Scene), after the parties have been formally introduced, and the Chair has explained the role of the Sub-Committee.</p>	<p>The decision on whether to exclude the press and public from all or part of the meeting could be taken at an earlier stage. This could still take place after the Chair has introduced the parties and explained how the hearing will run, if Stage 1 takes place prior to the other items on the agenda i.e. appeals against refusal of inspection of documents, and declarations of interest. However the standard agenda item will have to be amended to include a provision for the parties to make representations to the Sub-Committee on this point, and for the Sub-Committee to withdraw to discuss the matter.</p>
<p>Concerns that if the press are allowed to remain in the room, they may take statements from the press etc. which could be published prior to the Sub-Committee's findings are announced and be detrimental to the subject Member.</p>	<p>That if the press are allowed to remain, they should be instructed that no statement should be published until the hearing is complete and the decision has been announced by the Chair.</p>	<p>The Standards Committee could decide to issue such a direction to the press, although they would not be bound by it. Members of the press do have to comply with the Editors' Code of Practice which requires accuracy in reporting i.e. calling unproven statements "allegations". If the press did not follow the Code they could be reported to the Press Complaints Commission.</p>

HEARINGS SUB-COMMITTEE MEETING

Issues identified	Suggestions / Comments	Proposals
<p>It is currently unclear who is responsible for raising the preliminary issues which are listed in the pre-hearing process summary during Stage 2 of the hearing.</p>	<p>The Monitoring Officer should explain the issues which are outstanding from the pre-hearing process during Stage 2, in addition to those raised by the parties.</p>	<p>That paragraph 4.9 of the Standards Committee Procedure Rules be amended to provide for the Monitoring Officer to raise any outstanding issues first, and then for the parties to raise any additional issues and make representations on all of the issues before the Sub-Committee makes a decision on them.</p>
<p>There is no provision in Stage 3 (making findings of fact) for the parties to make final submissions to the Sub-Committee before they withdraw to consider the facts.</p>	<p>That both parties should have an opportunity to 'sum up' their version of the facts after witnesses have been cross examined, and before the Sub-Committee withdraw to consider the representations.</p>	<p>That paragraph 4.10 of the Standards Committee Procedure Rules be amended to include the provision for the parties to make final submissions to the Sub-Committee in relation to the findings of fact. The investigator will be invited to do so first, followed by the subject Member or their representative.</p>
<p>Witnesses (including the complainants) seemed unsure of the process and what they were being asked to do.</p>	<p>The witnesses should be provided with information prior to the Hearings Sub-Committee to explain what the role of the Sub-Committee is, their role on the day, and advising them not to speak to other witnesses before or after they have given evidence.</p>	<p>That a briefing note be sent out to the witnesses (including complainants) in advance of the Hearings Sub-Committee which explains the procedure for the hearing and the role of the Sub-Committee.</p>

HEARINGS SUB-COMMITTEE MEETING

Issues identified	Suggestions / Comments	Proposals
<p>The way in which witnesses were questioned and cross-examined may have made them feel uncomfortable, as if they were being accused of being dishonest, and given them the impression that they were not being taken seriously.</p>	<p>Although witnesses of facts that are disputed should be prepared to be cross-examined at the hearing, they should be treated with courtesy and respect. The process of the hearing is not supposed to be adversarial, but inquisitorial, and it is not helpful for the process if witnesses are made to feel uncomfortable or that their integrity is being questioned.</p>	<p>The Monitoring Officer has given feedback to the parties as to how witnesses should be treated during the hearing.</p>

HEARINGS SUB-COMMITTEE MEETING

Issues identified	Suggestions / Comments	Proposals
<p>Witnesses should not be allowed to remain in the room before they give evidence to the Sub-Committee, and should not be able to talk to other witnesses after they have done so as this creates the appearance of collusion or bias.</p>	<p>There should be a separate designated room for witnesses to wait in which is separate from the main entrance in order that witnesses who have given evidence, and those waiting to do so, can be kept separated. Witnesses for each party should also be separated where possible and/or appropriate.</p> <p>Standards for England do not provide any specific guidance on the treatment of witnesses. During an appeal against a Standards Committee decision, the Appeals Tribunal of the First-Tier Tribunal (APE 0349) expressed their concern about the presence of witnesses throughout the hearing. Further advice was sought on this point, and although the First-Tier Tribunal cannot comment on individual cases, the general procedure at hearings is to ask witnesses or possible witnesses to be excluded from the room until they have given evidence (especially if there are disputes as to the facts on which they are to give evidence) or it is decided that their evidence is not required.</p>	<p>This may not always be possible given the shortage of rooms in the Civic Hall. However, wherever possible, officers will seek to reserve a room for the witnesses, a room for the parties, and a room for the Sub-Committee to withdraw to. Also that these arrangements should be reflected in the Standards Committee Procedure Rules which currently do not cover the issue of witnesses.</p> <p>Members of the Standards Committee may wish to note that they agreed on 26th July 2006 that it would be “the invariable practice of the Committee to exclude witnesses from the hearing until they have given evidence or it has been decided that their evidence is not needed”. This was in response to a review of the Standards Committee Procedure Rules and Hearings Procedure following the Standards Committee hearing held on 25th May 2006. Unfortunately as this decision was not reflected in an amendment to the Standards Committee Procedure Rules it has since been overlooked.</p>

HEARINGS SUB-COMMITTEE MEETING

Issues identified	Suggestions / Comments	Proposals
<p>The Hearings Sub-Committee meeting was too long (taking approximately 5.5 hours and 10 hours each)</p>	<p>Where there is lots of dispute over the facts of the case, or many witnesses, the Sub-Committee should consider arranging the hearing over two days.</p> <p>However, Standards for England’s “Standards Committee Determinations” guidance states that:</p> <p>“Except in the most complicated cases, standards committees should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. When scheduling hearings, standards committees should bear in mind that late-night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.”</p> <p>In order for the Council to comply with Regulation 18(1)(b)(ii) of the Standards Committee (England) Regulations 2008 both Hearings Sub-Committee dates would have to be held within three months of the Final Report being issued by the investigator.</p>	<p>That where a case is especially complex or is likely to involve several witnesses, the Committee Clerk could attempt to seek a second date where the parties and the Sub-Committee Members are available, to give the Sub-Committee the option to adjourn if necessary. This second date will be as close to the original date as possible, and ideally on the following working day.</p> <p>However, Members of the Standards Committee should note that the Committee Clerk experienced significant difficulties in securing any suitable date for the hearings in the two recent cases due to the limited availability of the Sub-Committee Members.</p>

STANDARDS COMMITTEE PROCEDURE RULES

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Standards Committee Procedure Rules

- The names of any witnesses who will be asked to give evidence, including any preliminary decisions made by the Monitoring Officer on which witnesses the Hearings Sub-Committee will hear from, and whether the Hearings Sub-Committee is likely to refuse to hear evidence from any of the witnesses notified by either party and the reasons for this;
- An outline of the proposed procedure for the hearing, including whether any parts of the hearing are likely to be held in private, and whether any of the investigation report or other documents will be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' information; and
- Details of whether the Monitoring Officer has made a preliminary decision to request that either party provides, by a set date, such details, supplementary statement or access to documents as may be reasonably required for the determination of the complaint.

4.3.2 The summary will be sent to everyone involved in the hearing (including the Parties, and the Members of the Hearings Sub-Committee) at least 10 days before the proposed date of the hearing.

4.3.3 It is the responsibility of the subject Member and the investigator to make their own arrangements to ensure that their witnesses and witnesses they would like to question will attend the Hearings Sub-Committee meeting. However, contact details for those witnesses and details of the arrangements which have been made for their attendance must be provided to the Committee Clerk in advance of the Hearings Sub-Committee meeting.

4.3.4 Requests for adjournment (by either party) which are made after the pre-hearing process summary has been issued, but more than five days before the Hearings Sub-Committee meeting itself, will be decided by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee. The party requesting the adjournment must provide written reasons why an adjournment is necessary within 1 day, and the other party must provide a written response to this request within a further 2 days. The Monitoring Officer will then decide whether to amend the date of the hearing based on these written representations. Should the Monitoring Officer choose not to amend the date of the hearing, this will not prevent the party from raising this issue under Stage 2 of the hearing, nor the Hearings Sub-Committee from reaching a different view on the matter.

4.3.5 Any requests for adjournment which are made during the five days before the Hearings Sub-Committee meeting (i.e. after the agenda for the meeting has been published) will be decided by the Hearings Sub-Committee at the start of the hearing itself.

GENERAL POINTS REGARDING THE HEARINGS SUB-COMMITTEE MEETING

4.4 FAILURE TO ATTEND THE HEARING

4.4.1 If either Party fails to attend a hearing, the Committee will consider whether there is sufficient reason for the failure.

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4.7.3 The Hearings Sub-Committee may at any stage prior to the conclusion of the hearing into a final report issued by an ESO, adjourn the hearing and make a written request to the ESO that the matter be referred back to the ESO for investigation. Any such request must set out the Committee's reasons for making it.⁶⁷

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

4.8 WITNESSES

4.8.1 It will be the invariable practice of the Hearings Sub-Committee to exclude witnesses from the hearing until they have given evidence or it has been decided that their evidence is not needed. Witnesses will be asked to wait in a separate holding area until they have given their evidence or the Sub-Committee has decided their evidence is no longer required.

4.8.2 After they have given their evidence they will be invited to remain in the hearing room to observe the remainder of the Hearings Sub-Committee meeting, so long as the Hearings Sub-Committee has not taken a decision to exclude the public from all or part of the meeting.

4.8.3 The Hearings Sub-Committee instructs witnesses not to speak to one another until after they give their evidence to the Sub-Committee. This is in order to avoid the appearance of collusion or bias. To assist in this process, witnesses will not be able to return to the holding area after they have given their evidence.

STAGES OF THE HEARING

4.9 STAGE 1: SETTING THE SCENE

4.9.1 The Hearings Sub-Committee and its advisors will assemble in the hearing room⁶⁸. At the start of the Hearing all parties present will be invited to enter the hearing room. The Chair will ensure that the Parties are formally introduced.

4.9.2 The Hearings Sub-Committee will consider whether to exclude the public from any parts of the hearing and which parts of the agenda are not to be made available for public inspection⁶⁹. When doing so the Hearings Sub-Committee will have regard to the guidance from Standards for England on "Standards Committee Determinations".

⁶⁷ Regulation 18(10) Standards Committee (England) Regulations 2008.

⁶⁸ At no time before, during or after the hearing, should either party be present or represented before the Committee without the other party being also present or represented, unless the other party has failed to attend and the Committee is discussing whether to proceed in his/her absence or has decided to proceed in his/her absence.

⁶⁹ In accordance with Regulation 8(6) Standards Committee (England) Regulations 2008. If evidence is heard in private, the Legal Advisor should warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing.

4.9.3 The Hearings Sub-Committee will take representations from the parties on this point before withdrawing from the hearing room to deliberate and reach a decision. The Chair of the Hearings Sub-Committee will announce the decision on the Sub-Committee's return to the hearing room.

4.8.3 The Hearings Sub-Committee will keep this issue under review throughout the hearing.

4.8.4 The Chair will explain how the Hearings Sub-Committee will run the hearing.

4.9 STAGE 2: PRELIMINARY PROCEDURAL ISSUES

4.9.1 The Monitoring Officer will be invited to explain any unresolved procedural issues which have arisen from the pre-hearing process. This will include any preliminary decisions made by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee.

4.9.2 The Parties will then be invited to make representations about any issues or disagreements about how the hearing should continue, arising from the issues raised by the Monitoring Officer, or otherwise.

4.9.3 The Hearings Sub-Committee will decide these issues or disagreements.

4.10 STAGE 3: MAKING FINDINGS OF FACT

4.10.1 After dealing with any preliminary issues, the Hearings Sub-Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigator's Final Report.

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

IF THERE IS DISAGREEMENT OVER THE FINDINGS OF FACT

4.10.3 If there is a disagreement, the Hearings Sub-Committee will invite the Investigator to make any necessary representations to support the relevant findings of fact in the Final Report.

4.10.4 The Investigator may, with the agreement of the Hearings Sub-Committee, call any necessary supporting witnesses to give evidence.

4.10.5 The Hearings Sub-Committee may give the subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

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

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Deleted: which have not been resolved during the pre-hearing process. This may include any preliminary decisions made by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee.

Standards Committee Procedure Rules

- 4.10.7 The Hearings Sub-Committee may question any of the people involved or any witnesses and allow the Investigator to challenge any evidence put forward by witnesses called by the subject Member.
- 4.10.8 If the subject Member disagrees with most of the facts, the Hearings Sub-Committee may ask the Investigator to start by making representations about all the relevant facts, instead of discussing each fact individually.
- 4.10.9 If the subject Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Sub-Committee will consider whether it would be in the public interest to continue in their absence.
- 4.10.10 After considering the subject Member's explanation for not raising the issue at an earlier stage, the Sub-Committee may then:
- Continue with the hearing, relying on the information in the investigator's report;
 - Allow the subject Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
 - Postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.

4.10.11 After both parties have presented their case, each party will have an opportunity to sum up their case to the Hearings Sub-Committee and make any final comments. The investigator will do so first, followed by the subject Member or their representative.

4.10.12 The Sub-Committee will usually move to another room to consider the representation and evidence in private. The Hearings Sub-Committee will make findings in relation to the facts.

4.10.13 On their return to the hearing room, the Chair will announce the Sub-Committee's findings of fact.

4.11 STAGE 4: DID THE SUBJECT MEMBER FAIL TO FOLLOW THE CODE OF CONDUCT?

4.11.1 The Hearings Sub-Committee shall consider whether or not, based on the facts it has found, the subject Member has failed to follow the Code.

4.11.2 The subject Member will be invited to give relevant reasons why the Sub-Committee should decide they have not failed to follow the Code.

4.11.3 The Sub-Committee will then consider any verbal or written representations from the investigator.

4.11.4 The Sub-Committee may, at any time, question anyone involved on any point they raise on their representations.

4.11.5 The subject Member will be invited to make any final relevant points.

Part 4 (m)

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Issue 1 – 2010/11

22 April 2010



Originator: Amy Kelly

Tel: 0113 39 50261

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: Options for amendment to the local assessment process

Electoral Wards Affected:

 Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to consider amendments to the local assessment process in Leeds, including the way that complaints are handled prior to being presented to the Assessment Sub-Committee. This report also presents revised terms of reference for the four Sub-Committees, along with minor amendments to the Standards Committee Procedure Rules, for the Standards Committee’s approval.
2. The Monitoring Officer has become aware that certain other local authorities may be approaching local assessment differently, and particularly in the way that complaints are dealt with prior to being presented to the Standards Committee. Although most of the proposals in this report relate to parts of the process that are conducted by officers, the guidance on local assessment from Standards for England states that the administrative processes that the authority adopts should be agreed with the Standards Committee.
3. During a review of the Sub-Committees’ Terms of Reference it has become apparent that there are some elements of the process which are not currently delegated to a Sub-Committee. These functions are receiving a referral back from the Monitoring Officer during an investigation, and receiving a referral back from Standards for England following a decision to not investigate the matter. In both such cases the Sub-Committee is required to make a new assessment decision on the matter in accordance with powers under 57A of the Local Government Act, and therefore it is proposed that both these functions are delegated to the Assessment Sub-Committee. Amendments to the Standards Committee Procedure Rules are also proposed for clarification.
4. Members of the Standards Committee are asked to approve the proposals set out in paragraph 7 of this report.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to consider amendments to the local assessment process in Leeds, including the way that complaints are handled prior to being presented to the Assessment Sub-Committee. This report also presents revised terms of reference for the four Sub-Committees, along with minor amendments to the Standards Committee Procedure Rules, for the Standards Committee's approval.

2.0 Background Information

- 2.1 The Monitoring Officer has become aware that certain other local authorities may be approaching local assessment differently, and particularly in the way that complaints are dealt with prior to being presented to the Standards Committee. Although most of the proposals in this report relate to parts of the process that are conducted by officers, the guidance on local assessment from Standards for England states that the administrative processes that the authority adopts should be agreed with the Standards Committee.
- 2.2 Mr Keith Stevens, the interim Monitoring Officer of Torbay Council, trained the Standards Committee in conducting hearings on 4th December 2009 and 1st March 2010. During these training sessions Mr Stevens indicated that Councillors can be notified as soon as a complaint about them is received, and can be given a full summary of the complaint at this point. Mr Stevens also indicated that very few complaints in Torbay were presented to the Assessment Sub-Committee as most were resolved by the Monitoring Officer before reaching this point.
- 2.3 In addition, the Monitoring Officer has become aware that LGG Training are providing a course called "Implementing Codes of Conduct – The Revised Members Code & the New Employees Code" in which the presenter, Mr. Peter Keith-Lucas, indicates that it would be possible under the Regulations to give a copy of the complaint to the subject Member at the time it is received and also to allow the subject Member to present their own information to the Assessment or Review Sub-Committee for their consideration alongside the information provided by the complainant.
- 2.4 Members of the Standards Committee will recall that the inability of the subject Member to receive a summary of the complaint until after the Assessment Sub-Committee has met, and their inability to put their 'defence' before the Sub-Committee, were both issues of concern raised during the last survey conducted in Leeds.
- 2.5 Both Mr Stevens and Mr Keith-Lucas have been approached for further explanation on the above points, and the various options for amendment following these discussions are outlined in this report.

