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## STANDARDS COMMITTEE

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Meeting to be held in Civic Hall, Leeds, LS1 1UR on  
Wednesday, 6th July, 2011  
at 10.00 am

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### MEMBERSHIP

#### Independent Members

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

#### Councillors

C Campbell  
J Dowson  
R Feldman  
R Gettings  
J Harper  
E Nash  
B Selby

#### Parish Members

Councillor Mrs P Walker	Pool in Wharfedale Parish Council
Councillor Paul Cook	Morley Town Council

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></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 Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></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><b>RESOLVED</b> – 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><b>LATE ITEMS</b></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><b>DECLARATION OF INTERESTS</b></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><b>MINUTES OF THE PREVIOUS MEETING</b></p> <p>To approve the minutes of the Standards Committee meeting held on 16<sup>th</sup> February 2011.</p>	1 - 6
6			<p><b>MINUTES OF THE ASSESSMENT SUB-COMMITTEE</b></p> <p>To note the minutes of the Assessment Sub-Committee meeting held on 27<sup>th</sup> April 2011.</p>	7 - 8
7			<p><b>APPOINTMENT OF SUB-COMMITTEES FOLLOWING THE ANNUAL COUNCIL MEETING</b></p> <p>To receive a report of the City Solicitor detailing the terms of reference and membership the four sub-committees of the Standards Committee, and asking the Standards Committee to reappoint those Sub-Committees for the 2011/12 municipal year.</p>	9 - 26
8			<p><b>MEMBERS' INDUCTION PERIOD 2011</b></p> <p>To receive a report of the City Solicitor regarding new Members' declaration of acceptance of office, Register of Members' interests, and training for Members following the election on 6<sup>th</sup> May 2011.</p>	27 - 30

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p><b>CONSULTATION ON THE LOCALISM BILL - STANDARDS OF CONDUCT</b></p> <p>To receive a report of the City Solicitor summarising the outcome of the consultation on the aspects of the Localism Bill relating to standards of conduct for Local Authority Members.</p>	31 - 44

# Agenda Item 5

## Standards Committee

Wednesday, 16th February, 2011

### PRESENT:

#### Independent Members

Gordon Tollefson (Chair)  
Joanne Austin  
Rosemary Greaves  
Philip Turnpenny

#### Councillors

C Campbell	B Selby	E Nash
B Gettings	J L Carter	

#### Parish Members

Councillor P Cook	Morley Town Council
Councillor Mrs P Walker	Pool in Wharfedale Parish Council

### APOLOGIES:

Councillors J Priestley, J Harper and R D Feldman

#### **19 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.

#### **20 Exempt Information - Possible Exclusion of the Press and Public**

There were no resolutions to exclude the public.

#### **21 Late items**

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

#### **22 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.

## **23 Minutes of the Previous Meeting**

The minutes of the Standards Committee meeting held on 13<sup>th</sup> July 2010 were approved as a correct record.

Further to Minute 5, the Chair informed the Committee that he had attended the Whips meeting held on 13<sup>th</sup> July 2010 and had received some constructive comments.

Further to Minute 17(b), the Chair reported that Member Management Committee would be asked to comment upon the proposed amendments to the Members E-Mail Code of Practice at its meeting to be held on 29<sup>th</sup> March 2011.

## **24 Minutes of the Assessment Sub-Committee**

The minutes of the Assessment Sub-Committee meeting held on 13<sup>th</sup> December 2010 were received and noted.

## **25 Minutes of the Consideration Sub-Committee**

The minutes of the Consideration Sub-Committee meetings held on 29<sup>th</sup> June and 13<sup>th</sup> December 2010 were received and noted.

## **26 Minutes of the Corporate Governance and Audit Committee**

The minutes of the Corporate Governance and Audit Committee meetings held on 30<sup>th</sup> June, 29<sup>th</sup> July, 29<sup>th</sup> September, 15<sup>th</sup> November, 14<sup>th</sup> December 2010 and 24<sup>th</sup> January 2011 were received and noted.

Members queried whether the inclusion of the Corporate Governance and Audit Committee minutes with the Standards Committee agenda was necessary. The Chair undertook to discuss this further with the Chair of the Corporate Governance and Audit Committee and the Assistant Chief Executive (Corporate Governance).

## **27 Officer/Employee Code of Conduct**

The Head of Human Resources presented a report of the Chief Officer (Human Resources) providing an update on the work which has taken place, and is taking place, around the Code of Conduct which applies to staff. It was reported that legal advice is currently being sought as to whether it is lawful to require employees to register their membership of the Freemasons, following a letter received from the Grand Lodge.

Members particularly discussed the need to include more information in the Code of Conduct regarding vexatious complaints against Members, and how this would be dealt with.

The need to require employees with decision making powers to publicly register their interests was also discussed. Members were informed of the arrangements currently in place in different departments to help to ensure that employees declare conflicts of interest.

The Head of Human Resources undertook to refer the Committee's comments to the Chief Officer (Human Resources) in order that they can be considered as part of the review of the Employee Code of Conduct, and inform the Committee of the timeframe for the review within the next 7 days.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) note the report;
- (b) request that the Committee's comments are referred to the Chief Officer (Human Resources) and taken into account as part of the review of the Employee Code of Conduct; and
- (c) request that the Head of Human Resources informs the Committee of the timeframe for the review of the Employee Code of Conduct within the next 7 days.

## **28 Ethical Audit Action Plan: HR Issues Update**

The Head of Human Resources presented a report of the Chief Officer (Human Resources) providing a final update to the Committee on the actions assigned to the Chief Officer (Human Resources) as a result of the Ethical Audits undertaken in 2006 and 2007.

Members particularly discussed the meaning of 'operational matters' and the types of issues that it would be inappropriate for a Member to become involved in, such as staffing matters.

**RESOLVED** - Members of the Standards Committee resolved to:

- (a) note the contents of the report; and
- (b) note the more targeted approach to potential risk areas set out in paragraphs 4.3 and 4.4 of the report.