3.0 Main Issues

Checking whether a complaint should be referred to the Assessment Sub-Committee

- 3.1 In Leeds, the Head of Governance Services has delegated authority from the Monitoring Officer to decide whether complaints are about Member misconduct, and therefore whether they should be forwarded to the Assessment Sub-Committee for

initial assessment. To be referred to the Assessment Sub-Committee a complaint form should contain the following information:

- The names of one or more subject Members;
- The subject Member must be a Leeds City Councillor or a Parish Councillor, and have been in office at the time of the alleged incident;
- A Code of Conduct must have been in force at the time of the alleged incident;
- The complaint must be about the behaviour of a Councillor and refer to a potential breach of the Members' Code of Conduct.

- 3.2 If the complaint does not meet the relevant criteria it cannot be forwarded to the Assessment Sub-Committee. The complainant would be advised of this and given details of how best to redirect their complaint e.g. to the Local Government Ombudsman or the Compliments and Complaints Team.
- 3.3 This procedure is based on advice from Standards for England that officers dealing with incoming complaints will need to be alert to a complaint that a Member may have breached the Code. Standards for England state that if a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the Assessment Sub-Committee for consideration. However the guidance does allow the Monitoring Officer to determine whether the matter should be referred to the Assessment Sub-Committee or whether another course of action is appropriate. According to the guidance, if the complaint is clearly not about Member conduct, it does not have to be passed to the Assessment Sub-Committee.
- 3.4 Torbay Council have adopted a local protocol which requires complainants to specify on the complaints form what the subject Member is alleged to have said or done, any corroborating evidence or details of people who will be able to provide it, and a copy of any documentary evidence the complainant needs to rely on. Therefore if the complainant fails to provide any of this information the Monitoring Officer can either choose to deal with the matter via informal resolution or take no further action at all. However any decision not to refer the matter to the Assessment Sub-Committee is made after preliminary inquiries have been made and in consultation with the Chair of the Standards Committee.

Proposal for amendment

- 3.5 The Monitoring Officer therefore proposes that the Council's complaints form is amended to require the complainant to provide sufficient details of their allegation, corroborating evidence, details of witnesses and copies of documentary evidence, and that this requirement will be reflected in the list of criteria checked by the Head of Governance Services on receipt of a complaint. If the complainant did not provide such information, it is proposed that the Head of Governance Services should approach the Chair of the Standards Committee to ascertain whether the Chair believes it should be referred to the Assessment Sub-Committee anyway. If the Chair does not wish to refer it, the complaint would be rejected.
- 3.6 An amended version of the Council's complaints form and guidance leaflet is attached as Appendix 1 to this report for the Standards Committee's approval.

Options for informal resolution

- 3.7 As outlined above, Standards for England advise that where a complaint is addressed to the Monitoring Officer, and is clearly not about Member conduct, the Monitoring Officer does not have to pass it to the Assessment Sub-Committee. Furthermore, if a concern is raised with the Monitoring Officer verbally, the

Monitoring Officer should ask the complainant whether they want to formally put the matter in writing to the Standards Committee. If the complainant does not, then the Monitoring Officer should consider the options for informal resolution to satisfy the complainant.

- 3.8 This guidance suggests that informal resolution is only open to the Monitoring Officer if the complainant has indicated that they do not wish to make a formal complaint, and where the complaint is not about Member conduct.
- 3.9 However, Torbay Council's local protocol states that *"where the Monitoring Officer is of the opinion that there is the potential for local resolution, he/she may approach the Member complained against and ask whether the Member admits, denies or otherwise wishes to comment on the alleged breach and whether he/she would be prepared to offer an apology or undertake other remedial action."*
- 3.10 This local resolution is presented as an alternative to forwarding the complaint to the Referrals Sub-Committee of Torbay Council, and the decision to do so would be taken in consultation with the Chair of the Standards Committee.
- 3.11 The model procedure for the "Initial Assessment of Standards Complaints" produced by Peter Keith-Lucas (which was included in the LGG training materials) states that *"whilst formal investigation may be necessary in some cases, many complaints can often be dealt with more rapidly and effectively if an early, informal resolution of the matter can be achieved. The Standards Committee has instructed the Monitoring Officer, where a complaint has been received, to explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for a formal investigation."*
- 3.12 However Peter Keith-Lucas also advises that the Monitoring Officer should seek local resolution of the matter **at the same time** as referring the complaint to the Assessment Sub-Committee for initial assessment. This is because, in his view, local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee. Where the Monitoring Officer believes that there is potential for informal resolution, they shall approach the subject Member and ask whether they are prepared to acknowledge that their conduct was inappropriate, and whether they would be willing to give an apology or undertake other remedial action. With the consent of the subject Member, the Monitoring Officer should then approach the complainant and ask them if they would be satisfied with that outcome. The Monitoring Officer should then report the complaint and the responses of the subject Member and complainant to the Assessment Sub-Committee. The idea is that where the subject Member and complainant are satisfied with informal resolution, the Assessment Sub-Committee might take this into account when deciding whether it is in the public interest to investigate the matter.

Advantages and Disadvantages

- 3.13 The advantage of using informal resolution as an alternative to referring valid Code of Conduct complaints to the Assessment Sub-Committee is that it saves resources and it may allow the complaint to be dealt with more quickly and effectively.
- 3.14 The disadvantages of such an approach are that it can introduce a significant delay into the process, particularly if informal resolution fails and the matter needs to be referred to the Assessment Sub-Committee after all (which has occurred twice in Leeds to date), and that it prevents the Assessment Sub-Committee from exercising any discretion on the matter. For example, there may be cases where the

Assessment Sub-Committee feel that it is in the public interest to investigate, but where the Monitoring Officer chooses to deal with the matter informally. One potential solution to this would be to involve the Chair of the Standards Committee in the decision to pursue informal resolution, as in Torbay Council. However this places additional responsibility upon the Chair and also potentially removes Councillors and Parish Members from the complaints process.

- 3.15 However, if the complaint were to be referred to the Assessment Sub-Committee (in spite of the parties favouring informal resolution), and the Assessment Sub-Committee decides that there is no potential breach of the Code of Conduct, it may make it difficult for the Monitoring Officer to complete the informal resolution agreed with the complainant.

Proposals for amendment

- 3.16 The Monitoring Officer proposes that the following amendments are made to the local assessment process in Leeds:
- To introduce the option of informal resolution at the time the complaint is submitted by asking the complainant to indicate their agreement with it on the complaints form, and to specify a form of resolution that would satisfy them e.g. an apology. An amended version of the complaints form is attached as Appendix 1 to this report for the Standards Committee's approval.
 - To amend the procedure to allow the Head of Governance Services to forward cases that seem appropriate for informal resolution to the Monitoring Officer, and to not refer the complaint to the Assessment Sub-Committee at all (unless instructed to do so by the Monitoring Officer i.e. if informal resolution fails), and that this decision is taken without the assistance of the Chair of the Standards Committee.

Notifications to the subject Member

- 3.17 Torbay Council's local protocol outlines that that subject Member will be sent a summary of the complaint within five working days of receipt, unless the Monitoring Officer believes that it would be likely to:
- Put the complainant at risk of bullying, harassment or intimidation;
 - Put other witnesses at risk of bullying, harassment or intimidation;
 - Prejudice any investigation;
 - Prejudice any other action from being taken; and/or
 - Not be in the public interest.
- 3.18 This contradicts guidance from Standards for England which states that:

"The Monitoring Officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject Member that a complaint has been made about them...The notification can say that a complaint has been made, and state the name of the complainant...and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject Member once the Assessment Sub-Committee has met to consider the complaint, and the date of the meeting, if known...Only the Standards Committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject Member."

- 3.19 However, Peter Keith-Lucas also disagrees with this guidance, and states that authorities are able to depart from it where they have sound reasons for doing so. He argues that Section 57C provides that the Standards Committee must take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegations, but does not in itself prohibit the Monitoring Officer from notifying the respondent Councillor, although such notification would not count as the Standards Committee's statutory notification under Section 57C.
- 3.20 The Standards Committee (England) Regulations 2008 state at Regulation 11 that the Monitoring Officer is able to tell the subject Member that a complaint has been received. However, Regulation 12 makes it a criminal offence for a Monitoring Officer to disclose information which they have received in the performance of their functions, except where the person to whom the information relates has consented. Peter Keith-Lucas is of the opinion that the person who needs to give their consent is the subject Member, and the complainant must also give their consent for their name to be disclosed to the subject Member.
- 3.21 He is therefore happy that, unless it would interfere with a particular investigation, the Monitoring Officer has the legal power to give the subject Member a copy of the complaint. He suggests that the Council should set up a system for doing this as a matter of routine on receipt of a complaint, so that the subject Member would normally have a copy of the complaint well before the Assessment Sub-Committee met.

Proposal for amendment

- 3.22 The Monitoring Officer proposes that Leeds City Council should continue to comply with the guidance from Standards for England and provide the subject Member with a summary of the complaint in the decision notice after the Assessment Sub-Committee has met. However the Monitoring Officer will continue with informal arrangements involving the Group Whips once the subject Member has been informed by the Head of Governance Services.

Information provided by the subject Member

- 3.23 Torbay Council's local protocol states that "*the Monitoring Officer may carry out a preliminary investigation in accordance with Standards for England guidance, to assist a decision (in consultation with the Chair of the Standards Committee).*"
- 3.24 However, this contradicts the guidance from Standards for England which states that "pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject Member." It is also unclear what role the Chair of the Standards Committee could have in gathering factual documents or other information in relation to the complaint.
- 3.25 Peter Keith-Lucas states that the definition of 'readily obtainable information' might include a letter from the subject Member saying why he or she thinks that they did not breach the Code. Although Peter Keith-Lucas states that he would not invite such a letter, he sees no reason why if a letter is received it should not be put before the Assessment Sub-Committee with an appropriate caveat that the statements in the letter have not been investigated. He believes that there would be public interest in putting the letter before the Assessment Sub-Committee to avoid costly investigations.

3.26 However, advice sought by officers from Standards for England (and reported to the Standards Committee on 17th February 2010) says:

*“Any information the monitoring officer supplies at this stage should be easily obtainable. This means that if the monitoring officer is able to get their hands on useful documents without having to carry out a mini-investigation, they can do so. It does not matter whether or not the documents are publicly available - it is more about how readily available they are. The monitoring officer can, however, include documents that they can easily get hold of which are not publicly available. The interpretation of what is easily obtainable and how far a monitoring officer can go in the collection of that information is for each local authority to decide. Keeping in mind the pre-assessment enquiries should not extend to interviewing potential witnesses, the complainant or the subject member. Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee’s decision or make the decision for it. However, **we recommend that evidence supplied by the subject member is not used at this early stage.** The main considerations for each complaint should be whether a breach of the Code is revealed and the relative seriousness of the matter. Although it may be sensible in some cases to look into the motivation behind the complaint this should not be an overriding factor in taking no action on complaints that clearly reveal a potential for a breach.”*

3.27 In response to this advice Peter Keith-Lucas argues that once the Monitoring Officer has received such a letter from the subject Member, it would fall into Standards for England’s definition of ‘readily obtainable information’ i.e. including documents that the Monitoring Officer can easily get hold of which are not publicly available. He argues that if the subject Member wrote to the Monitoring Officer to say they were in France on the day the incident allegedly took place and not at the meeting etc. then this would be relevant information for the Sub-Committee. Equally, if they wrote back to say that they did say the words complained of, but the complainant deserved it, that would also make the job of the Assessment Sub-Committee easier.

Proposal for amendment

3.28 The Monitoring Officer proposes that if the subject Member decides to send such information to the Assessment Sub-Committee and Review Sub-Committee it will be accepted for consideration, but such information will not be specifically sought by officers, particularly in view of the fact that the subject Member will only be able to provide relevant information to the Assessment Sub-Committee in limited circumstances e.g. if they are able to recall the incident through recognising the complainant’s name. This is because the subject Member will not receive details of the complaint until after the Assessment Sub-Committee has met.

Assessment criteria

3.29 The Standards Committee adopted its Assessment Criteria on 13th July 2008 based on guidance from Standards for England and have not amended them since. A copy of the Assessment Criteria is attached as Appendix 2 to this report.

3.30 Torbay Council have adopted the following assessment criteria in addition to those suggested by Standards for England:

- *“The Sub-Committee may decide to take no further action because the complainant has not provided, and there is insufficient likelihood of, adequate*

evidence being found which might indicate a positive breach of the Code to justify the use of resources involved in an investigation; and

- *The Sub-Committee may decide to take no further action because the complaint was made at least six months after the event unless the pattern of behaviour complained about has been recently repeated or the evidence relied upon is predominantly documentary.”*

Option for amendment

- 3.31 Members of the Standards Committee have previously expressed an interest in setting a time limit for complaints to be referred for action, and are therefore asked to consider whether their Assessment Criteria should be amended to include the criteria above.

Feedback from complainants and subject Members

- 3.32 At the conclusion of every complaint considered by the Standards Committee, officers send a questionnaire to the complainant and the subject Member asking for any feedback on the process. Since the last review report there have been two responses from complainants, and two responses from subject Members. These responses have been collated into two questionnaires attached as Appendices 8 and 9. Members of the Standards Committee are asked to consider whether there are any changes required to the local assessment process as a result of these responses.
- 3.33 Many of the issues identified by the parties are part of the legislation and therefore cannot be changed, or are already discussed in this report or the report on “Review of the procedure for Standards Committee hearings”. Members of the Standards Committee may wish to note that the issues raised about the questioning style of the investigator have already been raised by the Head of Governance Services with the investigator concerned.

Sub-Committee Terms of Reference and Standards Committee Procedure Rules

- 3.34 During a review of the Sub-Committees’ Terms of Reference it has become apparent that there are some elements of the process which are not currently delegated to a Sub-Committee. These functions are receiving a referral back from the Monitoring Officer during an investigation, and receiving a referral back from Standards for England following a decision to not investigate the matter. In both such cases the Sub-Committee is required to make a new assessment decision on the matter in accordance with powers under 57A of the Local Government Act, and therefore it is proposed that both these functions are delegated to the Assessment Sub-Committee.
- 3.35 All four sets of Sub-Committee Terms of Reference are attached to this report as Appendices 3 to 6 for Members of the Standards Committee to note and approve.
- 3.36 In addition, according the relevant Regulations, when the Assessment Sub-Committee meets to carry out these functions, it does so in a public meeting, although the information provided by the Monitoring Officer or Standards for England can be classed as exempt information in accordance with Access to Information Procedure Rule 10.4(7C), if and so long as the public interest in maintaining the exemption outweighs the public interest in disclosing the

information. Therefore amendments are proposed to the Standards Committee Procedure Rules to clarify the status of these meetings.

- 3.37 An amended extract of the Standards Committee Procedure Rules is attached as Appendix 7 to this report for Members' consideration and approval.

4.0 Implications For Council Policy And Governance

- 4.1 Regularly reviewing the Council's local assessment procedures ensures that they remain current and fit for purpose.

- 4.2 The proposed amendments to the Standards Committee Procedure Rules will also increase transparency in the Sub-Committee's meeting procedures.

5.0 Legal And Resource Implications

- 5.1 The legal implications to these proposals are set out in the main body of this report.

- 5.2 If more complaints are resolved informally rather than forwarded to the Assessment Sub-Committee this may mean a reduction in the number of meetings required, although there is likely to be an increase in the amount of officer time spent in trying to resolve such complaints.

6.0 Conclusions

- 6.1 The Monitoring Officer has become aware that certain other local authorities may be approaching local assessment differently, and particularly in the way that complaints are dealt with prior to being presented to the Standards Committee. Although most of the proposals in this report relate to parts of the process that are conducted by officers, the guidance on local assessment from Standards for England states that the administrative processes that the authority adopts should be agreed with the Standards Committee. The various options for amendment following these discussions are outlined in this report.