## **29 Implications of the Localism Bill for the Ethical Framework in Leeds**

The Head of Governance Services presented a report of the Assistant Chief Executive (Corporate Governance) briefing Members of the Standards Committee on the aspects of the Localism Bill which relate to the Council's ethical governance arrangements, specifically the Members' Code of Conduct, Standards Committee, and local assessment arrangements.

The following issues were discussed:

- The Localism Bill proposes to impose a duty on Councils to promote and maintain high standards of conduct by Members and co-opted members of the authority, even though there would be no obligation to adopt a Code of Conduct;
- Conduct issues could be dealt with through group Whips, or criminal law for more serious matters, instead of a Code of Conduct;

- It would be useful to create a guidance note for Members on how to behave;
- Comparisons of the way in which conduct matters were handled in other organisations;
- The current threshold at which it is necessary to register the receipt of gifts and hospitality (£25.00) is too low and should rise to £50.00 to be in line with the threshold for election returns;
- Members should only have to register interests that are relevant to the decisions they take; and
- It is too early to comment upon the proposals in the Localism Bill as it could be amended before it receives Royal Assent, therefore the report should be noted.

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

### **30 Standards Committee - Interim Annual Report**

The Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) providing members of the Standards Committee with performance information regarding the Standards Committee's activities during the 2010/11 municipal year.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) note the contents of the report;
- (b) agree that the information in the report will form the basis of the Standards Committee's Annual Report for the current municipal year; and
- (c) agree that the information in the report be presented to the Corporate Governance and Audit Committee as part of the six monthly reporting arrangements.

### **31 Annual Report of the Monitoring Officer**

The Assistant Chief Executive (Corporate Governance) presented a report providing the Monitoring Officer's Annual Report which is required under paragraph 5 of the Monitoring Officer Protocol.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) note the assurances and performance information provided in the report; and
- (b) request that all Members are notified that this report is available.

### **32 Standards Committee Work Programme**

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the Committee of the work programme for the remainder of the municipal year. Members were asked to cancel the final meeting of the municipal year which was due to be held on 20<sup>th</sup> April 2011, as there were no scheduled items.



**RESOLVED** – Members of the Standards Committee resolved to:

(a) note the work programme; and

(b) agree that the Standards Committee meeting due to be held on 20<sup>th</sup> April 2011 be cancelled.

### **33 Chair's Closing Remarks**

The Chair informed the Committee that Rosemary Greaves' and Councillor John Priestley's term of office would expire on 26<sup>th</sup> May 2011, therefore this would be their final Standards Committee meeting. It had been decided not to seek any re-appointments due to the reduction in the workload of the Committee and the proposals in the Localism Bill.

On behalf of the Committee, the Chair expressed his appreciation to Ms Greaves and Councillor Priestley for their service and helpful contributions.

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## Standards Committee - Assessment Sub-Committee

Wednesday, 27th April, 2011

### PRESENT:

#### Independent Members

Gordon Tollefson (Chair)

#### Councillors

E Nash                      R D Feldman

#### Parish Members

Councillor Mrs P Walker

### **7      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.

### **8      Case Reference 1011002**

The Monitoring Officer submitted the above complaint to the Assessment Sub-Committee for consideration. The Deputy Monitoring Officer was in attendance at the meeting to advise the Sub-Committee on any procedural issues.

The Assessment Sub-Committee agreed that the complaint was about a Member of Leeds City Council, that the subject Member was in office at the time of the alleged conduct, and that the Code of Conduct was in force at the time.

The Assessment Sub-Committee then considered whether the complaint, if proven, would be a breach of the Code of Conduct under which the Member was operating at the time of the alleged misconduct.

The Assessment Sub-Committee agreed that the subject Member was acting, claiming to act, or giving the impression they were acting in their official capacity during the incident.<sup>1</sup>

After considering all paragraphs of the Code of Conduct, the Assessment Sub-Committee agreed that there was no potential breach of the Code of Conduct disclosed in the complaint.

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<sup>1</sup> Councillors Feldman and Nash required that it be recorded that they voted against this decision.

**RESOLVED** – The Assessment Sub-Committee decided to take no further action in relation to the allegations.

**9 Lessons to Learn**

The Assessment Sub-Committee agreed that all Members should be advised (via their Group Whip) to consider carefully any e-mails that are sent from their Council e-mail address.



Originator: Amy Kelly

Tel: 0113 39 50261

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**Report of the City Solicitor**

**Standards Committee**

**Date: 6<sup>th</sup> July 2011**

**Subject: Appointment of Sub-Committees following the Annual Council Meeting**

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**Electoral Wards Affected:**

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**Executive Summary**

1. The purpose of this report is to ask the Standards Committee to re-appoint its Sub-Committees for the 2011/12 municipal year.
2. The terms of reference and membership of all Council Committees are approved at the Annual Council Meeting each year. Those Committees must then in turn approve the terms of reference and membership of any of their sub-committees before those sub-committees can meet.
3. Members of the Standards Committee are asked to approve the terms of reference of:
  - The Assessment Sub-Committee (Appendix 1);
  - The Review Sub-Committee (Appendix 2);
  - The Consideration Sub-Committee (Appendix 3); and
  - The Hearings Sub-Committee (Appendix 4).
4. Members of the Standards Committee are also asked to approve the membership of the above Sub-Committees as set out in Article 9 of the Constitution (attached as Appendix 5).

## **1.0 Purpose Of This Report**

- 1.1 The purpose of this report is to ask the Standards Committee to re-appoint its sub-committees for the 2011/12 municipal year.
- 1.2 The terms of reference and membership of all Council Committees are approved at the Annual Council Meeting each year. Those Committees must then in turn approve the terms of reference and membership of any of their sub-committees before those sub-committees can meet.