- 6.2 During a review of the Sub-Committees' Terms of Reference it has become apparent that there are some elements of the process which are not currently delegated to a Sub-Committee. These functions are receiving a referral back from the Monitoring Officer during an investigation, and receiving a referral back from Standards for England following a decision to not investigate the matter. In both such cases the Sub-Committee is required to make a new assessment decision on the matter in accordance with powers under 57A of the Local Government Act, and therefore it is proposed that both these functions are delegated to the Assessment Sub-Committee.

- 6.3 In addition, according the relevant Regulations, when the Assessment Sub-Committee meets to carry out these functions, it does so in a public meeting, although the information provided by the Monitoring Officer or Standards for England can be classed as exempt information in accordance with Access to Information Procedure Rule 10.4(7C), if and so long as the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Therefore amendments proposed to the Standards Committee Procedure Rules to clarify the status of these meetings.

7.0 Recommendations

- 7.1 Members of the Standards Committee are asked to consider the following proposals from the Monitoring Officer for amendments to the local assessment process:
- 7.1.1 To amend the Council's complaints form to require the complainant to provide sufficient details of their allegation, corroborating evidence, details of witnesses and copies of documentary evidence, and that this requirement will be reflected in the list of criteria checked by the Head of Governance Services on receipt of a complaint. If the complainant did not provide such information, it is proposed that the Head of Governance Services should approach the Chair of the Standards Committee to ascertain whether the Chair believes it should be referred to the Assessment Sub-Committee anyway. If the Chair does not wish to refer it, the complaint would be rejected.
 - 7.1.2 To introduce the option of informal resolution at the time the complaint is submitted by asking the complainant to indicate their agreement with it on the complaints form, and to specify a form of resolution that would satisfy them e.g. an apology.
 - 7.1.3 To amend the procedure to allow the Head of Governance Services to forward cases that seem appropriate for informal resolution to the Monitoring Officer, and to not refer the complaint to the Assessment Sub-Committee at all (unless instructed to do so by the Monitoring Officer i.e. if informal resolution fails), and that this decision is taken without the assistance of the Chair of the Standards Committee.
 - 7.1.4 That Leeds City Council should continue to comply with the guidance from Standards for England and only provide the subject Member with a summary of the complaint in the decision notice after the Assessment Sub-Committee has met. However the Monitoring Officer will continue with informal arrangements involving the Group Whips once the subject Member has been informed by the Head of Governance Services.
 - 7.1.5 That if the subject Member decides to send any information to the Assessment Sub-Committee and Review Sub-Committee regarding the allegations against them it will be accepted for consideration, but that such information will not be specifically sought by officers.
- 7.2 Members of the Standards Committee are also asked to:
- 7.2.1 Approve the amended complaints form and guidance leaflet (attached as Appendix 1 to this report);
 - 7.2.2 Consider whether to make any additional amendments to the local assessment process as a result of the questionnaire responses attached as Appendices 8 and 9 to this report;
 - 7.2.3 Consider possible amendments to their Assessment Criteria (as set out in paragraph 3.31);
 - 7.2.4 Approve the revised terms of reference for the Assessment Sub-Committee, Review Sub-Committee, Consideration Sub-Committee, and Hearings Sub-Committee (attached as Appendices 3 to 6 to this report); and
 - 7.2.5 Approve the proposed amendments to the Standards Committee Procedure Rules (attached as Appendix 7 to this report) to clarify when meetings of

the Assessment Sub-Committee are potentially open to the public or closed.

Background Documents

“Local Assessment of Complaints” by Standards for England, available at: <http://www.standardsforengland.gov.uk/Guidance/TheLocalStandardsFramework/> , last updated June 2008

Standards Committee (England) Regulations 2008

Local Government Act 2000

LGG course materials, “Implementing Codes of Conduct – The Revised Members’ Code & the New Employees’ Code” presented by Peter Keith-Lucas, 10th February 2010

Email correspondence from Peter Keith-Lucas sent 26th February 2010

“Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members”, Torbay Council Constitution, available at: http://www.torbay.gov.uk/42_local_protocol_on_local_assessment_and_investigation_of_allegations_of_misconduct_by_members.doc

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Assessment Criteria

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

- Complaints made anonymously will only be referred for investigation or other action if they are exceptionally serious or significant.
- If the information provided in the complaint is insufficient to make a decision as to whether the complaint should be referred for investigation, the Sub-Committee will take no further action on the complaint, unless or until further information is provided.
- If an alternative to investigation would provide an effective resolution to the matter, the Sub-Committee may refer the complaint to the Monitoring Officer to take alternative action. However if the alternative action is not successful, the case will no longer be open to investigation.
- Complaints which are considered trivial or not sufficiently serious may not be referred for further action.
- If a long period of time has passed since the alleged conduct occurred, it may be considered of little benefit to take any further action in relation to the complaint.
- If the complaint appears to be malicious, politically motivated or tit-for-tat, the Sub-Committee may decide that further action is not warranted.
- If the matter complained of has already been subject to previous investigation or other action, or has been subject to investigation by another regulatory authority, and there is nothing to be gained by further action, the Sub-Committee may not refer the complaint for investigation or other action.
- Except in the most serious of cases, complaints that disclose a potential breach under the 2001 Code of Conduct but would not constitute a breach under the 2007 Code of Conduct are unlikely to be referred for investigation or further action.
- Where the Member is no longer a member of our authority but is a member of another authority, the complaint may be referred to that authority to consider.
- If investigation of the matter would serve no useful purpose for whatever reason, the Sub-Committee may not refer the matter for investigation.
- If the complaint is unsuitable for local investigation, the matter will be referred to Standards for England.

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The Standards Committee – Assessment Sub-Committee

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

1. To receive, consider and initially assess² any written allegations³ of misconduct⁴ made against Members in relation to Code of Conduct Complaints.
2. To receive and consider written reports from the Monitoring Officer giving details of the actions taken or proposed to comply with any direction from the Assessment or Review Sub-Committee to take steps other than an investigation.⁵
3. To receive and consider references back from the Monitoring Officer during an investigation⁶, and to make a new initial assessment decision on the matter. The Assessment Sub-Committee may also direct that the matter is not referred back to them a further time under this provision.
4. To receive and consider references back from Standards for England (following a decision to refer the allegation to Standards for England)⁷, and to make a new initial assessment decision (as if the option to refer the allegation to Standards for England did not apply)⁸.

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

² Section 57A Local Government Act 2000

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

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

⁵ In accordance with Regulation 13 of the Standards Committee (England) Regulations 2008.

⁶ In accordance with Regulation 16 of the Standards Committee (England) Regulations 2008.

⁷ In accordance with Section 58(1)(c) of the Local Government Act 2000.

⁸ In accordance with Section 58(3) of the Local Government Act 2000.

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The Standards Committee – Review Sub-Committee

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

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

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

² Section 57A Local Government Act 2000

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

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

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The Standards Committee – Consideration Sub-Committee

The Standards Committee – Consideration Sub-Committee is authorised to perform the following functions¹:

1. To receive completed Investigation reports in relation to Code of Conduct Complaints and make the relevant findings under Regulation 17 The Standards Committee (England) Regulations 2008.
2. To receive completed Investigation reports in relation to Local Complaints and make the relevant findings under the Standards Committee Procedure Rules².

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

² Standards Committee Procedure Rule 5.7

Part 3 Section 2B

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Issue 1 – 2010/11

16 December 2009

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The Standards Committee – Hearings Sub-Committee

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

1. To consider and determine any complaints² made against Members and to determine any sanction to be imposed on a finding of misconduct.

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

² "complaints" for these purposes to mean allegations of 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;

which have been the subject of an investigation resulting in a finding of failure to comply (or in relation to which the Standards Committee have resolved not to accept a finding of no failure to comply) and are therefore referred to the Committee by the Monitoring Officer

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STANDARDS COMMITTEE PROCEDURE RULES

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2.7.2 An ESO may also refer a matter to the Monitoring Officer with a direction to take steps other than carrying out an investigation²⁹.

2.7.3 The steps that the Monitoring Officer can take are:

- Arranging for the subject Member to attend a training course;
- Arranging for the subject Member and the complainant to engage in a process of conciliation;
- Such other steps (not including an investigation) that the Assessment or Review Sub-Committee (or the ESO³⁰) think are appropriate.

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

2.7.5 Within five days of the referral being made (wherever possible), the Monitoring Officer will notify³¹:

- the subject Member,
- the complainant³², and
- any Parish Council concerned

that the complaint has been referred to them for such steps to be taken.

2.7.6 The Monitoring Officer will submit a written report³³ to the Assessment Sub-Committee (or ESO) within three months of the direction (or as soon as reasonable practicable after three months). That written report will give details of the action that has been taken or that it is proposed will be taken to comply with the direction of the Assessment or Review Sub-Committee. The Assessment Sub-Committee will consist of the same Members who originally assessed the complaint and referred it to the Monitoring Officer, wherever possible.

2.7.7 When the Assessment Sub-Committee meets to consider the Monitoring Officer's report on this matter, the Assessment Sub-Committee meeting will be subject to the notice and publicity requirements in Part 5A of the Local Government Act 1972, although the Monitoring Officer's report can be categorised as exempt information under paragraph 10.4(7C) of the Access to Information Procedure Rules, so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

²⁹ Under Section 60(2) or (3) of the Local Government Act 2000

³⁰ If the complaint was referred to the Monitoring Officer under Section 60 (2) or (3) of the LGA 2000

³¹ Reg 13 Standards Committee (England) Regulations 2008

³² And the standards committee of any other authority concerned

³³ Reg 13(6) Standards Committee (England) Regulations 2008

2.8.3 The Monitoring Officer will ensure that the investigation is carried out in accordance with the guidance issued by Standards for England and the Council's own procedure for external Code of Conduct investigations.

2.9 REFERENCES BACK TO ASSESSMENT SUB-COMMITTEE BY THE MONITORING OFFICER DURING AN INVESTIGATION OR OTHER ACTION⁴²

2.9.1 Where the Monitoring Officer has had a complaint referred to him/her by the Assessment or Review Sub-Committee to either investigate or take steps other than an investigation, the Monitoring Officer may refer the matter back to the Assessment Sub-Committee if the following circumstances apply:

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

2.9.2 When a matter is referred back to the Assessment Sub-Committee in this way, the Assessment Sub-Committee meeting will be subject to the notice and publicity requirements in Part 5A of the Local Government Act 1972, although the information provided by the Monitoring Officer can be categorised as exempt information under paragraph 10.4(7C) of the Access to Information Procedure Rules, so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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2.9.3 The Assessment Sub-Committee shall make a new initial assessment decision following the procedure set out in paragraph 2.1. The Assessment Sub-Committee can also direct that a complaint should not be referred back to it a further time.

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2.9.4 The Monitoring Officer can take the following into account when forming their opinion on the circumstances outlined in paragraph 2.9.1:

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

2.10 REFERRAL OF A COMPLAINT TO STANDARDS FOR ENGLAND BY THE ASSESSMENT OR REVIEW SUB-COMMITTEE

⁴² Regulation 16 Standards Committee (England) Regulations 2008.

Standards Committee Procedure Rules

2.10.1 When the Assessment or Review Sub-Committee refers a complaint to Standards for England for investigation, Standards for England will either⁴³ :

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

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2.10.2 Standards for England will usually inform the Monitoring Officer within ten days if they will accept a complaint or will be referring it back to the Assessment Sub-Committee. Standards for England will give their reasons for doing so.

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2.10.3 When a case is referred back to the Assessment Sub-Committee by Standards for England an initial assessment decision will be made again in accordance with paragraph 2.1 above within an average of 20 days. Standards for England may give guidance, or give a direction to the Assessment Sub-Committee when a case is referred back to them in this way⁴⁴.

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2.10.4 The Assessment Sub-Committee meeting to consider this referral from Standards for England will be subject to the notice and publicity requirements in Part 5A of the Local Government Act 1972, although the information provided by Standards for England can be categorised as exempt information under paragraph 10.4(7C) of the Access to Information Procedure Rules, so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

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

2.10.6 The Assessment Sub-Committee does not have the option of referring the matter back to Standards for England for a second time.

⁴³ S.58 Local Government Act 2000

⁴⁴ In accordance with Section 58(1)(c) of the Local Government Act 2000.

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Code of Conduct complaints process – Complainants’ feedback form

The Assessment Sub-Committee

1. Did you feel you were provided with enough information about the role of the Assessment Sub-Committee prior to the meeting?

Yes
1

No
1

Don't Know
0

Decision Notices

2. Did you find the decision notice you received about the complaint to be clear and easy to understand?

Very clear

Quite clear
1

Average
1

Not very clear

Not clear at all

3. What improvements do you think we could make to our decision notices?

There were two complaints, Councillor and employee

- 1) The decision, re Leeds CC legislation rules, appears correct (not verified) for Councillor representation verdict of rules – not democratic / weak.
- 2) There was no response to original complaint of Head of Dept. being assistant to false allegations & reports.

(No suggestions from the other respondent)

4. What do you think to the level of detail in the decision notice from the Assessment Sub-Committee? Would you have preferred more or less information?

Much more information
1

Slightly more information
1

About right
0

Slightly less information
0

Much less information
0

Verification of rules / who made such rule. Referendum to Leeds public.

Investigations

5. Did you feel you were provided with enough information by the Council and the investigator about the investigations process?

Yes
0

No
1

Don't Know
0

(The other respondent did not use the review process)

6. Were you satisfied with the way the investigation was carried out by the investigator?

Very satisfied	Quite satisfied	Neither satisfied nor dissatisfied	Dissatisfied
0	0	0	1

7. If you were dissatisfied with the investigations process, what was the reason for this?

It was conducted over the phone and it was a brief interview lasting only 5 minutes.

(The other respondent did not go through the investigation or hearings process)

8. Please provide any other comments or feedback on the complaints process you would like us to consider when next reviewing the procedure. (Please continue on a separate sheet if necessary).

This legislation requires overhauling. The Sub-Committee also requires a course on Employment Law, or, an improved Committee of 'public' non Council representatives.

Code of Conduct complaints process – Subject Members’ feedback form

The Assessment Sub-Committee

1. Did you feel you were provided with enough information about the role of the Assessment Sub-Committee following the meeting?

Yes	No	Don't Know
0	1	1

Decision Notices

2. Did you find the decision notice you received about the complaint to be clear and easy to understand?

Very clear	Quite clear	Average	Not very clear	Not clear at all
0	2	0	0	0

3. What improvements do you think we could make to our decision notices?

The full allegations were not printed, just selected bits which made it very difficult to understand what I was meant to be defending.

(No suggestions from the other subject Member)

4. What do you think to the level of detail in the decision notice from the Assessment Sub-Committee? Would you have preferred more or less information?

No response from one subject Member apart from the following comment: “It depends on their decision! Ok if not guilty, more if found in breach!”

Much more information	Slightly more information	About right	Slightly less information	Much less information
0	0	1	0	0

The Review Sub-Committee

5. Did you feel you were provided with enough detail about the role of the Review Sub-Committee?

(The other respondent did not go through the Review Sub-Committee process)

Yes	No	Don't Know
0	0	1

Investigations

6. Did you feel you were provided with enough information by the Council and the investigator about the investigations process?

(The other respondent did not go through the investigations process)

Yes	No	Don't Know
0	1	0

7. Were you satisfied with the way the investigation was carried out by the investigator?

Very satisfied	Quite satisfied	Neither satisfied nor dissatisfied	Dissatisfied
0	0	0	1

8. If you were dissatisfied with the investigations process, what was the reason for this?

I felt I was a criminal the complainant the innocent one who was always right, without any justification of this. I was literally brought to tears by the questioning style of the investigator who tried to force her view of the world on to me.

9. Were you satisfied with the legal representation you received through the Council's insurance scheme for Members?

Very satisfied	Quite satisfied	Neither satisfied nor dissatisfied	Dissatisfied
1	0	0	0

10. Please provide any other comments or feedback on the complaints process you would like us to consider when next reviewing the procedure. (Please continue on a separate sheet if necessary).

Respondent 1: I think we should be able to put in a written defence to the allegations as part of the Assessment Sub-Committee's decision making. We should not be made to feel as through we are guilty until proven innocent. Our constituents often misunderstand what the context of decisions is and sometimes a few of them lie! The timescale was interminable and I felt very ill as a result which meant I was in hospital with a stress induced asthma attack. There was very little information or regular contact to tell me what was happening. The investigator told me more than the Council did. I also think if a decision not to investigate is made and a complainant wants to appeal, then the Councillor should have the right to put in a written response – the rights are all on the complainant's side. I am glad the Government is abolishing this!

Respondent 2: I feel the Council should adopt a policy for persistent and malicious complaints which are regularly made by the same individuals.



Originator:	Laura Ford
Tel:	0113 39 51712

Report of Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: Members' Induction Period 2010

<p>Electoral Wards Affected:</p> <div style="border: 1px solid black; display: inline-block; width: 20px; height: 10px; vertical-align: middle;"></div> Ward Members consulted (referred to in report)	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
--	--

Executive Summary

1. It is part of the Standards Committee's responsibilities to make arrangements for training in matters relating to the Code of Conduct and local codes and protocols. This report makes Members of the Committee aware of the following issues relating to the Members' induction period:
 - New Members' declaration of acceptance of office and undertaking to comply with the Code of Conduct;
 - Information on the Members' register of interests; and
 - Training of Members.

2. Members of the Committee are asked to note the contents of this report.

1.0 Purpose Of This Report

1.1 The purpose of this report is to inform Members of the Committee of the following issues:

- New Members' declaration of acceptance of office and undertaking to comply with the Code of Conduct;
- Information on the Members' register of interests; and
- Training of Members.

2.0 Background Information

2.1 It is part of the Standards Committee's responsibilities to review and make arrangements for training in matters relating to the Code of Conduct and local codes and protocols. This report therefore provides information about the Members' induction period for 2010.

2.2 On 7th May 2010, 22 Councillors were re-elected and 11 new Councillors were elected. All 33 Members were required to complete two pieces of paperwork within 28 days. These were:

- Their declaration of acceptance of office and undertaking to comply with the Code of Conduct; and
- Their register of interests entry.

2.3 The new Members were invited to attend a series of training sessions on a variety of issues.

3.0 Main Issues

Declaration of acceptance of office

3.1 In Leeds, all 33 Members were required to complete the following pieces of paperwork within 28 days of their election or re-election:

- Their declaration of acceptance of office and undertaking to comply with the Code of Conduct; and
- Their register of interests entry.

3.2 New Members were provided with all forms within their induction pack, which included instructions as to where documents should be handed in and the relevant deadlines for completion.

3.3 The completed declarations of acceptance of office and compliance with the Code of Conduct are retained by Democratic Services and stored in a book. Members were required to return their form by 27th May 2010 (prior to taking part in the annual meeting). All Members complied with this deadline.

3.4 A number of other meetings took place prior to the annual meeting that returning Members would be attending, for which they also needed to have completed the declaration of acceptance. A prioritised schedule was produced highlighting key dates and Councillor attendance. The Resources and Projects Manager coordinated the return of completed forms and was responsible for keeping all key stakeholders fully informed with an updated position statement.

Register of Interests

- 3.5 The completed register of interests forms are retained by Governance Services. Members were required to complete and return this form within 28 days of their election or re-election. 29 register of interests forms were received within the deadline, including all of the newly elected Members. 3 forms were received 3 days after the deadline, and 1 form was received 4 days after the deadline.
- 3.6 A system was used to help to ensure that Members complied with the deadline, as was used in previous years. The Corporate Governance Officer and Group Support Managers were involved in the process of issuing reminders to Members. The Monitoring Officer contacted the Members who did not return their form by the deadline to ask them to return it as soon as possible.

Training for Members

- 3.7 All newly elected and existing Members were invited to take part in a series of training courses during the induction period. This programme was advertised both prior to the election as well as by individual invite to the new Members, once they were known.
- 3.8 All newly elected Members have attended training on the Code of Conduct, including registration and declaration of interests. When the induction training has been completed, feedback will be sought as to whether any Members had difficulty in attending sessions and the reasons why, and these will be addressed as far as possible in preparation for next year's programme.
- 3.9 Governance and conduct training for members of Plans Panels and Licensing Committee will be held as part of the Member Learning Days which will be held on 24th September, 30th November, 26th January and 24th March.

4.0 Implications For Council Policy And Governance

- 4.1 Ensuring that all Members are aware of their responsibilities as Councillors, such as complying with the Code of Conduct, is essential for good governance. By providing training and assistance to Members, officers within Democratic Services help to ensure that all Councillors comply with their legal duties.

5.0 Legal And Resource Implications

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

6.0 Conclusions

- 6.1 It is part of the Standards Committee's responsibilities to make arrangements for training in matters relating to codes of conduct and protocols. This report makes Members of the Committee aware of several issues relating to the Members' induction period.

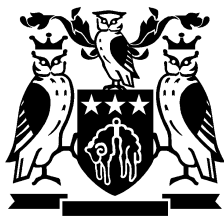
7.0 Recommendations

- 7.1 Members of the Committee are asked to note the contents of this report.

Background Documents

None

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Originator:	Laura Ford
Tel:	0113 39 51712

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: Review of the Members' Register of Interests, Gifts and Hospitality 2009/10

Electoral Wards Affected:

Ward Members consulted (referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report presents to the Standards Committee statistical data in relation to declarations of gifts and hospitality recorded by Members during the period 2009/10, and draws comparisons with declarations made by Members in 2008/09 and 2007/08. The report highlights any trends that have been identified in terms of:
 - the number of gifts / hospitality received;
 - the Members receiving the largest numbers of gifts / hospitality; and
 - the organisations making the largest numbers of donations.
2. The report shows that there has been a slight decrease in the number of gifts and hospitality received by the Mayor and Deputy Lord Mayor, and that the number of gifts receive by other Members has remained at a fairly consistent level, however the value of both mayoral and non-mayoral gifts has increased.
3. The Standards Committee is recommended to consider the information as set out in the report and whether they are satisfied with the assurances provided.

1.0 Purpose Of This Report

1.1 This report presents to the Standard Committee statistical data in relation to declarations of gifts and hospitality recorded by Members during the period 2009/10, and draws comparisons with declarations made by Members in 2008/09 and 2007/08. The report highlights any trends that have been identified in terms of:

- the number of gifts / hospitality received;
- the Members receiving the largest numbers of gifts / hospitality; and
- the organisations making the largest numbers of donations.

2.0 Background Information

2.1 Details of the gifts and hospitality which Members have received since May 2007 (including details of the donor and the value of the gift) are available on the Council's website as part of each individual Member's Register of Interests.

2.2 The Standards Committee received reports that presented them with statistical data in relation to the register of gifts and hospitality from 2002 to May 2007 in October 2007, and for the 2007/08 and 2008/09 municipal years in July 2008 and July 2009 respectively. This report analyses any trends in the number, frequency and value of gifts received during the year 2009/10 in the same way, and draws comparisons with the register of gifts for 2008/09 and 2007/08.

3.0 Main Issues

Procedure for recording gifts and hospitality received by Members

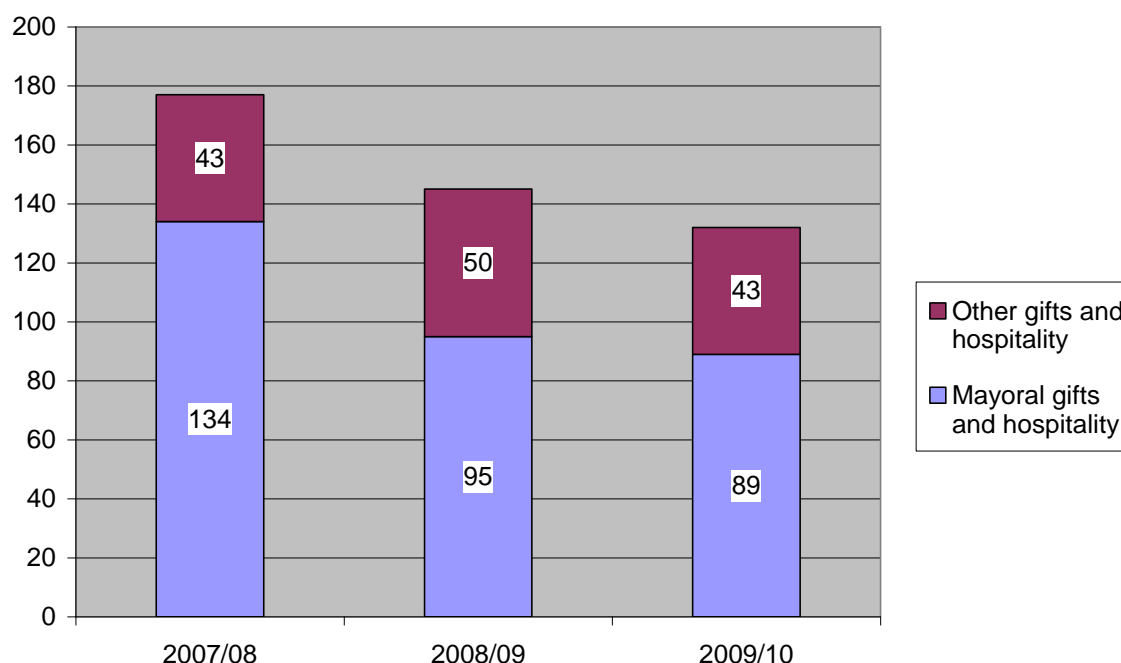
- 3.1 Members are required to register any gifts or hospitality they receive worth over £25.00 and in connection with their role as a Councillor. In order to register the gift Members must provide the name of the donor, a brief description of the gift or hospitality, the date they received the gift, and its estimated value.
- 3.2 Members are provided with extensive guidance (available on the Council's intranet site and from their group office) on when to accept gifts and hospitality, and when this would be inappropriate. A gifts and hospitality briefing note has also been produced (attached at Appendix 1), which was considered by Group Whips before being circulated to Members on 5th March 2010.
- 3.3 The briefing note addresses the queries raised by Group Whips and other Members about gifts and hospitality received from Outside Bodies, and whether gifts received as part of a Member's duties on that body (for example, tickets provided by Leeds Grand Theatre in order that its Board Members can monitor performances) should be registered. Advice was sought from Standards for England on this matter, who confirmed that such gifts should be registered. This advice is included in the briefing note.
- 3.4 There is also a form available for Members to use when registering their receipt of a gift which prompts them to provide all the required information. This form was also updated in accordance with comments received from Group Whips, and is attached to the briefing note at Appendix 1.
- 3.5 Members are reminded of the need to register gifts and hospitality through the regular quarterly reminders sent to them regarding the Register of Interests. In addition, Members who also hold special positions, such as the Leader or the Lord

Mayor, have special arrangements for officers to forward details of civic engagements and gifts received on their behalf.

- 3.6 In addition, Members are required to declare a personal interest in any matter under consideration at a meeting if it is likely to affect a person who gave them the gift or hospitality. Members must declare the existence and nature of the gift and hospitality, the person who gave it to them and how the matter relates to that person. Three years after a Member has received a gift, their obligation to declare it at a meeting ceases, although it will remain on their register for the duration of their period as a Councillor.
- 3.7 Members are reminded of the need to declare any personal interests arising from their Register of Interests through an aide memoir sent by the relevant Committee Clerk prior to the Committee meeting.

Number of gifts

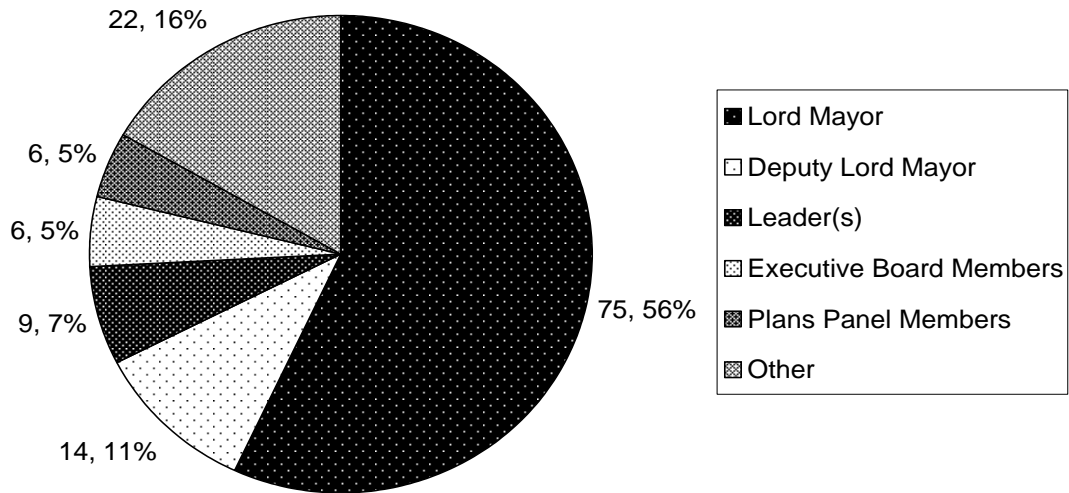
- 3.8 The number of gifts received in the last municipal year in comparison the number received in 2008/09 and 2007/08 can be seen in the graph below:



- 3.9 As can be seen in the graph, there has been a moderate decrease in the number of gifts and hospitality received by the Mayor and Deputy Lord Mayor since 2007/08, and the number of gifts received by other Members has remained at a fairly constant level.
- 3.10 The Lord Mayor's Secretary is required to keep a register of civic gifts for audit purposes. These are gifts given to the Lord Mayor that are not personal gifts, but are intended for the city. These gifts are kept in the Lord Mayor's accommodation. Any personal gifts and all hospitality received are recorded in the Lord Mayor's register of interests.