## **2.0 Background Information**

- 2.1 The Standards Committee currently has four sub-committees which have been set up to deal with different stages of the complaints process in relation to the Members' Code of Conduct.
- 2.2 The Standards Committee decided to create an Assessment Sub-Committee and a Review Sub-Committee in July 2008. The Standards Committee (England) Regulations 2008 require that both the initial assessment and review of complaints are carried out by different sub-committees.
- 2.3 Following various reviews of the process the Standards Committee also created a Consideration Sub-Committee to consider final investigation reports, and a Hearings Sub-Committee to hold hearings where the investigator has concluded that the Code of Conduct has been breached by the subject Member. This was partly because it was agreed that a smaller group of Members would be able to meet more quickly, to avoid conflicts of interest, and to account for the increased size of the Standards Committee.
- 2.4 Members of the Standards Committee are reminded that despite the proposals contained within the Localism Bill to abolish the standards regime, the Bill is not likely to come into force until February 2012 and therefore the Standards Committee must continue to receive and assess complaints against Members until further notice. If and when the Localism Bill comes into force as currently drafted the current Standard Committee and its Sub-Committees will be dissolved.

## **3.0 Main Issues**

### **The Assessment Sub-Committee**

- 3.1 The Regulations require that the initial assessment of any written allegations of misconduct under the Members' Code of Conduct is carried out by a Sub-Committee which must be appointed by the Standards Committee.
- 3.2 This Sub-Committee must be chaired by an Independent Member, and the membership consists of:
- One Independent Member (Chairperson);
  - Two Leeds City Council Members; and
  - One Parish or Town Council Member (the Parish or Town Council Member is only necessary for the quorum if the complaint concerns a Parish or Town Councillor).

- 3.3 The quorum of the Sub-Committee is three. These three members must include one Independent Member (the Chair), one Leeds City Councillor if the matter concerns a Leeds City Council Member, and one Parish Member if the matter concerns a Parish or Town Councillor.
- 3.4 The terms of reference for this Sub-Committee are attached as Appendix 1 to this report. In summary, this sub-committee receives and initially assesses complaints against Members, receives progress reports back from the Monitoring Officer when a complaint has been referred for 'other action', and receives references back from the Monitoring Officer during investigations if the circumstances require a new decision.
- 3.5 During the last municipal year Assessment Sub-Committee meetings were scheduled in advance as part of the Council diary in order to assist the Council in meeting the deadline of initially assessing complaints within 20 working days of receipt. However, given the decline in the number of complaints being received (only two complaints during 2010/11), it is proposed that this is no longer necessary.

### **Review Sub-Committee**

- 3.6 The Regulations require that the review of any decision by the Assessment Sub-Committee not to take any action in respect of an allegation be carried out by a sub-committee which must be appointed by the Standards Committee and must be chaired by an Independent Member. The Members of this Sub-Committee cannot be the same Members who sat on the Assessment Sub-Committee that made the original decision on the case.
- 3.7 The Review Sub-Committee membership consists of:
- One Independent Member (Chairperson);
  - Two Leeds City Council Members; and
  - One Parish or Town Council Member (the Parish or Town Council Member is only necessary for the quorum if the complaint concerns a Parish or Town Councillor).
- 3.8 The quorum of the Review Sub-Committee is three and the same rules apply as to the Assessment Sub-Committee (as outlined above).
- 3.9 The terms of reference for the Review Sub-Committee are attached as Appendix 2 to this report. The Review Sub-Committee can only review decisions by the Assessment to take no action.

### **The Consideration Sub-Committee**

- 3.10 The Regulations allow the Standards Committee to appoint a Sub-Committee to receive and consider completed investigation reports. The Regulations state such a Sub-Committee must be chaired by an Independent Member.
- 3.11 The membership requirements and the quorum for the Consideration Sub-Committee are the same as those for the Assessment and Review Sub-Committees. However, all Members of the Standards Committee are eligible to sit of the Consideration Sub-Committee regardless of whether they took part in any initial assessment or review meeting in relation to the same complaint.

- 3.12 The terms of reference for the Consideration Sub-Committee are attached as Appendix 3 to this report. The Consideration Sub-Committee can receive and consider final investigation reports in relation to the Members' Code of Conduct and local complaints (as defined in the Standards Committee Procedure Rules).

### **The Hearings Sub-Committee**

- 3.13 The Regulations allow the Standards Committee to appoint a Sub-Committee to hold determination hearings where the investigator has concluded that the subject Member has breached the Code of Conduct. The Regulations state that such a Sub-Committee must be chaired by an Independent Member.
- 3.14 The Hearings Sub-Committee membership consists of:
- Two Independent Members (one of whom to act as Chairperson);
  - Two Leeds City Councillors; and
  - One Parish or Town Council Member (the Parish or Town Council Member is only necessary for the quorum if the complaint concerns a Parish or Town Councillor).
- 3.15 Despite the larger membership the quorum for the Hearings Sub-Committee remains three. These three members must include one Independent Member (the Chair), one Leeds City Councillor if the matter concerns a Leeds City Council Member, and one Parish Member if the matter concerns a Parish or Town Councillor.
- 3.16 All Standards Committee Members are eligible to sit on the Hearings Sub-Committee despite any previous involvement in one of the other three Sub-Committees in relation to the same complaint. Article 9 also states that the Chair of the Hearings Sub-Committee will be the Chair of the Standards Committee or his nominee, chosen from the Independent Members appointed to the Standards Committee.
- 3.17 The terms of reference for the Hearings Sub-Committee are attached as Appendix 4 to this report. The Hearings Sub-Committee can hold determination hearings into breaches of the Members' Code of Conduct and apply sanctions to Members following a finding of misconduct, and can hold determination hearings into breaches of a local code or protocol (as set out in the Standards Committee Procedure Rules).

## **4.0 Implications For Council Policy And Governance**

- 4.1 Members of the Standards Committee are reminded that in order to sit on any of the four sub-committees they must complete all compulsory training in accordance with the Standards Committee Training Programme. This requirement is set out in Article 9 of the Council's Constitution which is attached as Appendix 5 to this report.

## **5.0 Legal And Resource Implications**

- 5.1 The requirements in relation to the membership of the sub-committees are set out in the Standards Committee (England) Regulations 2008. Members are reminded that, in accordance with Regulation 6, the Standards Committee must appoint a Sub-Committee to initially assess complaints and a separate Sub-Committee to



review initial assessment decisions to take no action. These are known in Leeds as the Assessment Sub-Committee and the Review Sub-Committee.