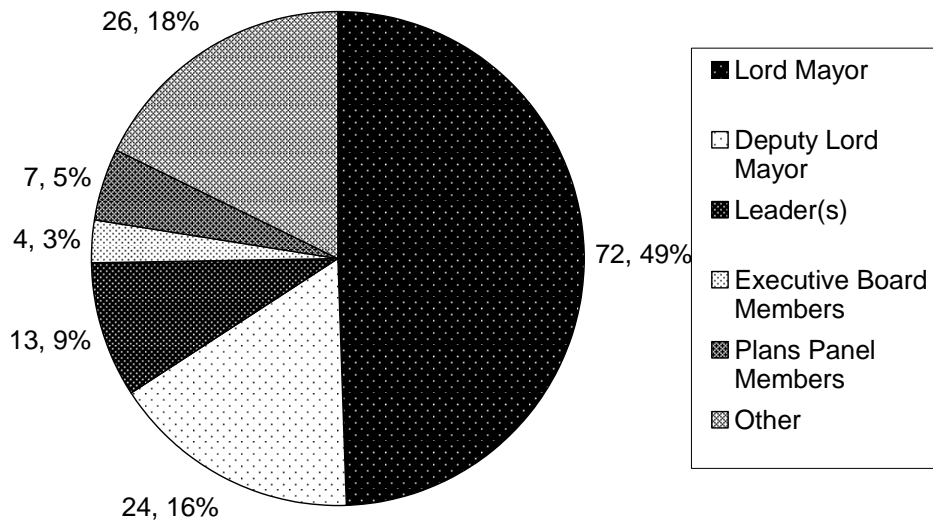
Position of recipient

3.11 An analysis of the position of the recipients in 2009/10 can be seen in the graph below:

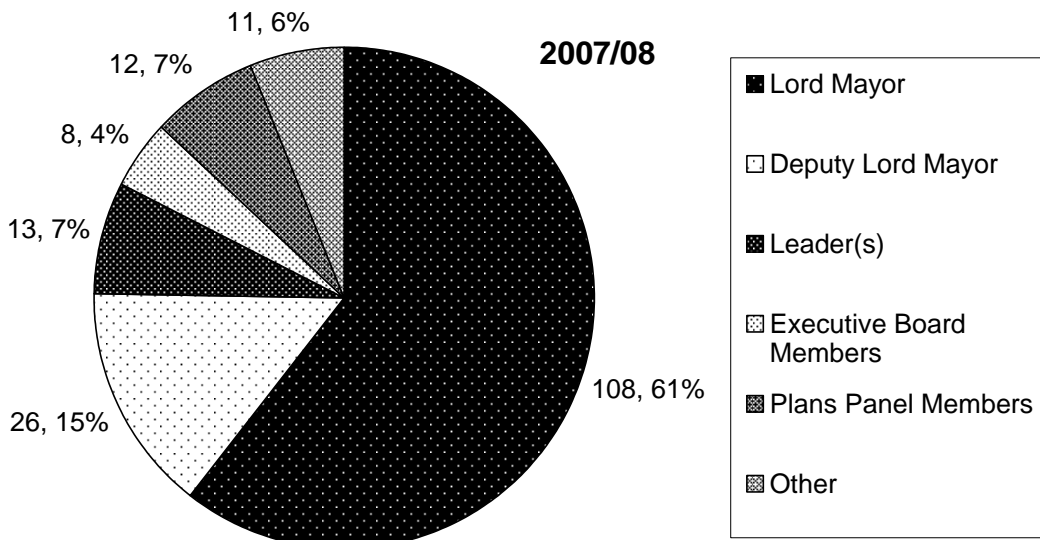


3.12 The position of the recipients in 2008/09 and 2007/08 can also be seen below:

2008/09



2007/08

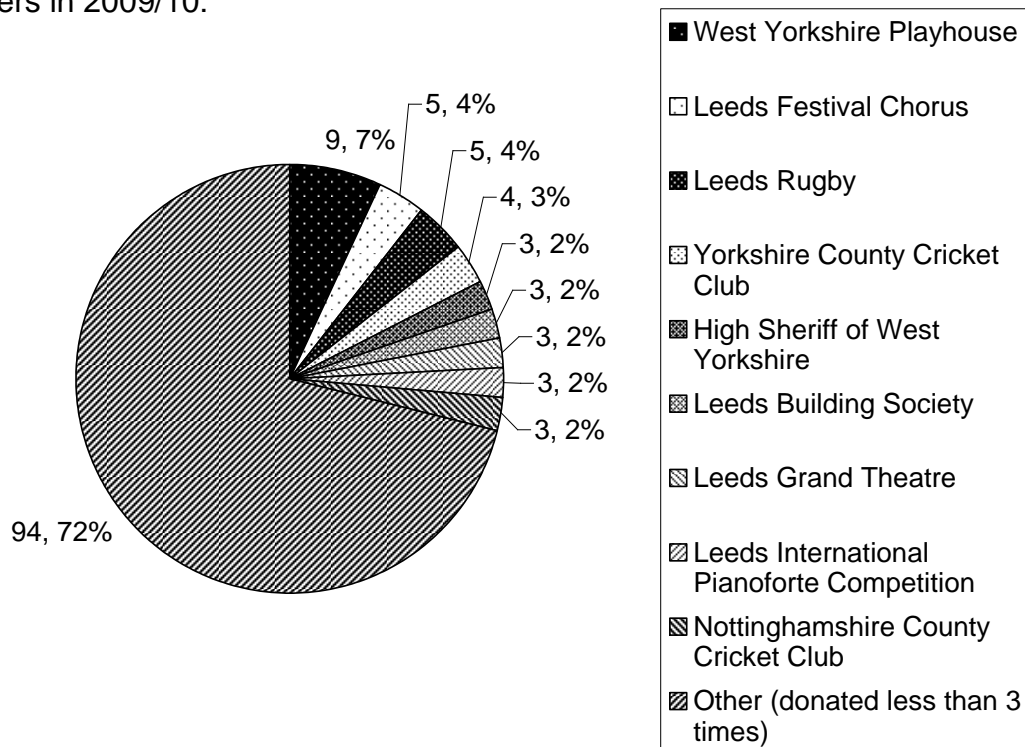


3.13 A comparison of the three graphs shows that the percentage of gifts and hospitality provided to the Lord Mayor decreased in 2008/09, but increased again in 2009/10. The percentage of gifts provided to the Leader(s) increased in 2008/09, and has remained at a similar percentage in 2009/10. However, there has been no marked increase or decrease in the percentage of gifts given to a particular type of Member over the last three years.

3.14 As in previous years the Leaders and members of Executive Board account for a fairly large proportion of gifts and hospitality, which could be explained by the fact that these are high profile Members who regularly feature in local media. However, they are also the Members of the Council who have the most decision making power.

Frequency of donations

3.15 The chart below shows the identity of the top ten providers of gifts and hospitality to Members in 2009/10:



3.16 Those who have donated less than three times during the year are grouped together under 'other'. This includes bodies such as the University of Leeds and the Royal Shakespeare Company.

3.17 The body that has provided the most frequent gifts and hospitality (West Yorkshire Playhouse) has close ties with the Council, as the Council has Members on its management board. Therefore the provision of free tickets to shows is fairly commonplace.

3.18 Three of the top five donors in the municipal year 2008/09 (Yorkshire County Cricket Club, High Sheriff of West Yorkshire and Leeds Grand Theatre) appear in the top ten donors for 2009/10.

Value of gifts and hospitality

3.19 In the municipal year 2009/10, 132 gifts and hospitality were recorded by Members. These amounted to an estimated total of £8,707.00. This comes to an average amount of £66.00 per gift, and represents an increase in the value of gifts received

in 2008/09 of £2030.50. This increase can be partly attributed to the registration of an annual Metrocard by one Member which is valued at £1,170.00.

3.20 Once the value of gifts and hospitality received by the Lord Mayor are removed from the total, £4,387.00 worth of gifts and hospitality were received in 2009/10, which represents an increase of £1,893.00 in the value of non-mayoral gifts and hospitality received in 2008/09. The average amount per gift has also increased since 2008/09, which amounted to £45.70 per gift.

3.21 The cumulative value of the gifts received in the municipal year 2009/10 can be seen in Appendix 2 to this report. As can be seen from the table, the most valuable single gift came from West Yorkshire Integrated Transport Authority (WYITA) who donated an annual Metrocard worth £1,170. WYITA have confirmed that a Metrocard is made available to its Members in order that they can monitor bus and rail services, and in lieu of travel expenses, however occasional private use is also permitted. It costs WYITA £262.00 to provide each Metrocard, however the value of £1,170 has been recorded as this would be the cost to a member of the public.

Declarations of interest arising from gifts and hospitality received

3.22 A number of interests relating to gifts and hospitality were declared by a total of four Members at the full Council meeting held on 18th November 2009. These related to three White Paper Motions regarding Leeds Rhinos, Yorkshire County Cricket Club and VAT Rates for Building Repairs and Maintenance.

3.23 As part of the Council's monitoring arrangements in relation to declaration of interests, officers in Governance Services compare meeting agendas with the relevant Committee Members' register of interests, and alert the Member concerned if a potential interest is identified. Officers in Governance Services have confirmed that apart from the above, no potential interests were identified during 2009/10 in relation to gifts and hospitality.

4.0 Implications For Council Policy And Governance

4.1 Undertaking the described review of the gifts and hospitality registered by Members enables to the Council to have a better understanding of the nature of gifts and hospitalities received by Members and also the effectiveness of those procedures in place to ensure that the acceptance of any such offers by Members is open and transparent.

4.2 The onus is on elected members to declare details of the gifts and hospitality which they receive in the discharge of their duties as a Councillor. The Head of Governance Services, having reviewed the guidance and systems available for Members to register gifts and hospitality, is satisfied that the guidance and processes are current and fit for purpose and have been effectively communicated to Members and the relevant support staff. Further, the Head of Governance Services confirms that where the receipt of gifts and hospitality has been notified, appropriate declarations of interest have been made by Members at meetings of the authority. In view of this the Head of Governance Services has no reason to doubt that the arrangements are embedded and are being routinely complied with.

5.0 Legal And Resource Implications

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

6.0 Conclusions

- 6.1 The report shows that there has been a decline in the number of gifts and hospitality received by the Mayor and Deputy Lord Mayor over the last three years, however the number of gifts and hospitality received by other Members has remained at a fairly consistent level. There have been no significant changes in the position of the Members who receive the most gifts. The value of the gifts and hospitality received in 2009/10 has increased since 2008/09, but is still below the value of those received in 2007/08.
- 6.2 Several gifts and hospitality related interests were declared at the full Council meeting held on 18th November 2009. Officers in Governance Services have confirmed that no other potential gifts and hospitality related interests were identified during 2009/10.

7.0 Recommendations

- 7.1 Members of Standards Committee are recommended to consider:
- the information provided in this report; and
 - whether they are satisfied with the assurances provided.

Background Documents

Reports to Standards Committee, Review of the Members' Register of Interests, Gifts and Hospitality, 1st July 2008 and 8th July 2009

Leeds City Council Members' Register of Interest Forms

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Registration of gifts and hospitality

Guidance for Members



There are several different circumstances in which Members of Leeds City Council may receive gifts or hospitality. These circumstances may affect whether they need to be registered in the Members' Register of Interests.

This briefing note answers several frequently asked questions which should assist Members in deciding whether to accept a gift or hospitality, and whether it should be registered.

What is hospitality?

Hospitality can be defined as any food, drink, accommodation or entertainment freely provided or heavily discounted.

What types of gifts or hospitality do I need to register?

All gifts and hospitality **which you receive in your capacity as a Member** which are worth £25 or more must be registered in the Members' register of interests. The £25 limit is set by the national Members Code of Conduct.

A form is attached to this briefing note which you can complete and return in order to register any gifts or hospitality you receive. Additional copies of this form are available from your Group Support Manager.

Does this include birthday and Christmas presents from friends and family?

You only have to declare those gifts or hospitality received in your capacity as a Member. You must apply common sense when you consider how receipt of a gift might be interpreted. For example, if you are a member of a planning committee and you receive a birthday present from an applicant just before a planning application is due to be considered, then you would need to think about how this would be interpreted by a reasonable member of the public.

You should register gifts and hospitality if they could reasonably be viewed as relating to your official duties.

What if the hospitality is provided by the Council itself?

Standards for England advise that Members do not have to register their receipt of gifts and hospitality if they are provided by the Council and are ancillary to the business being conducted, for example, an overnight stay at an away day or a meal provided during a training session or civic reception.

How do I work out the value of a gift or hospitality?

When assessing whether the gift or hospitality is worth £25 or more, a degree of common sense needs to be applied. Where a series of small gifts come from the same source over a short period of time and the cumulative value of the gifts is over £25, they ought to be registered.

The best way to preserve transparency when assessing the value of any **hospitality** provided, is to assess the hospitality on offer, whether you accept it or not. This is because it would clearly not be in your interests to be drawn into arguments about how much you personally ate or drank at a particular occasion. For example, you may find yourself at a function where relatively lavish hospitality is on offer but you choose not to accept it. You may go to a champagne reception but only drink a glass of orange juice. As a guide you should consider how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis. Clearly where you are in any doubt the prudent course is to register the hospitality.

What if I don't accept the gift or hospitality?

You only need to register gifts and hospitality which are **accepted**, and do not have to register gifts which are refused and returned to the donor. However if you receive a gift which you do not return to the donor, but pass on to another person to use, e.g. the Lord Mayor's appeal or one of your constituents, this should also be registered as it has technically been accepted by you.

I have been appointed to the Leeds Grand Theatre Board by the Council. What do I do about free tickets or hospitality provided by Leeds Grand Theatre?

Standards for England have advised that gifts provided by outside bodies cannot be considered as having been provided by the Council, even when provided by a wholly owned company of the Council. Wholly owned companies are separate bodies from the authority, therefore any gifts or hospitality a Member receives from them, worth £25 or more, must be registered. For example, tickets provided by the Leeds Grand Theatre to the Councillors on the Board must be registered.

Similarly, if Members are admitted to performances free of charge without a physical ticket because of their position on the Board, this would count as hospitality and would also need to be registered.

What about free tickets or hospitality provided to me as part of the exercise of my duties, so that I can have first hand experience of matters within my remit?

The gift or hospitality should be registered if it is provided by a person or body other than the authority, and is over and above what could reasonably be viewed as ancillary to the business conducted. For example, Members may meet dignitaries or business contacts in Council offices, but if the meeting take place at cultural or sporting events, this should be registered as hospitality.

Standards for England have confirmed that tickets or hospitality provided to Members during the course of their duties, for example, Members appointed to the West Yorkshire Playhouse Board who receive free tickets to regular shows at the Playhouse, should register these tickets as gifts.

I have received a free ticket to an event in the city from a Council officer. However the Council is not the event organiser. Do I need to register this if it is from the Council?

In these cases you should consider on what basis the event organisers provided the tickets to the authority.

Registration of gifts and hospitality Guidance for Members

Standards for England have confirmed that tickets given to the Council in order to distribute to Members must still be registered, as the tickets are still a gift from the donor to Members. The involvement of officers is simply an administrative step and cannot be used to avoid registering any gifts Members receive.

The Member should register the original donor or event organiser as the provider of the tickets, as oppose to the Council department or individual officer who passed the gift on.

I am aware that some of my colleagues have been provided with free tickets for an event I wish to attend. Can I ask the donor for a free ticket for myself?

The Code of Conduct does not specifically cover this issue, although in seeking to secure a free ticket you may have breached paragraph 6(a) of the Code of Conduct which states that you must not use, or attempt to use, your position as a Councillor to secure for yourself, or any other person, an advantage or disadvantage.

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Member. You should also take care to avoid giving any indication that you might be open to such an offer.

Should I accept a gift or hospitality if I suspect the donor may expect some favouritism in return?

You should be aware that the Prevention of Corruption Acts 1889 to 1916 provide that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything, in respect of any matter or transaction in which the authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of seven years.

If you suspect that the offer of a gift or hospitality is conditional in some way you should refuse the offer and report the matter to the Monitoring Officer.

Contact details

Amy Kelly
Senior Corporate Governance Officer
Telephone 0113 39 50261

Registration of gifts and hospitality
Guidance for Members

Declaration of receipt of gifts and hospitality

You must complete all the following details and return the form to the address below within 28 days of receiving the gift or hospitality in order to comply with the Members' Code of Conduct 2007. This information will then be added to the Members' Register of Interests published on the Council's website.

For more guidance on the rules surrounding registering gifts and hospitality, please refer to the 'Members' Register of Interests – Guidance Notes', available in your group office or to download on the intranet by following this path: interest areas – former departments – Chief Executive's Department - Council and Democracy – Councillors, agendas and minutes – Councillors' Code of Conduct – Guidance on the Members' Register of Interests.

<p>Who donated the gift/hospitality?</p> <p>Please note that you are not required to register gifts or hospitality provided by Leeds City Council.</p>	
<p>In what capacity did you receive the gift/hospitality (e.g. as part of Executive Member role or as a member of the Board of Leeds Grand Theatre)?</p>	
<p>If you passed the gift on to another person/body (e.g. the Lord Mayor's charity), please indicate here.</p>	
<p>What date did you receive the gift/hospitality?</p>	
<p>Please provide a brief description of the gift/hospitality.</p>	
<p>What is the estimated market value of the gift/hospitality?</p> <p>Please note that if you are registering a heavily discounted item, the value will be the difference between the normal market cost and the amount you paid. Also please note that you are only required to register gifts or hospitality worth £25 or more.</p>	

Name of Member:.....

Date:.....

Please return your completed form to:
Laura Ford, Corporate Governance Officer, Governance Services, 1st Floor West, Civic Hall

Cumulative value of gifts and hospitality received by Members in 2009/10

Donor	Number of Gifts /Hospitality	Cumulative value of gifts/hospitality (£)
West Yorkshire Integrated Transport Authority	1	1170.00
Yorkshire County Cricket Club	4	720.00
Normandy Veterans' Association	2	415.00
West Yorkshire Playhouse	9	380.00
Leeds Building Society	3	375.00
Great Victoria Hotel	1	300.00
Leeds Rugby	5	270.00
Leeds Festival Chorus	5	260.00
Rugby League	2	250.00
Leeds International Pianoforte Competition	3	210.00
KIER Group	2	179.50
Leeds Grand Theatre	3	173.00
Leeds Lions	2	120.00
High Sheriff of West Yorkshire	3	110.00
University of Leeds	2	110.00
Bob Murray CBE (MD of Sterling Capitol)	2	100.00
Morley Rotary Club	2	100.00
Shakespeare Company	2	99.50
Leeds Chamber of Commerce	2	90.00
Leeds Children's Holiday Camp Association	2	80.00
Leeds Rifles	1	80.00
Nottinghamshire County Cricket Club	3	75.00
269 WR Royal Artillery	1	60.00
5th Royal Tank Regiment	1	60.00
Army Benevolent Fund Charity Dinner	1	60.00
Asian Business Network	1	60.00
Caledonian Society	1	60.00
Chartered Institute for Securities and Investment Yorkshire Branch	1	60.00
Chartered Institute of Public Finance & Accountancy	1	60.00
Federation of Disability Sports	1	60.00
Institute of Architectural Technologists	1	60.00
KPMG	1	60.00
Leeds AJEX	1	60.00
Leeds Amateur Operatics Society	1	60.00
Leeds Chartered Accountants	1	60.00
Leeds Federated Housing Association	1	60.00
Leeds Insurance Institute	1	60.00
Leeds Restaurant Association	1	60.00
Leeds Royal Naval Association	1	60.00
Leeds Sports Awards	1	60.00
National Hairdressers' Federation	1	60.00
NewstrAid	1	60.00
Sandmoor Golf Club	1	60.00
Soroptimist International of Leeds	1	60.00
Yorkshire Biz Awards + Yorkshire Forward	1	60.00
Yorkshire Indian Society	1	60.00
Bridlington Council	1	50.00

Cumulative value of gifts and hospitality received by Members in 2009/10

Donor	Number of Gifts /Hospitality	Cumulative value of gifts/hospitality (£)
Harrogate International Festivals	1	50.00
Hon Recorder of Bradford	1	50.00
Leeds Jewish Welfare Board	1	50.00
Richmond Town Council	1	50.00
The High Sherriff of West Yorkshire	1	50.00
Annual General Meeting of Leeds Luncheon Club	1	40.00
Bishop of Bradford	1	40.00
Chinese Consul General	1	40.00
Friends of Leeds International Pianoforte Competition	1	40.00
Inner Wheel Club of Leeds	1	40.00
Leeds Association of Engineers	1	40.00
Leeds Chinese Community Association	1	40.00
Leeds Estate Agents, Surveyors and Valuers	1	40.00
Leeds Gilbert and Sullivan Society	1	40.00
Leeds Philharmonic Chorus	1	40.00
Leeds West Indian Association	1	40.00
Morley Elderly Action	1	40.00
Morley Literature Festival	1	40.00
Royal Armouries	1	40.00
Save The Children	1	40.00
Showmen's Association Guild	1	40.00
Aire Valley Homes	1	30.00
Aireborough Gilbert and Sullivan Society	1	30.00
British Amateur Rugby League Association	1	30.00
Calverley Rotary Club	1	30.00
Garforth School Partnership Trust	1	30.00
Gateways School, Harewood	1	30.00
Keith Moss	1	30.00
Leeds Football Association	1	30.00
Leeds Luncheon Club	2	30.00
Leeds Metropolitan University	1	30.00
Leeds Trinity College	1	30.00
Morley Pensioners Club	1	30.00
Morley Branch	1	30.00
St Vincent's Support Centre	1	30.00
West Riding Opera	1	30.00
Caring for Life	1	25.00
Lineham Farm	1	25.00
Yorkshire Bank	1	25.00
101st (Northumbrian) Regiment RAV	1	20.00
Aberford Horticultural Society	1	20.00
Don Fryer (Developer)	1	20.00
Lord Mayor of London	1	20.00
The Grove & Rawdon Theatre Company and Stampede Theatre Company	1	20.00
The Royal Pharmaceutical Society	1	20.00
Leeds Methodist Women's Luncheon Club	1	15.00



Originator: Laura Ford
Tel: 0113 39 51712

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: First-Tier Tribunal (Local Government Standards in 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 First-Tier Tribunal (Local Government Standards in 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 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 First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct. Further details of specific cases are available at www.adjudicationpanel.tribunals.gov.uk

2.0 Background Information

- 2.1 Seven case tribunal decisions and five 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 First-Tier Tribunal (Local Government Standards in England) 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 case tribunal decisions, and those which are appeals against local standards committee decisions, for ease of reference.