- 5.2 Members of the Standards Committee are also reminded that despite the proposals contained within the Localism Bill to abolish the standards regime, the Bill is not likely to come into force until February 2012 and therefore the Standards Committee must continue to receive and assess complaints against Members until further notice. If and when the Localism Bill comes into force as currently drafted the current Standard Committee and its Sub-Committees will be dissolved.

## **6.0 Conclusions**

- 6.1 The Standards Committee currently has four sub-committees which have been set up to deal with different stages of the complaints process in relation to the Members' Code of Conduct.
- 6.2 The terms of reference for each of these Sub-Committees are attached as appendices 1-4 of this report, and the membership requirements are set out in Article 9 of the Constitution (attached as Appendix 5).
- 6.3 Members of the Standards Committee are asked to reappoint those Sub-Committees for the 2011/12 municipal year.

## **7.0 Recommendations**

- 7.1 Members of the Standards Committee are asked to approve the terms of reference of:
- The Assessment Sub-Committee (Appendix 1);
  - The Review Sub-Committee (Appendix 2);
  - The Consideration Sub-Committee (Appendix 3); and
  - The Hearings Sub-Committee (Appendix 4).
- 7.2 Members of the Standards Committee are also asked to approve the membership of the above Sub-Committees as set out in Article 9 of the Constitution (attached as Appendix 5).

## **8.0 Background Papers**

- Article 9 of the Constitution
- Council Committee's Terms of Reference (Part 3 Section 2B of the Constitution)
- Standards Committee (England) Regulations 2008
- Standards Committee Procedure Rules (Part 4 of the Constitution)
- "The Role and Make-Up of Standards Committees", Standards for England (updated 10<sup>th</sup> August 2008)
- The Localism Bill 2010/11
- Letter from Bob Neill MP to the Chair of Standards for England, dated 15<sup>th</sup> October 2010, "Abolition of the Standards Regime"

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### **The Standards Committee – Assessment Sub-Committee**

The Standards Committee - Assessment Sub-Committee is authorised to discharge the following functions<sup>1</sup>:

1. To receive, consider and initially assess<sup>2</sup> any written allegations<sup>3</sup> of misconduct<sup>4</sup> 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.<sup>5</sup>
3. To receive and consider references back from the Monitoring Officer during an investigation<sup>6</sup>, 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)<sup>7</sup>, and to make a new initial assessment decision (as if the option to refer the allegation to Standards for England did not apply)<sup>8</sup>.

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<sup>1</sup> '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.

<sup>2</sup> Section 57A Local Government Act 2000

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

<sup>4</sup> "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.

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

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

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

<sup>8</sup> 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 functions<sup>1</sup>:

1. To review<sup>2</sup>, upon the request of a person who has made a written allegation<sup>3</sup> of misconduct<sup>4</sup> against a Member, a decision of the Assessment Sub-Committee that no action should be taken in respect of that allegation.

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<sup>1</sup> '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.

<sup>2</sup> Section 57A Local Government Act 2000

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

<sup>4</sup> "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 functions<sup>1</sup>:

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 Rules<sup>2</sup>.

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<sup>1</sup> '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.

<sup>2</sup> Standards Committee Procedure Rule 5.7

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**The Standards Committee – Hearings Sub-Committee**

The Standards Committee - Hearings Sub-Committee is authorised to discharge the following functions<sup>1</sup>:

1. To consider and determine any complaints<sup>2</sup> made against Members and to determine any sanction to be imposed on a finding of misconduct.

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<sup>1</sup> '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.

<sup>2</sup> "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

Part 3 Section 2B

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8 July 2009

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**ARTICLE 9 – GOVERNANCE COMMITTEES****9.1 GENERAL PURPOSES COMMITTEE**

9.1.1 In accordance with Article 15 the General Purposes Committee has authority to consider proposals for amending the constitution and making recommendations to full Council.

**9.2 CORPORATE GOVERNANCE AND AUDIT COMMITTEE**

9.2.1 The following are precluded from being members of the Corporate Governance and Audit Committee:

- Members of the Executive;
- Political Group Leaders from the three largest groups; and
- Whips from the three largest groups.

9.2.2 The Chair of Standards Committee will be a non voting co-opted member of the Committee<sup>1</sup>

**9.3 STANDARDS COMMITTEE**

9.3.1 The Council meeting will establish a Standards Committee.

9.3.2 The Terms of Reference for the Sub-Committees of the Standards Committee are set out in Part 3, Section 2B of the Constitution.

**9.3.3 Membership**

The Standards Committee will be composed of:

- Seven Elected members of Leeds City Council (Elected Members)
- Four Independent Members (Independent Members); and
- Three Parish Members (a Parish Member).<sup>2</sup>

**9.3.4 Elected Members**

9.3.4.1 Shall be Councillors other than the leader, three of whom shall be representatives of the three largest political groups; and of the remaining four, at least one being a representative from a political group not being one of the three largest.

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<sup>1</sup> In accordance with the provisions of S102(3) of the Local Government Act 1972, the Chair of Standards Committee will take no part in any business of the Corporate Governance and Audit Committee relating to the regulation or control of the finance of the authority.

<sup>2</sup> Following appointment to the Standards Committee a Parish member will remain a Member of the Standards Committee until their term of office on the Committee expires, unless at any such time they cease to be Members of their Parish Council (i.e. they resign, are disqualified or are not re-elected or re-appointed to the Parish Council). A temporary cessation in their membership of their Parish Council during election periods is not to be taken as terminating their appointment to the Standards Committee.

## *Article 9 - Governance Committees*

9.3.4.2 A maximum of one Elected Member may also be an Executive Member<sup>3</sup>.

9.3.4.3 An Elected Member may also be a Member of a Parish or Town Council in the Leeds City Council Area.

### **9.3.5 Independent Members**

9.3.5.1 Shall be people who are not Members or officers of Leeds City Council or any other Relevant Authority<sup>4</sup> (although a person who is an independent member of the standards committee of another relevant authority may be appointed as an independent member of the standards committee), and

9.3.5.2 They shall not have been a Member or officer of Leeds City Council within the 5 years preceding the date of their appointment, and

9.3.5.3 They shall not be a relative or close friend of a Member or officer of Leeds City Council.<sup>5</sup>

9.3.5.4 Appointment of a new Independent Member to the Standards Committee will be made by Full Council upon the recommendation of a panel. The Panel will include the Monitoring Officer and the Chair of the Standards Committee.

9.3.5.5 An Independent Member shall not be appointed to serve more than two terms.

9.3.5.6 Independent Members will be entitled to vote at meetings.

9.3.5.7 The Chair of the Committee will be appointed from the Independent Members appointed to it.<sup>6</sup>

### **9.3.6 Parish Members**

9.3.6.1 Shall be Members of a Parish or Town Council wholly or mainly in the Leeds City Council's area, and

9.3.6.2 Shall not also be Members of Leeds City Council<sup>7</sup>

9.3.6.3 A Parish Member must be present when matters relating to Parish Councils or their Members are being considered. The Parish Member is entitled to vote.

### **9.3.7 Sub-Committees of the Standards Committee**

Members of the Sub-Committees of the Standards Committee must complete all compulsory training in accordance with the Standards Committee Training Programme.<sup>8</sup>

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<sup>3</sup> Regulation 4(b) Standards Committee (England) Regulations 2008

<sup>4</sup> Section 49(6) Local Government Act 2000

<sup>5</sup> Regulation 5 (2 & 3) Standards Committee (England) Regulations 2008

<sup>6</sup> Section 53(4) Local Government Act 2000

<sup>7</sup> Regulation 4(2) Standards Committee (England) Regulations 2008

Part 2 Article 9

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### 9.3.7.1 Assessment Sub-Committee

The Standards Committee shall appoint an Assessment Sub-Committee to exercise the function of assessing allegations of misconduct made against Members and determining whether the allegations should be referred to the Monitoring Officer<sup>9</sup> for investigation or other action.<sup>10</sup>

The Sub-Committee membership will be composed of one Independent Member, two Elected Members and one Parish Member<sup>11</sup>.

The Chair of the Assessment Sub-Committee will be appointed from the Independent Members appointed to the Standards Committee.<sup>12</sup>

### 9.3.7.2 Review Sub-Committee

The Standards Committee shall appoint a Review Sub-Committee to exercise the function of reviewing a decision made by the Assessment Sub-Committee that no action should be taken in relation to an allegation.<sup>13</sup>

The Sub-Committee membership will be composed of one Independent Member, two Elected Members and one Parish Member<sup>14</sup>. Members of the Assessment Sub-Committee which made the initial assessment of an allegation will not be eligible for membership of the Review Sub-Committee in relation to the same allegation.

The Chair of the Review Sub-Committee will be appointed from the Independent Members appointed to the Standards Committee.<sup>15</sup>

### 9.3.7.3 Consideration Sub-Committee

The Standards Committee shall appoint a Consideration Sub-Committee to hold consideration meetings<sup>16</sup>.

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<sup>8</sup> The Monitoring Officer will ensure that any gaps in an Elected Member's training are brought to the attention of the Member concerned and where necessary that Member's Leader and Whip. Further, for Parish Members and Independent Members of the Standards Committee, the Monitoring Officer will bring any training gaps to the attention of the relevant Executive Member.

<sup>9</sup> Or to the Standards Board for England Section 57A(2)(b) Local Government Act 2000

<sup>10</sup> <sup>10</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

<sup>11</sup> The Parish Member only need attend if the matters being discussed by the Sub-Committee involve a Town/Parish Council Member.

<sup>12</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

<sup>13</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008, and Section 57B Local Government Act 2000

<sup>14</sup> The Parish Member only need attend if the matters being discussed by the Sub-Committee involve a Town/Parish Council Member.

<sup>15</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

<sup>16</sup> Regulation 17, Standards Committee (England) Regulations 2008 No. 1085/2008

#### *Article 9 - Governance Committees*

The Sub-Committee membership will be composed of one Independent Member, two Elected Members and one Parish Member<sup>17</sup>. Members of the Assessment or Review Sub-Committee which made the decision to refer an allegation for investigation will be eligible for membership of the Consideration Sub-Committee in relation to the same allegation.

The Chair of the Consideration Sub-Committee will be appointed from the Independent Members appointed to the Standards Committee.<sup>18</sup>

#### **9.3.7.4 Hearings Sub-Committee**

The Standards Committee shall appoint a Hearings Sub-Committee to hold determination hearings<sup>19</sup>.

The Sub-Committee membership will be composed of two Independent Members, two Elected Members and one Parish Member. Members of the Assessment Sub-Committee or Review Sub-Committee who referred the allegation for investigation, or the Consideration Sub-Committee who referred the allegation to the Hearings Sub-Committee, will be eligible for membership of the Hearings Sub-Committee in relation to the same allegation.

The Chair of the Hearings Sub-Committee will be the Chair of the Standards Committee or his/her nominee, chosen from the Independent Members appointed to the Standards Committee.<sup>20</sup>

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<sup>17</sup> The Parish Member only need attend if the matters being discussed by the Sub-Committee involve a Town/Parish Council Member.

<sup>18</sup> Regulation 6, Standards Committee (England) Regulations 2008 No.1085/2008

<sup>19</sup> Regulation 18, Standards Committee (England) Regulations 2008 No. 1085/2008

<sup>20</sup> Regulation 6(2), Standards Committee (England) Regulations 2008 No. 1085/2008



Originator: Amy Kelly

Tel: 0113 39 50261

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**Report of the City Solicitor**

**Standards Committee**

**Date: 6<sup>th</sup> July 2011**

**Subject: Members' Induction Period 2011**

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**Electoral Wards Affected:**

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**Executive Summary**

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. 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 2011.
3. Members of the Standards 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 2011.