3.0 Main Issues

Case Tribunal Decisions

Borough, City or District Councils

Shropshire Council

- 3.1 It was alleged that a Councillor had circulated a letter to all members of the Area Regulatory Committee (South) which contained inaccurate and biased information in an attempt to influence the decision of the members of the Committee, and in doing so had:
- failed to treat others with respect;
 - brought his office and authority into disrepute;
 - attempted to use his position as a Member improperly to confer on secure for himself an advantage; and
 - sought improperly to influence a decision about business in which he had a prejudicial interest.
- 3.2 An application had been made for a footpath (which crossed the Councillor's property) to be recorded on the definitive map. The Councillor objected to this application prior to being elected. He also submitted a formal complaint about the alleged impartiality of the definitive map review officer, following which an investigation was carried out, which found that there had been no wrongdoing on the officer's part.

- 3.3 The matter was then considered by the Council's Rights of Way Committee. The Councillor attended the meeting and spoke against the application. The Committee rejected officers' recommendation that there was sufficient evidence to show that a public right of way subsisted or was reasonably alleged to subsist, therefore the matter was automatically deferred to a meeting of the Area Regulatory Committee.
- 3.4 Before the matter was considered by the Area Regulatory Committee, the Councillor was elected to the Council, and was appointed to the Area Regulatory Committee. Prior to the meeting, the Councillor circulated a letter to the members of the Committee, supporting his objections to the application. The letter stated that:
- the footpath would be one metre from his front door;
 - the officer handling the case showed a lack of impartiality, objectivity and independence, which led to the report being deferred to a later meeting of the Rights of Way Committee;
 - his complaint was unsatisfactorily closed down; and
 - the Area Regulatory Committee ruled that no public right of way existed.
- 3.5 At the meeting the Councillor declared a personal and prejudicial interest, and left the room prior to the Committee's consideration of the matter.
- 3.6 The case tribunal considered that the contents of the letter circulated by the Councillor were inaccurate and misleading. The Councillor agreed that the letter constituted a personal attack on the officer referred to, that it contained biased information and that it was an attempt to influence the decision of the Committee.
- 3.7 The tribunal considered that the words used by the Councillor were a personal attack and amounted to personal criticism of a junior member of staff, and it was inappropriate to make these comments in a letter circulated to all members of the Committee. The Councillor's arguments could have been made in a more objective, moderate manner, without making any personal comments against an officer.
- 3.8 The officer had no right of reply, no opportunity to contradict what was said about her and she was defenceless against the accusations, all of which had been investigated by senior officers and found to be unsubstantiated. The comments and the manner in which they were made were unreasonable, unfair and demeaning. Therefore the tribunal considered that the Councillor had failed to treat the officer with respect, contrary to paragraph 3(1) of the Code.
- 3.9 The tribunal also found that in circulating the letter, the Councillor had attempted to use his position to secure a personal advantage for himself by persuading the Committee to decide on a personal matter in his favour in breach of paragraph 6(a) of the Code, and sought to improperly influence a decision of the Committee about his personal business in breach of paragraph 12(1)(c) of the Code.
- 3.10 In the tribunal's view, the persistent, personal attack on a junior officer and the attempt to inappropriately persuade the Committee to vote in his favour on a personal matter would seriously lessen public confidence in the Councillor's

office and in this case, authority and would bring him and his authority into disrepute in breach of paragraph 5 of the Code.

- 3.11 In deciding what sanction to apply, the tribunal took the following factors into account:
- The action taken should be designed to discourage and prevent the Councillor from any future non-compliance;
 - The breaches were serious, bearing in mind that they involved personal advantage, undermining officers and bringing Members and the Council into disrepute;
 - The Councillor was newly elected, however he had undergone a period of training on the Code of Conduct;
 - The Councillor had an honestly held belief that his conduct did not constitute a failure to follow the Code; and
 - The Councillor had not shown any insight into the effect of his conduct on the officer or his authority. He had continued to blame her and others throughout the investigation and the hearing. The tribunal therefore thought that sanction would be inappropriate in this case.
- 3.12 The tribunal decided that a fair and proportionate sanction in this case would be suspension for a period of six months, and to require the Councillor to provide a written apology to the complainant (the officer) within 14 days of the hearing, and to undertake a further period of training before resuming his duties.
- 3.13 **In Leeds, Members who have concerns about the capabilities or conduct of an officer are advised through the Protocol on Member Officer Relations to avoid personal attacks on or abuse of the officer, ensure that any criticism is well founded and constructive, never make a criticism in public, and to take up the concern with the officer privately. If this is inappropriate, Members are advised to raise their concerns with the relevant director.**

Gosport Borough Council

- 3.14 It was alleged that a Councillor (who was Leader of the Council at the time of the alleged incidents) had brought his office and authority into disrepute when he improperly sought to pursue a grievance against two officers, in respect of evidence they had provided to an earlier investigation which had been conducted into allegations regarding the Councillor's conduct.
- 3.15 It was further alleged that, whilst his grievance was being investigated, the Councillor expressed his concerns regarding the evidence provided by the two officers in a press article. In the article it was alleged that the Councillor had made a number of very damaging and unfounded allegations regarding the conduct of officers generally and confirmed that he had asked the Audit Commission to investigate a number of officers.
- 3.16 In February 2009 an Ethical Standards Officer (ESO) issued a draft report in relation to an earlier investigation into the Councillor's conduct. A complaint had been made that the Councillor had not chaired a meeting well and had behaved in a manner which showed prejudice towards the application. The investigation report contained transcripts of interviews undertaken with Mr Paterson (Council

Lawyer) and Mr Dagens (Council officer), which supported the view that the Councillor had displayed an aggressive manner whilst chairing this meeting.

- 3.17 In responding to the draft report, the Councillor made no mention of disputing the factual accuracy of the evidence of either Mr Paterson or Mr Dagens. However, during his regular meetings with the Chief Executive, the Councillor repeatedly raised his dissatisfaction with their evidence.
- 3.18 In March 2009, the Councillor e-mailed the Chief Executive seeking to invoke the Council's grievance procedures against Mr Paterson and Mr Dagens in respect of the evidence they had provided in the earlier investigation. The Chief Executive tried to dissuade the Councillor from undertaking such a course of action, and informed him that it would be unwise to pursue the matter. The Councillor insisted that his grievance be taken forward in April.
- 3.19 Earlier in the year, the Councillor had also expressed concerns about the performance and capability of the Monitoring Officer. He insisted that she be referred to occupational health because of her illnesses and poor sickness record. Following the Monitoring Officer's medical referral, a report was produced which said that her sickness record was not unsatisfactory and some of her conditions were disabilities under disability discrimination legislation. The Chief Executive refused to provide a copy of the report to the Councillor. However, he later provided the Councillor with a form of wording he had agreed with the Monitoring Officer regarding the contents of her medical report.
- 3.20 In April, the Councillor spoke to the Audit Commission and provided brief details of a number of concerns he had regarding the Council. He was asked to put his concerns in writing, which he did in an e-mail. He ended the e-mail by suggesting that the Chief Executive and Monitoring Officer be suspended for the duration of the investigation of his allegations. The Audit Commission informed the Councillor that his concerns were not matters for them, and cautioned him against repeating his allegations outside of the confines of correct Council procedures.
- 3.21 In May, a newspaper article was published under the headline 'Leader calls for probe at "corrupt" authority'. The article included a number of quotes from the Councillor which contained a number of very serious allegations of officer misconduct within the Council. Another newspaper carried a similar article two days later, but containing no quotes from the Councillor.
- 3.22 The tribunal came to the conclusion that, on the given facts of this case the Councillor's use of the Grievance Procedure was improper and was a breach of paragraph 5 of the Code of Conduct. The Councillor stated that he had a clear objective and that was to get a written apology and/or investigation report that would show he was not rude and had not caused offence. He wanted to ensure that other officers did not 'flower up' their evidence and make things difficult for Councillors. He wanted this to be a deterrent weapon. The tribunal considered that this was an inappropriate motive for use of the Grievance Procedure.
- 3.23 The tribunal also considered that the unsubstantiated comments contained in the newspaper article relating to corruption, and the terms in which he had written to the Audit Commission, would undermine the authority and bring the Council into

disrepute. The tribunal therefore concluded that this was a further breach of paragraph 5 of the Code of Conduct.

3.24 In deciding what sanction to apply, the tribunal noted the following mitigating and aggravating factors:

- The Councillor has an honestly held belief that he had just cause to take issue with statements made by the two officers and to pursue it in the way that he did. However, in the tribunal's view he was wrong in this belief;
- The Councillor has eight years' of continuous service on the Council and has served on a large body of boards and committees, and there are no other previous matters to be taken into account;
- The Councillor at the time and subsequently has suffered from ill health. However, there was no suggestion that the Councillor's health had led to his actions which were the subject of the case;
- The Councillor has given full support to his town, and in particular to its festival to which he has given and continues to give his full support;
- The Councillor had not been totally open and honest about his actions and intentions;
- The Councillor has failed to acknowledge and understand that his actions were at variance with the Code;
- The Councillor has not taken personal responsibility for his actions;
- The Councillor's actions were personally motivated and reckless, and showed a disregard for the impact they would have on others;
- The Councillor had not issued personal apologies to the individuals involved in these incidents;
- The Councillor has continued to pursue a pattern of behaviour that is at variance with the Code and there are further investigations in train relating to additional, more recent, complaints by officers of the Council; and
- The Councillor boasted that he could have achieved a far wider and more sensational story out of this had he wished.

3.25 Given the impact that this and related complaints against the Councillor have had on the Council and its officers, the tribunal concluded that this was a case in which a suspension at the upper end of the range was appropriate and proportionate. The newspaper article has had a detrimental impact on the morale of officers and fellow councillors. It has also undermined the support and good favour of the electorate. For those reasons the tribunal imposed the maximum period of suspension which is 12 months. The tribunal also considered that the Councillor should undertake appropriate and extensive training in the Code of Conduct before he resumes his position as councillor.

3.26 The tribunal also recommended that the authority should adopt better ways of ensuring that all councillors are fully trained in, and conversant with, the terms and intent of the Code of Conduct, and it should maintain a detailed and up-to-date schedule of information relating to the training offered to, and undertaken by, councillors.

- 3.27 **In Leeds, officers in Member Development keep records of the training attended by Members, including the specialist training that is required to be undertaken by members of Plans Panels, Licensing Committee and Standards Committee.**

London Borough of Bromley

- 3.28 It was alleged that a Councillor had failed to treat others with respect, bullied others and brought his office and authority into disrepute through:
- the volume and tone of his e-mail contact with officers in the Council's Street Services department;
 - continuing to contact officers directly even though the Chief Executive had informed him to send his e-mails to a separate account;
 - referring to the Chief Executive as a 'hypocrite', 'liar' and/or 'cheat' in several e-mails and at several full Council meetings;
 - referring to other Councillors and senior officers as 'liars' in several e-mails and at several full Council meetings;
 - accusing the Monitoring Officer of being incompetent and not fit to be in public office; and
 - instructing senior officers to deal with residents' complaints in a rude manner via several e-mails, into which he copied the residents involved.
- 3.29 The tribunal concluded that the Councillor was acting in his official capacity in all circumstances of the complaint because he sent the e-mails using his council e-mail address and the e-mails stated that they were sent "from Willetts, Colin, Cllr". He also made some derogatory comments at council meetings, which he attended in his capacity as a councillor.
- 3.30 In considering whether there had been a breach of the Code the tribunal considered that the threshold for failing to comply with paragraphs 3(1) (disrespect), 3(2)(b) (bullying) and 5 (disrepute) of the Code, in the case of expression of views, had to be set at a level that allowed for robust political debate relating to the efficient running of a council and which allowed for appropriate criticism of the performance of a council's function. However, this was to be balanced with the rights of others, including the right to protection of reputation.
- 3.31 In the tribunal's view the words used by the Councillor against the Chief Executive and the Monitoring Officer were not political comments or opinions, but were purely unsubstantiated personal remarks that amounted to no more than expressions of anger and personal abuse.
- 3.32 The tribunal was satisfied that the Councillor, by referring to the Chief Executive as a liar, cheat and hypocrite, in e-mails, some of which were copied to subordinate staff and at council meetings was disrespectful and sought to damage his reputation.
- 3.33 The tribunal was also of the view that the Councillor treated the Monitoring Officer with disrespect by referring to him in e-mails in a derogatory way and questioning his professional abilities and integrity. The Councillor's

communication with the Monitoring Officer was regularly copied to members of the public and other staff members which was demeaning and undermining.

- 3.34 The tribunal also found that the Councillor's behaviour was bullying due to the persistent nature of some of his communication, and because any attempts to channel his enthusiasm into a less pestering style were ignored. One of the Councillor's e-mails was resent on eight separate occasions, and in response to the draft report of the ESO he had provided in excess of 100 e-mails between himself and Street Services officers sent between May 2007 and May 2009. In publicly questioning the Chief Executive's and Monitoring Officer's integrity, and whether the Chief Executive should resign, the Councillor's behaviour was intimidating, insulting and humiliating, and attempted to undermine them.
- 3.35 The tribunal also found that the Councillor's persistent and pestering communication with some officers, and complete disregard for the attempts to control his communication had the effect of bullying a more junior member of staff who found this conduct overwhelming and stressful.
- 3.36 The tribunal also found that by questioning the honesty and integrity of the Chief Executive, the Monitoring Officer, and by implication the Council, by copying derogatory e-mails sent to senior officers of the Council to members of the public and making personal attacks on officers at council meetings where they had no right of reply, were all matters that could reasonably be regarded as bringing the Councillor's office and authority into disrepute.
- 3.37 In mitigation, the tribunal considered that the Councillor had been hard working, and his conduct may have been caused by medication he was taking for epilepsy (however, the Councillor had not provided medical evidence of this).
- 3.38 Weighed against this, the tribunal was also of the view that the Councillor had failed to recognise the impact of his conduct on others, had persisted with this conduct while the ESO was investigating a complaint against him and had shown no remorse.
- 3.39 As the case was heard in April, and the election was in May, the maximum period of suspension that it was possible to give in this case was 4 weeks. It was the tribunal's view that this was an inadequate sanction, bearing in mind the seriousness and repeated nature of the breaches that were found. Therefore, the tribunal decided to impose a 12 month disqualification in order to ensure that the Councillor did not return to serve as a Councillor any earlier than if a suspension was imposed.