2.2 On 6<sup>th</sup> May 2011, 24 Councillors were re-elected and 9 new Councillors were elected to Leeds City Council. All 33 Members completed two pieces of paperwork following the election. 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 During the induction period the new Members were invited to attend a series of training sessions on a variety of issues such as: the role of scrutiny; speaking in meetings; the role of area committees; managing case work; and how to Chair meetings.

2.4 In addition, every Parish and Town Council within Leeds held elections or co-opted new Members on 6<sup>th</sup> May 2011.

## **3.0 Main Issues**

### Declaration of acceptance of office

3.1 In Leeds, all 33 Members completed the following pieces of paperwork after 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 guidance 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 asked to return their form by 26<sup>th</sup> May 2011 (prior to taking part in the annual meeting), and all Members were able to do this.



### Register of Interests

- 3.4 The completed register of interests forms are retained by Governance Services. As is detailed in the Code of Conduct, Members were required to complete and return this form within 28 days of their election or re-election. Two register of interests forms were received after the 28 days, and all of the newly elected Members complied with the deadline. However the two registers which missed the 28 day deadline have subsequently now been received.

### Training for Members

- 3.5 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.
- 3.6 Six of the newly elected Members have attended training on the Code of Conduct, including registration and declaration of interests. Arrangements are currently being made to train the remaining three Members on the Code of Conduct. 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.

### Parish and Town Councils

- 3.7 Every Parish and Town Council in Leeds also held elections or co-opted new Members on 6<sup>th</sup> May 2011. Officers within Governance Services have provided advice and guidance to Parish and Town Clerks regarding the forms that need to be completed by these new Members, and have sought assurance that all the relevant deadlines have been complied with. The Monitoring Officer also performs ethical framework functions in relation to Parish and Town Councils in the Leeds area.
- 3.8 To date 29 out of 31 Councils have responded to confirm that the relevant paperwork has been completed. Those Councils have confirmed that overall four register entries were completed outside of the 28 day deadline, and six acceptance of office forms were not signed before or at the first meeting of the Council.

## **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 Standards Committee are asked to note the contents of this report.

**8.0 Background Papers**

8.1 None.



Originator: Andy Hodson

Tel: 0113 22 43208

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## Report of the City Solicitor

### Standards Committee

Date: 6<sup>th</sup> July 2011

Subject: Localism Bill – Outcome of initial consultation

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

1. The purpose of this report is to provide an update on the proposals in the Localism Bill about ethical governance issues, and to outline the results of the first round of consultation with various stakeholders on the future of the ethical framework in Leeds.
2. No final decisions can be made at this stage, as the provisions of the Localism Bill are subject to change until the Bill receives Royal Assent (which is expected to be in November or December 2011). These results are therefore only being presented for information in advance of further dialogue with each Political Group.
3. Standards Committee is asked to note;
  - and comment upon the outcome of the initial consultation exercise;
  - the timetable for further consultation contained in Appendix 2.

## **1.0 Purpose of this Report**

- 1.1 The purpose of this report is to provide an update on the proposals in the Localism Bill about ethical governance issues, and to outline the results of the first round of consultation with various stakeholders on the future of the ethical framework in Leeds.
- 1.2 No final decisions can be made at this stage, as the provisions of the Localism Bill are subject to change until the Bill receives Royal Assent (which is expected to be in November or December 2011). These results are therefore only being presented for information in advance of further dialogue with each Political Group.

## **2.0 Background Information**

- 2.1 The Localism Bill proposes to abolish the 'Standards Board regime' in its entirety. The Government has made clear in the Bill that under the new arrangements Councils will be free to adopt their own voluntary Code of Conduct and set up a standards committee to consider complaints under this code. Whilst unlikely, amendments considered during the passage of the Bill, and currently under consideration in the House of Lords, may also result in Local Authorities being compelled to adopt a code, possible one drafted nationally.
- 2.2 In the event of the Bill remaining unchanged, i.e. with each local authority having discretion whether to adopt a local code of conduct, consultation took place prior to the local elections to establish whether there was any appetite to adopt a voluntary code of conduct in Leeds. The consultation focussed upon the views of the Leaders of each political group, the Group Whips, Corporate Governance and Audit Committee, and the Standards Committee. Each consultee was asked for their opinion on the five questions listed in Appendix 1. These same questions were also asked of the other West Yorkshire authorities in order to establish whether there was any possibility of introducing regional arrangements. The results of this consultation are summarised in this report, along with a series of options to be explored.
- 2.3 In January 2011, Communities and Local Government published a series of Impact Assessments on different aspects of the Localism Bill including on the subject of "The abolition of the Standards Board regime, clarification of the law on predetermination and the requirement to register and declare interests".

## **3.0 Main Issues**

### **Consultation response within Leeds City Council**

- 3.1 The general consensus at both the Standards Committee and Group Whips meetings was that it was too early to determine exactly what arrangements the Council might adopt as the Bill had not yet received Royal Assent. However there was broad acceptance of a need to continue to explore the potential implications of the Bill for Leeds, and particularly that this process should be Member led.
- 3.2 This report provides feedback to previous consultees on the views expressed during the initial consultation phase and proposes a method and timetable for further dialogue on the possible arrangements which Leeds City Council might adopt.

## **Option 1 – To withdraw the existing code of conduct without replacing it.**

- 3.3 Whilst none of the respondents to the consultation completely favoured this option a number of individual members (individual Whips and Standards Committee members) did favour this approach.
- 3.4 Despite allowing for this possibility in the Localism Bill, the impact assessment published by the Department for Communities and Local Government (DCLG) has assumed authorities will retain at least some aspect of the local standards framework. This being because authorities will need to demonstrate and assure themselves that the new duty proposed by the Localism Bill to “promote and maintain high standards of conduct by members and co-opted members of the authority” is being complied with.
- 3.5 DCLG has also identified that there may be a risk of standards of conduct amongst councillors worsening in those local authorities that decide not to adopt a code of conduct for their Councillors. DCLG suggest that this may occur due to Councillors knowing that their conduct will not be investigated by the authority and therefore acting without fear of sanction.

### **Possible mitigation of these risks**

#### Existing statutory framework

- 3.6 It is argued that the above risks are mitigated, at least in part, by the existing statutory framework. In the Impact Assessment the Government outlines that the most common breaches of the Code since May 2008 have related to failure to treat others with respect (30%), followed by breaches related to the register of interests and using the position of Councillor for personal gain (28%), and acting in a manner which could bring their office or authority into disrepute (20%). The Government believes that the risks of this behaviour continuing unchecked is mitigated in part where the cases are serious enough to involve slander or libel, by the laws of defamation enforced by the civil courts. Those related to misuse of position and interests will be mitigated by the new regulations and the creation of a criminal offence.
- 3.7 The Government believes that existing legal frameworks already provide remedies for the most serious types of misconduct. In summary, the existing legal framework covers the following issues:
- **The fiduciary duty of Councillors** – a Councillor is treated as a trustee of the Council’s assets, with a fiduciary duty to apply those assets in the public interest, and therefore when a Councillor abuses that trust they can be held personally liable for the resulting loss.
  - **Libel and slander** – an individual could claim that they have been libelled or defamed by a Councillor, but the Council itself cannot be libelled.
  - **Misfeasance in public office** – a Councillor can be accused of having misused or abused their power either through ‘targeted malice’ or ‘untargeted malice’. Targeted malice will occur when a Councillor intentionally abuses their position with the motive of inflicting damage on the claimant. Untargeted malice would occur when a Councillor acts knowing that they have no power to undertake the act complained of.
  - **Equalities and Discrimination law** – this would prevent Councillors from treating anyone less favourably than others on grounds that include sex, race, religion, sexual orientation, age and disability.

- **Criminal offences** – a Councillor who is sentenced to a term of imprisonment of not less than 3 months is disqualified from office by virtue of section 80 of the Local Government Act 1972. The Government has also stated that section 80 may be revised in future to cover other aspects of misconduct. The Fraud Act 2006 would ensure that a Councillor could not use their position to support or influence a planning application that they have a financial interest in or otherwise use their position for self financial gain. The Bribery Act 2010 prevents the offering, promising or giving of an advantage, or requesting, agreeing to receive or accepting an advantage in a public office. Both offences under the Fraud Act or the Bribery Act could result in a penalty of 10 years imprisonment or an unlimited fine, or both. The Malicious Communications Act 1998 covers the sending of letters or other communications (including electronic communications) which are grossly offensive or threatening and which are sent for the purpose of causing distress or anxiety. Such an offence could result in imprisonment for no longer than 6 months or a fine of up to £5,000, or both.
- **Electoral offences** – under the various acts governing the conduct of elections, Councillors are prevented from exerting (or intending to exert) undue influence on voters, using bribery, treating, personation, and providing false information in nomination papers or in relation to the registration of electors. Under the Electoral Administration Act 2006 Councillors are also prevented from supplying false information to the electoral registration officer and making fraudulent applications for a postal vote. The majority of electoral offences carry a maximum penalty of 1 or 2 years imprisonment or an unlimited fine.
- **Maladministration** – the Local Government Ombudsman has responsibility for investigating maladministration causing injustice. This includes things that have gone wrong in the way a service has been given or the way a decision has been made, and individual or collective actions or failings of Councillors may amount to maladministration.
- **Bias and predetermination** – the Localism Bill proposes to clarify the rules surrounding bias and predetermination. These rules provide that a Councillor cannot take part in the decision making process where they have a closed mind on the matter. This would make the decision itself unsafe, but would have no implications for the individual Councillor.

3.8 There are also legal remedies available to anybody who is subject to intimidation or harassment, whether or not they are an employee. The Protection from Harassment Act 1997 makes it an offence for a person to pursue a course of conduct which “amounts to harassment” or “which he knows or ought to know amounts to harassment”. This Act gives people who are subject to harassment a right to go to the civil courts to obtain an injunction and damages. A council, as an employer, could consider undertaking proceedings to support an employee under the Act, if it felt that it was an extreme case.

#### New requirements relating to the registration and declaration of interests

3.9 The Government intends to create a new criminal offence of a Councillor deliberately failing to comply with the Regulations regarding the registration and declaration of interests. Complaints will be made either to the Monitoring Officer of the relevant authority or directly to the police. However, the Government has assumed that the complaints which are made directly to the police would initially pass back to the Monitoring Officer to investigate and potentially resolve without having to launch a formal investigation.

- 3.10 The Monitoring Officer will therefore be treated as the first port of call for all complaints relating to the failure of Councillors to register or declare personal interests. The Government has estimated that nationally there would be 750 complaints of this nature per year.
- 3.11 It has also been assumed that around 50% of such complaints will be dismissed by the Monitoring Officer without further action. It is further assumed that around 30% will be resolved locally without police involvement, for example, the requirement could be satisfied if the Councillor agrees that in light of the complaint they do have an interest and agrees to register it immediately. Indeed the Government is relying on local authorities to resolve as many complaints as possible in order to minimise the impact on the criminal justice system. The Government anticipates that the remaining 20% will be passed on to the police (nationally between 100 and 300 complaints per year).
- 3.12 Such complaints will have to be received regardless of whether the Council chooses to adopt a code of conduct or not.

#### Other remedies

- 3.13 The Government believes that the risks arising from breaches related to bullying others or disclosing confidential information could be mitigated by local authorities putting procedures in place to minimise these risks, such as having a protocol for Member / officer relations and through training. Similarly, possible breaches involving the misuse of Council resources could be dealt with by the temporary withdrawal of those resources or removing a Councillor as a member of a particular committee.
- 3.14 Finally, Councillors are ultimately accountable to their electorate through local elections every four years. However, the Public Bill Committee felt that elections are not an effective remedy for the public if their local authority decide not to adopt a code. In particular, committee members felt that the ballot box was no guaranteed remedy for the public against misconduct if there was strong support for a particular party within an electoral area.

#### **Further considerations in relation to this option**

- 3.15 Whilst not adopting a code of conduct may be perceived as not providing sufficiently robust arrangements for codifying the expected conduct of councillors, the legal framework does provide a mechanism within which concerns can be addressed.
- 3.16 In addition any complaints about the actions or inactions of a councillor could still be capable of being received within the Council's Corporate complaints processes and referred to the relevant group for consideration and a response. Additionally, should an officer wish to complain about the way a Member has treated them they could use the grievance procedure provided through Human Resources.