Doncaster Metropolitan Borough Council

- 3.40 It was alleged that a Councillor had not acted in accordance with his authority's reasonable requirements when using his council laptop, and had brought his office and authority into disrepute by forwarding four inappropriate 'joke' e-mails, some of which were based upon religion.
- 3.41 The tribunal considered that the Councillor did fail to comply with the Code of Conduct in that he misused Council resources (a laptop and emailing facilities).

The Councillor did not seek to contest that his actions were inconsistent with the Council's IT policy and he accepted that he transmitted material which was unpleasant and inappropriate. This was contrary to paragraph 6(b) of the Code of Conduct. His actions brought the reputation of his office of councillor and of the Council into disrepute contrary to paragraph 5 of the Code of Conduct.

3.42 Taking into account the Councillor's apology, his action in standing down from the Civic Mayoralty and the letters written in his support which testify to his public service the tribunal felt that the appropriate sanction was a suspension for a period of three months.

3.43 **In Leeds, IT equipment is provided to Members for use in their capacity as a Councillor. Members have to agree to abide by the Guidelines for Members Using Council ICT Equipment which is referenced in the Protocol on Member Officer Relations. The Members E-Mail Code of Practice (included as part of the guidelines) states that 'Users must not create and/or send messages and/or attachments to messages that are, or which reasonably could be regarded as being:**

- **obscene**
- **pornographic**
- **indecent**
- **of a sexual nature**
- **violent**
- **a serious attack on someone's reputation**
- **racist, sexist or otherwise discriminatory or harassing**
- **threatening or intimidating**
- **encouraging or supporting racism, sexism, violence, drug taking or gambling**

Where Elected Members have to send email or attachments with this content, as part of their duties as elected representatives, they must have prior authorisation from the Chief Democratic Services Officer (or nominee)'.

3.44 **Members may therefore wish to consider whether they would like to recommend that the list above also includes messages that are discriminatory on the grounds of religion.**

Town and Parish Councils

West Felton Parish Council

3.45 It was alleged that a Councillor had failed to comply with paragraphs 3(1), 3(2)(b) and 5 of the Code of Conduct when he:

- **bullied the Parish Clerk by overbearing supervision, making threats or comments about job security, and undermined the Clerk's position by overloading and constant criticism of his work;**
- **brought his office and authority into disrepute by referring six Councillors to the Police and made untrue statements in a letter addressed to all Councillors, the Clerk and members of the public; and**

- showed a lack of respect to others (including the Clerk) in his letter to Councillor N, and a note to Councillor C.
- 3.46 Between January and November 2008 the Councillor wrote 15 letters to other Councillors and the Clerk on a range of subjects relating to the Council's procedures, standing orders, accounts, minutes and business. Some of these letters questioned the legality of the Clerk's appointment, and some questioned the Clerk's competence. One letter raised issues about the Clerk committing offences amounting to gross misconduct, one described him as a "skilled puppet master" and one accused him of making "a fundamental and stupid error". Six members of the public received copies of two of the letters.
- 3.47 In January 2008 the Councillor referred six Councillors to the Police, and made that fact known to members of the public. He did this because he said that the Council's annual return contained two false statements in the annual governance statement.
- 3.48 A Police Inspector wrote to the Councillor to say that his concerns appeared to be administrative errors about which he should contact Standards for England.
- 3.49 In February, the Councillor complained to the Independent Police Complaints Commission (IPCC) that the Police Inspector was not going to investigate his complaint. In May, the Councillor made a public allegation that a Police Inspector was under investigation for misconduct or corruption. The tribunal found as a fact that the Councillor had some correspondence from the IPCC but totally misinterpreted that information in making the public allegation.
- 3.50 The Chief Inspector confirmed that the Inspector was not under investigation for corruption and asked the Councillor to correct the inaccuracies, if his letter had been made public. The Councillor did not agree to retract anything he had said, but he did send a copy of the Chief Inspector's e-mail to members of the public who had received his letter.
- 3.51 In January, the Councillor also wrote to Councillor C and stated that there was a very small chance that she may be investigated by the Police.
- 3.52 The Councillor accepted that he was acting in his official capacity in his contact with the Parish Clerk and when writing to Councillor C. However, he disputed that he was acting in his official capacity when he wrote to the Police. The tribunal considered that the whole tone and content of the letter suggested that he was writing as a Councillor, and therefore that he was acting in his official capacity.
- 3.53 In the tribunal's view, the Parish Council was the Clerk's employer and it was for the Council to discipline the Clerk if they felt it was necessary. It was improper for the Councillor to criticise and demean the Clerk in public correspondence. Therefore, the tribunal concluded that the Councillor showed intimidating, threatening and humiliating behaviour towards the Clerk and that this behaviour also resulted in disrespect being shown, thereby breaching paragraphs 3(1) and 3(2)(b) of the Code.

- 3.54 The tribunal also considered that to make an allegation of corruption against a Police Inspector without any real justification, given the potential damage to his reputation and career prospects, was highly disreputable. The tribunal considered that by this behaviour, the Councillor had brought the role of Councillor into disrepute and also by his unreasonable behaviour showed disrespect to the Police Inspector, contrary to paragraphs 5 and 3(1) of the Code.
- 3.55 The tribunal found as a fact that Councillor C had felt bullied and intimidated by the note she had received. The evidence was that the Councillor was reckless as to the consequences of his actions, which the tribunal was in no doubt were extremely serious as far as Councillor C was concerned. The tribunal concluded that by sending the note the Councillor bullied Councillor C and also showed disrespect, resulting in a further breach of paragraphs 3(2)(b) and 3(1) of the Code.
- 3.56 The tribunal considered that referring the six Councillors to the Police for what the Councillor himself stated at the hearing would have been at most a minor breach of the law was a highly disproportionate action based on unfounded conclusions. The tribunal felt strongly that it was entirely inappropriate and showed a profound lack of judgement on his part. However, on balance the tribunal did not find this conduct to be a breach of the Code.
- 3.57 The tribunal viewed the Councillor's breaches of the Code as serious, particularly as the involved bullying and bringing the Council into disrepute, and this was a case where disqualification could be an appropriate sanction.
- 3.58 The tribunal noted the letters in support provided by local residents and the statements of a member of the public and another Councillor, and took these into account as mitigation. They also noted that the Councillor's actions appeared to arise out of genuine concerns for the way the Parish Council was run and that he was relatively inexperienced as a Councillor.
- 3.59 However, the Councillor had shown reckless and disproportionate behaviour to Police Officers, the Clerk and fellow Councillors, and the tribunal was very concerned about his lack of judgement and insight into the consequences of his behaviour for others. They were also concerned about what they perceived to be his failure genuinely to accept that what he had done was unacceptable.
- 3.60 The tribunal concluded that the appropriate sanction in all the circumstances was to suspend the Councillor for six months.

Astley Village Parish Council

- 3.61 It was alleged that a Councillor had breached the Code of Conduct by:
- making persistent, unsubstantiated and defamatory statements about the Council and a Council employee to the press and external organisations;
 - using a pseudonym, posting comments on a website which contained further unsubstantiated and defamatory statements about the Council and Council employees; and
 - harassing the Parish Clerk and other members of the Council by making malicious telephone calls and sending text messages.

3.62 The tribunal found that:

- The Parish Clerk reclaims the cost of photocopying Council documents, which she copies using a photocopier belonging to her husband's business;
- On 10 November 2008, the Councillor wrote to the Borough Council to ask the Monitoring Officer to investigate the Clerk's conduct in relation to these claims. He also sent a copy of his letter to a number of external agencies and the press;
- On 15 November 2008, the Councillor wrote to the Monitoring Officer stating that he believed that the Clerk may have a conflict of interest in her roles as Parish Clerk and as a member of the Borough Council. This letter was also sent to a number of external agencies and the press;
- On 18 January 2009, the Councillor wrote to the Parish Council complaining about the Clerk's retention of Tesco Clubcard points when using her Tesco credit card to purchase Council items;
- On 2 February 2009, the Councillor reported the Clerk's use of the Clubcard as a possible theft within the Parish Council to the Police;
- On 3 February 2009, the Councillor phoned the Clerk to tell her he had received a letter from a member of the public making allegations against a third party, and told her he wanted to read the letter out at the next Council meeting. The Councillor denied any knowledge of the telephone call when the Police called at his home to make further enquiries;
- On 4 February 2009, the Parish Council agreed a motion of no confidence in the Councillor and reported his conduct as an alleged breach of the Code of Conduct;
- During an adjournment of the Parish Council meeting on 4 February, which was attended by a large number of members of the public who caused serious and sustained disruption, the Councillor made comments (which may have been audible to other people attending the meeting, although there is no evidence that they were heard by such people) about the Clerk having reported him to the Police; and
- The Councillor failed to register his position as a governor of a local school.

3.63 In relation to the Clerk's activities, the tribunal found that it would be proper for the Councillor to raise those concerns and to seek appropriate explanations and assurances. However, he lost all sense of proportion, particularly having regard to the trivial nature of some of his concerns, and his publication of those concerns in exaggerated form was a breach of paragraphs 3(1) (disrespect) and 3(2)(b) (bullying) of the Code of Conduct. The tribunal did not find that the Councillor had breached paragraph 5 (disrepute) of the Code because the issues were of a minor nature and had no lasting impact.

3.64 The tribunal found that the report to the Police was not a breach of the Code. In the absence of evidence of malice, wasting police time or other aggravating feature, the tribunal did not accept that a report of any suspicion of criminal activity, no matter how unreasonably held, to the Police can be a breach of the Code.

- 3.65 The telephone call to the Clerk on 3 February included a serious and unfounded allegation. The tribunal found that this was a breach of paragraphs 3(1), 3(2)(b) and 5 of the Code. The Clerk was embarrassed by the call and the subsequent investigation by the Police, and the other person who was the subject of the allegation was similarly affected. A reasonable person would conclude that the Councillor had brought both his office and authority into disrepute.
- 3.66 There was no reliable evidence as to what occurred at the meeting of the Parish Council on 4 February, apart from that the meeting was chaotic. Therefore, the tribunal found that no breach of the Code occurred at that meeting.
- 3.67 The Councillor admitted a breach of paragraph 13 of the Code of Conduct by failing to register that he is a parent governor of Buckshaw Primary School.
- 3.68 The tribunal considered that there had been a breach of the Code of Conduct which caused harm to others. There was bullying and unsubstantiated allegations against persons in public life. The impact of such actions is serious and inherently harmful. The tribunal considered that the Councillor's actions corresponded to those of a previous appeal in which the sanction was reduced from disqualification to suspension for six months.
- 3.69 In deciding a period of four month's suspension, the tribunal had regard to the impact on others of the Councillor's actions and the fact that he has been suspended on a previous occasion. However, no lasting damage was caused to those involved, some of the matters were of an extremely trivial nature and the Councillor has demonstrated appropriate insight and is unlikely to repeat his past indiscretions. The tribunal was of the view that a suspension for four months would bring home to the Councillor the seriousness of what he has done, and send the right message to all concerned that a serious view was indeed being taken of what he had done.

Campbell Park Parish Council

- 3.70 It was alleged that a Councillor had breached the Code of Conduct when she improperly sought to interfere with the award of the Certificate in Local Council Administration (CiLCA) to the Parish Clerk and that, in so doing, she unfairly disparaged his professional reputation to senior members and officers of national organisations. It was further alleged that the Councillor lied to the Clerk in saying that the circumstances of his CiLCA award had caused a furore at the National Association of Local Councils (NALC), and that the position of the official who had awarded the Parish Clerk his qualification was in some jeopardy.
- 3.71 The Parish Clerk was appointed in January 2007 and it was a condition of his appointment that he obtained the CiLCA. The Clerk submitted the necessary work in August 2007 and failed, he then resubmitted the necessary work in February 2008 and was informed that he had failed again because three sections were unsatisfactory. The Clerk appealed and the Chief Verifier awarded him a pass in relation to one of the sections in which he had failed, however the decision in relation to the other two sections was upheld. The Chief Verifier then reviewed the whole of the Clerk's work and concluded that in spite of the two failures, he had reached the required standard and should therefore be awarded the CiLCA.

- 3.72 In March 2008, the Councillor was informed that the Clerk had been awarded the qualification on appeal, together with the information that this was despite the Clerk not having passed all the portfolio sections, and that the Chief Verifier said it would be 'iniquitous' to make him submit further work.
- 3.73 A conversation took place between the Clerk and the Councillor in which she told the Clerk that she knew he had obtained his qualification on appeal, that the decision had caused a 'furore' at NALC, that he would probably receive a letter from NALC on the matter, and that the position of the Chief Verifier was in some jeopardy.
- 3.74 However, any 'furore' relating to the circumstances of the qualification did not arise until after the Councillor had herself complained about the matter, initially in an e-mail that she sent to the Chief Executives of NALC and the Society of Local Council Clerks (SLCC) on 25 March 2008, and subsequently when she addressed meetings of NALC and South East Region County Associations Forum (SERCAF) in April 2008. In the e-mail the Councillor expressed her outrage that the Clerk had been awarded the CiLCA and claimed that he was not '*up to the grade*'. She insisted that the matter was investigated and if it wasn't, that she would '*personally take this to the highest level of government*'.
- 3.75 The Clerk was confirmed in his position at the end of his six months probation , and the Councillor described the Clerk as '*...a first rate Clerk. His paperwork is good. He's organised and if he is asked to do something he does it instantly*'. Looking at the evidence overall the tribunal found that there were no grounds for the Councillor to raise any concerns about the performance of the Clerk in the context of the CiLCA in her e-mail of 25 March 2008.
- 3.76 In the tribunal's judgement the making of groundless comments critical of the Clerk's competence in the most disparaging language must in the mind of the reasonable person bring the office of the member making those comments into disrepute, and therefore found that the Councillor had breached paragraph 5 of the Code. The tribunal did not find that the Councillor had brought her authority into disrepute, as her conduct had a strong personal element and she had acknowledged that she had a fiery temperament. The tribunal considered that a reasonable person would be likely to conclude that it was essentially a personal failing which reflected badly on the member rather than their authority.
- 3.77 The tribunal also found that the Councillor's attempt to get the Clerk's CiLCA rescinded amounted to an attempt to use her position as a member to improperly confer on the Clerk a disadvantage under paragraph 6 of the Code. The Clerk had also been disparaged in very strong language to those who received the Councillor's e-mail, and these were people who were involved in professional organisations he would have to deal with and to which he was known. It was inevitable that the Councillor's views would damage the Clerk's reputation. The tribunal also found that this was also an attempt by the Councillor to use her position as a member to improperly confer a disadvantage on the Clerk.
- 3.78 The Councillor had not given any previous indication that she accepted that her conduct was wrong or that she had harmed the Clerk's reputation or owed him

an apology, however at the hearing the Councillor accepted that she had breached the Code and apologised to the Clerk.

- 3.79 The tribunal was also provided with several mitigating factors by the Councillor's representative, including:
- her long service on the Parish Council and substantial period on Milton Keynes Council;
 - she is a tireless worker for her electors;
 - her real concern has always been the quality of CiLCA as a qualification; and
 - a lesson had been learned and there was a recognition that high standards were needed in local government.
- 3.80 The tribunal also took into account the Councillor's medical condition, and that the Councillor's pain after an unsuccessful knee operation may well have had an impact on the Councillor's ability to see things in their true perspective.
- 3.81 The tribunal noted that the Clerk had gone out of his way to leave the way open to there being an effective working relationship between himself and the Councillor even if the relationship was unlikely to be a close one. This reassured the tribunal that the Councillor continuing as a member of the Parish Council was not likely to have an adverse effect on its running or on the Clerk personally.
- 3.82 As the Councillor had apologised and accepted that she had breached the Code, the tribunal found that suspension, rather than disqualification would be the appropriate sanction. The tribunal decided that a period of three months would be sufficient to make it clear that her behaviour had been unacceptable without unduly disrupting her work as a Parish Councillor.

Appeals against Standards Committee decisions

Allerdale Borough Council and Broughton Community Council

- 3.83 A Councillor appealed against the Standards Committee's finding that he had failed to follow paragraphs 10(1) and 12(a) of the Code of Conduct by failing to declare and act upon a prejudicial interest he had by virtue of his chairmanship of Broughton British Legion. He also appealed against the sanction which the Standards Committee decided to impose which was six months suspension.
- 3.84 The tribunal determined that the Councillor did not fail to follow the provisions of the Code because:
- the agenda for the meeting of Broughton Community Council on 6 October 2008 had as item 18 'The British Legion Hall to discuss the future of the hall';
 - at the start of the meeting the Councillor declared a personal interest in the item; and
 - the minutes of the meeting show that this agenda item was not discussed, and there is no evidence that the consideration of this item occurred.

- 3.85 Since the meeting did not consider the question of the British Legion Hall no duty to declare the interest arose and therefore there was no breach by the Councillor, whether or not his interest was prejudicial.
- 3.86 The appeal was therefore upheld, and the finding of the Standards Committee was rejected.

East Lindsey District Council

- 3.87 A Councillor appealed against the Standards Committee's finding that he had failed to follow paragraph 3(1) of the Code by using the word 'bloody' in an e-mail. The finding made by the Standards Committee that the Councillor was acting in his official capacity when sending the e-mail was disputed and was therefore considered by the tribunal.
- 3.88 Firstly, the tribunal considered that the Councillor was not conducting the business of the District Council in sending the e-mail, as it related to a magazine called 'The Compass' which is a community magazine for three parishes. Other than the matter of initial funding and that some Councillors, including the Councillor in this case, were volunteers who helped with it, there was no evidence that the District Council or the role of District Councillor had any connection to it.
- 3.89 The tribunal then considered whether the Councillor was acting, claiming to act, or giving the impression that he was acting as a representative of the District Council when sending the e-mail. The tribunal noted that the Councillor used first name terms in the e-mail, and finished by saying "Cheers, Phil". The main body of the e-mail referred to the distribution of the magazine. There were only two aspects that had a connection with the District Council, namely a reference to the Councillor and a Council colleague getting the project off the ground with joint funding (the Councillor being the project leader) and also the fact that the Councillor used his council e-mail address.
- 3.90 The tribunal did not consider that these two aspects could be considered to give the impression that the Councillor acting as a representative of the Council. Although he copied the e-mail to other District Councillors, he also copied it to a number of other people who were not District Councillors.
- 3.91 The references to funding and the Councillor being the project leader, given the tone and content of the rest of the e-mail, did not in the view of the tribunal give the impression that it was an e-mail from a District Councillor. The content of the e-mail was addressed mainly to delivery of the community magazine and did not lead the reader to consider it was sent on behalf of the District Council.
- 3.92 In all the circumstances the tribunal did not consider that the Councillor acted, claimed to act or gave the impression he was acting as a representative of the District Council. Therefore, the appeal was upheld and the finding of the Standards Committee was rejected.
- 3.93 **In Leeds, members of the Assessment Sub-Committee use the Code Matrix which ensures that the Sub-Committee considers whether the subject**

Member was acting, claiming to act, or giving the impression they were acting in their official capacity during the incident, and if not, no further action would be taken on the complaint.

Herefordshire Council and Walford Parish Council

- 3.94 Councillor M appealed against the Standards Committee's finding that he had used or attempted to use his position as Vice Chairman of the Parish Council improperly to confer on or secure an advantage for himself or a disadvantage for Councillor C.
- 3.95 He also appealed against the sanction imposed which was to require him to undertake training provided by the Monitoring Officer and to submit a written apology.
- 3.96 Development was taking place at a site owned by Councillor C. Councillor M believed there to be a breach of planning law but professional advice had not been sought and his view had not been endorsed. There were also concerns within the community about the development.
- 3.97 Councillor M wrote a letter to the companies occupying the site, stating "It is our view and belief that such use is not permitted on this site and that you..., are potentially committing various offences", and "We who live in the locality are considering every possible means to put a stop to this eyesore" and "Your comments would be appreciated and will be shared with the Community".
- 3.98 The companies decided to close the site, very shortly after the letters were written.
- 3.99 Councillor M argued that he wrote the letters in his private capacity, however in response to the Standards Committee's submissions he accepted that in writing the letters, he acted as a Councillor as wrote the letters as a result of complaints made to him as a Councillor. He also signed his letters as Vice Chair of the Parish Council.
- 3.100 The tribunal considered that it would have been acceptable for Councillor M to write as he did in his personal capacity and probably also as a Councillor on behalf of his constituents. What he was not entitled to do was to write seemingly on behalf of the Parish Council in the terms he did, and the tribunal considered that his actions were improper.
- 3.101 The tribunal did not consider that Councillor M wrote to the companies to secure a direct advantage for himself. What he did was to secure a disadvantage for Councillor C, whether intentionally or recklessly. He wrote to the companies, claiming the weight of the community behind him, to persuade them to stop doing business with Councillor C and to leave the site. It was clear from the correspondence that the Councillor's intervention had a strong influence on the actions of the companies.
- 3.102 Therefore the tribunal considered that Councillor M breached paragraph 6(a) of the Code of Conduct. In considering what sanction to apply, the tribunal agreed with the Standards Committee that there were mitigating factors in this case as

identified by them. The tribunal was also mindful of the fact that, although Councillor M had broken the Code by writing as he did, the Parish Council had concerns about the development, and there was no evidence that he acted for personal gain.

3.103 The tribunal therefore found that the sanctions imposed by the Standards Committee were appropriate.

Bury Metropolitan Borough Council

3.104 A Councillor appealed against the sanction which was imposed by the Standards Committee in light of his failure to withdraw from the room when an item in which he had a prejudicial interest was considered, and for seeking improperly to influence a decision about that business. The Councillor was suspended for 80 days. This period of suspension was chosen to allow the Councillor to prepare for and attend the Council's Annual Meeting.

3.105 The Standards Committee gave no reasons for deciding the sanction imposed and there was no record in the minutes of the proceedings that they took account of the guidance issued by Standards for England. The minutes include a number of factors which were noted or considered, but do not disclose the weight given to these or any other factors. The tribunal therefore considered the sanction afresh.

3.106 The tribunal considered that the following factors were relevant:

- the Councillor is an experienced Councillor who had previously served on the Council's Standards Committee;
- the Councillor breached the Code of Conduct on two occasions;
- the Councillor apologised for the breaches, albeit on the basis of admitting making a mistake, which discloses an element of insight;
- the subject matter under consideration was a report which '...responds to the outcome of the residential care consultation and sets out proposals that form the basis of the next consultation for modernising services that will enhance older people's housing and develop a programme for independent living'. There was no final decision expected on the issues under consideration at either meeting at which the Councillor breached the Code of Conduct;
- there was no evidence that the Councillor had previously breached the Code of Conduct or had acted otherwise in any manner which might give cause for concern; and
- there was no evidence that the Councillor had an attitudinal problem which might give rise to future misconduct.

3.107 The tribunal concluded that the Councillor's actions fell short of the threshold on which disqualification was upheld in a previous appeal. The Councillor's actions also fell short of the seriousness of those in a previous appeal where the sanction was reduced from disqualification to suspension for six months. The Councillor's behaviour was serious and inherently harmful, but no lasting

damage was caused and the Councillor is unlikely to repeat his past indiscretions. The tribunal therefore considered that it would be reasonable and proportionate to suspend the Councillor for a period of one month.

- 3.108 The tribunal therefore rejected the finding of the Standards Committee in relation to the sanction imposed.
- 3.109 **This case highlights the importance of taking appropriate guidance into account when deciding what sanction to apply, and providing reasons for deciding on the sanction imposed. Members of the Hearings Sub-Committee are provided with the relevant guidance from Standards for England and the First-Tier Tribunal in relation to sanctions, and the Hearings Sub-Committee Procedure states that the reasons must be provided for any sanction imposed.**

Blaby District Council and Blaby Parish Council

- 3.110 A Councillor appealed against the Standards Committee's finding that she had failed to follow the Code of Conduct when she submitted a written report to the General Purposes Committee which inappropriately included her views of the Parish Clerk. She also appealed against the sanction imposed which was to suspend her for a period of up to three months, which was suspended until May 2011, and submit a personal apology to the Parish Clerk and Blaby Parish Council in a form specified by the Standards Committee within three months of the full decision being delivered. It was also decided that failure to submit the written apologies would result in suspension. Blaby Parish Council was also to undertake appropriate training to be arranged by the Monitoring Officer by the end of 2010.
- 3.111 The Councillor wrote a report following a car boot sale which had been organised by the Council's Future Events Working Party. The report listed the Councillor's view on the car boot sale and included the words "Blaby Parish Clerk is paid a substantial salary to serve this parish council but clearly this abysmal and inefficient service and support is totally inadequate, inefficient and unacceptable." The report was considered by the General Purposes Committee. That meeting, and the Councillor's report, were open to the public.
- 3.112 The tribunal considered that the words used about the Parish Clerk were in the nature of personal abuse and personal criticism of an officer. They considered that it was inappropriate to make these personal comments in a report which was circulated to all members of the Future Events Working Party and the General Purposes Committee, both of which were open to the public and where the document was put in the public domain.
- 3.113 Whilst the tribunal recognised that the Clerk, as senior officer, should be prepared to accept more robust criticism than more junior officers, in this case the words used were so personal and highly critical that they should not have been made in a public arena where the Clerk had no right of reply, no opportunity to contradict what was said, and where she was largely defenceless against these criticisms. The words used and the manner in which they were made were unreasonable, unfair and demeaning.

3.114 The tribunal therefore found that the Councillor had failed to treat the Clerk with respect, contrary to paragraph 3(1) of the Code of Conduct. The tribunal also found that the Councillor had breached paragraph 5 of the Code, because making such intemperate public criticisms about the Clerk in a report, rather than using internal disciplinary procedures, would reasonably be regarded by an objective observer as diminishing the Councillor's reputation, and the reputation of her office.

3.115 In deciding what sanction was appropriate, the tribunal took the following mitigating and aggravating factors into account:

- the Councillor is hard working and is committed to serving the Parish Council and the people of Blaby;
- she is not an inexperienced new Councillor and is familiar with the Code of Conduct and the internal disciplinary procedures of the Council which she ignored in order to make her views about the Clerk widely known; and
- the Councillor continues to believe that she has done nothing wrong and that she is justified in taking the action she did. There is therefore a serious risk that in the absence of a clear indication that this behaviour is wholly unacceptable, the Councillor may breach the Code again.

3.116 Therefore, the tribunal decided that a fair, reasonable and proportionate sanction would be to suspend the Councillor for four months or until such time as she has submitted a written apology to the Clerk in a form specified by the Standards Committee.

3.117 The tribunal noted that the Standards Committee's decision notice, which gave rise to the appeal, was confusing and inadequate. It did not explain its findings of fact, apart from incorrectly concluding that it was not disputed that the Councillor's report contained inappropriate wording. It did not give adequate reasons for finding that there had been a failure to comply with the Code or whether all or part of paragraph 5 was breached. Some of the sanctions imposed were confusing and unlawful.

3.118 In Leeds, the Hearings Sub-Committee Procedure states that the Hearing Decision must be written having regard to Standards for England's guidance, and that it must include the Sub-Committee's findings of fact, including reasons for them, the finding as to whether the Member failed to follow the Code, and the reasons for that finding, and the sanctions imposed, including the reasons for any penalties. A list of lawful sanctions is also provided within the Hearings Sub-Committee Procedure.

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 First-Tier Tribunal (Local Government Standards in England) 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 First-Tier Tribunal (Local Government Standards in 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 Standards Committee are asked to note the latest decisions of the First-Tier Tribunal (Local Government Standards in England) case tribunals, and consider if there are any lessons to be learned for Leeds.

Background Documents

All above case tribunal decisions available at:

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

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Originator: Laura Ford
 Tel: 0113 39 51712

Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th July 2010

Subject: Standards Committee Work Programme

<p>Electoral Wards Affected:</p> <div style="border: 1px solid black; width: 40px; height: 20px; display: inline-block; vertical-align: middle;"></div> Ward Members consulted (referred to in report)	<p>Specific Implications For:</p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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1.0 Purpose Of This Report

1.1 To notify Members of the Committee of the work programme for the remainder of the municipal year and to seek comments from the Committee regarding any additional items.

2.0 Background Information

2.1 The work programme provides information about future items for the Standards Committee agenda, when reports will be presented to the Committee and who the responsible officer is.

3.0 Main Issues

3.1 The work programme for the municipal year 2010/11 is attached at Appendix 1.

4.0 Implications For Council Policy And Governance

4.1 There are no implications for Council policy.

4.2 By ensuring the codes and protocols of the Constitution are reviewed and fit for purpose, the Standards Committee is supporting the Council's governance arrangements.

5.0 Legal And Resource Implications

5.1 There are no legal and resource implications.

6.0 Conclusions

6.1 The work programme is attached at Appendix 1 for the Committee's information.

6.2 The work programme contains information about future agenda items for the Committee.

7.0 Recommendations

7.1 Members of the Committee are asked to note the work programme and advise officers of any items they wish to add.

STANDARDS COMMITTEE - WORK PROGRAMME 2010/11

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Meeting date: 20th October 2010, 10am		
Procedure for External Code of Conduct Investigations	To receive a report presenting the annual review of the Procedure for External Code of Conduct Investigations.	Senior Corporate Governance Officer Amy Kelly
First-Tier Tribunal (Local Government Standards in England): Decisions of Case Tribunals	To receive a report providing summaries of recent decisions made by the First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct.	Corporate Governance Officer Laura Ford
Officer Code of Conduct	Consideration of a revised Leeds City Council Officer Code of Conduct.	Chief Officer (Human Resources) Lorraine Hallam
Meeting date: 15th December 2010, 2pm		
Annual Report on the Standards Committee Communications Plan	To consider a report reviewing the Standards Committee Communications Plan including any proposals for amendment.	Corporate Governance Officer Laura Ford
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 2011.	Corporate Governance Officer Laura Ford

STANDARDS COMMITTEE - WORK PROGRAMME 2010/11

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
First-Tier Tribunal (Local Government Standards in England): Decisions of Case Tribunals	To receive a report providing summaries of recent decisions made by the First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct.	Corporate Governance Officer Laura Ford
Annual Report on the 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. (Annual report which is provided because the Standards Committee is responsible for approving the Code of Practice)	Section Head Licensing and Enforcement Gill Marshall
Annual Report on the 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, and a review of the updated LGA Guidance on 'Probity in Planning'. (Annual report which is provided because the Standards Committee is responsible for approving the Code of Practice)	Chief Planning Officer Phil Crabtree
Meeting date: 16th February 2011, 10am		
Draft Standards Committee Annual Report 2010/11	To seek Members' input on content of the Standards Committee annual report 2010/11. 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 2010/11

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
	issues that have arisen during the year.	
Annual Report on the 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
Local Assessment – Progress Report	To receive a report providing an update on all complaints received from 1 st July 2010 – 31 st December 2010.	Senior Corporate Governance Officer Amy Kelly
First-Tier Tribunal (Local Government Standards in England): Decisions of Case Tribunals	To receive a report providing summaries of recent decisions made by the First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct.	Corporate Governance Officer Laura Ford
Meeting date: 20th April 2011, 2pm		
Final Standards Committee Annual Report 2010/11	To seek Member's approval for the final draft of the Standards Committee Annual Report 2010/11.	Corporate Governance Officer Laura Ford
Annual Review of the Standards Committee Procedure Rules	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.	Senior Corporate Governance Officer Amy Kelly
First-Tier Tribunal (Local Government Standards in England): Decisions of Case Tribunals	To receive a report providing summaries of recent decisions made by the First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct.	Corporate Governance Officer Laura Ford

STANDARDS COMMITTEE - WORK PROGRAMME 2010/11

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
<u>Unscheduled Items</u>		
Enforcement of Local Codes and Protocols	<p>To receive a report asking the Committee to consider the status of the Local Codes and Protocols.</p> <p>(Report to be provided following the conclusion of consideration of the Local Codes and Protocols by Member Management Committee.)</p>	Senior Corporate Governance Officer Amy Kelly
Composition of Plans Panels	<p>To receive a report regarding the composition of the Council's Plans Panels, and seeking the Committee's view as to whether a Member should be appointed to a Plans Panel that considers applications from their ward.</p> <p>(Report requested by the Committee at its meeting on 22nd April 2010. On hold pending clarification on predisposition from Government.)</p>	Chief Planning Officer Phil Crabtree
Parish and Town Council Audit	<p>To receive a report providing the results of the Parish and Town Council Audit for consideration.</p> <p>(On hold pending clarification on the Code of Conduct from Government.)</p>	Senior Corporate Governance Officer Amy Kelly
Compact Toolkit to support work with Town and Parish Councils	<p>To receive a report regarding the Compact Toolkit which has been developed by Standards for England, the Society of Local Council Clerks and the National Association of Local Councils to encourage those that work with parish and town councils to develop a 'compact', or formalised agreement, about the way they work together to support those councils.</p> <p>(On hold pending clarification on the Code of Conduct from Government.)</p>	Senior Corporate Governance Officer Amy Kelly

STANDARDS COMMITTEE - WORK PROGRAMME 2010/11

ITEM	DESCRIPTION	RESPONSIBLE OFFICER/NOTES
Annual Report on the Ethical Framework relating to Officers	To receive an annual report on the ethical framework relating to officers.	Chief Officer (Human Resources) Lorraine Hallam

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