#### **Option 2 – To revise the Code of Conduct or to replace the Code of Conduct with a new one**

- 3.17 Both the Leaders of the political groups and the Corporate Governance and Audit Committee expressed the view that some form of code was needed in order to set out the standards expected of Councillors. There were varying opinions as to whether the Council should choose to adopt something drafted by a national organisation (in particular the Local Government Association), whether the existing Code of Conduct should be revised, or whether the Code should be replaced with some form of guidance note produced locally.

- 3.18 Since the consultation took place the Chief Executive of the Local Government Association has written to all Chief Executives of local authorities in February to outline that “local government is generally supportive of the abolition of the current regime, seeing it as over-bureaucratic, burdensome and too prescriptive”, and that the meeting of the LGA Leadership Board had agreed not to seek to establish a replacement framework within which Councillors should operate. Therefore the Council would need to adopt a code produced locally, or a code produced by a different organisation (such as the Association for Council Secretaries and Solicitors).
- 3.19 An pragmatic way forward for Leeds, emerging from discussions with Leader Management Team, may be for Leeds to simply adopt the Nolan Principles of Conduct in Public Life as a framework of conduct and behaviour which could be equally applied to officers and members. This approach will be further considered by Members in the coming months.

#### Complaints process

- 3.20 The respondents to the consultation also generally agreed that the system for dealing with complaints would need to have a more rigorous filtering process so that more complaints could be resolved without having to be formally investigated, and would not need to be considered by a committee of Members unless it was potentially serious.
- 3.21 There were also varied opinions as to whether the same process should be used for all complaints against Members, or whether there should be different procedures for dealing with complaints from other Councillors, officers, or members of the public.
- 3.22 Again there appears scope for the Council’s corporate complaints system to be utilised for complaints against Members from members of the public. Initial consideration and response to complaints would not need the involvement of a separate committee or sub committee as logically complaints would be referred to political groups to responded to, only escalating further, say to a Standards Committee, should a complainant wish to appeal or if say, the allegation related to the new provisions regarding registration and declaration of interests.

#### **Benefits of this proposal**

- 3.23 The Government has identified one key benefit of their proposed changes to the standards regime, which is that by making Councillors accountable for their conduct at a local level (rather than a national level), standards of conduct will more closely reflect the expectations of local citizens. Adopting the Nolan Principles would also allow the Council to demonstrate that it will be fulfilling its new duty to promote and maintain high standards of conduct amongst its Members.
- 3.24 Additionally there would remain the new requirement and sanction proposed in the Bill for registration and declaration of interests by members, paragraphs 3.9 - 3.11 of this report refer.

#### **Further considerations relating to this option**

- 3.25 The consultees were asked various supplementary questions regarding this proposal, such as who should consider any complaints against Members and, if this was to be a Council committee, what form the committee should take.



## Standards Committee

- 3.26 Under the Localism Bill proposals a standards committee (or other committee or body with the similar functions) would not have the same powers to sanction Members as are currently available. Instead powers would be restricted to taking administrative measures to ensure that it could continue to discharge its functions effectively.<sup>1</sup> This may include barring a Councillor from particular resources or offices and from direct contact with certain officers. It may also include censure, training, or removing Councillors from particular positions within the Council. These powers are not punishments and cannot be exercised in a manner which prevents a Councillor from acting as a Councillor.
- 3.27 The Leaders of the political groups and the Corporate Governance and Audit Committee generally agreed that there may continue to be a legitimate role for a standards committee to consider complaints in some circumstances.
- 3.28 The same respondents felt that independent members (co-opted members of the public) could continue to provide a valuable input to a standards committee and that one of these members could also perform the role of Chair. However, since the consultation took place officers have looked into this suggestion further and can confirm that any co-opted member on such a committee would not be able to vote on any matter (this includes the use of a casting vote), unless the new standards committee was an advisory committee only.<sup>2</sup>

## Declaration of acceptance

- 3.29 Under the current regime Members must agree to abide by the Code of Conduct in place at the Council through their acceptance of office. If the Council were to put local arrangements in place these declarations would no longer apply, and Councillors would need to indicate their acceptance of any local code. Leaders commented that it would be advantageous to link the acceptance of office declaration to a declaration indicating an agreement to abide by any local code of conduct.

## **Option 3 – To enter into regional arrangements with other West Yorkshire authorities**

- 3.30 Consultees were asked whether they would wish to pursue regional standards arrangements with other West Yorkshire authorities which could include a standards committee, a code of conduct and administrative support. Some Leaders of the political groups in Leeds recognised that there may be some economies of scale in operating a regional system, however, generally speaking there has not been much support, particularly from the other West Yorkshire authorities.
- 3.31 All West Yorkshire authorities have been carrying out their own consultations on the questions posed in Appendix 1. As a result, the general consensus in each authority is as follows:
- **Kirklees** – Members would like a simpler code of conduct than the current code. There is no appetite for having a separate standards committee. Complaints will first be presented to an all party group advised by the Monitoring Officer, and if considered serious enough, will be forwarded to the Corporate Governance and Audit Committee for action. There will be no involvement from co-opted

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<sup>1</sup> These powers were confirmed by the Court of Appeal in *R v Broadland District Council ex p Lashley (2000)*.

<sup>2</sup> According to Section 13 of the Local Government and Housing Act 1989.

members of the public on the Corporate Governance and Audit Committee and Members do not wish to involve Parish Councils in their arrangements.

- **Wakefield** – Members would like to adopt a code of conduct, but the complaints procedure needs to be streamlined, in particular the time taken to assess complaints and carry out investigations.
- **Bradford** – Members do want to have local standards arrangements which involve co-opted members of the public. However, they do not wish to involve Parish Councils in those arrangements. Members did have some interest in the potential for a regional appeals sub-committee to consider appeals against local standards committee decisions.
- **Calderdale** – No comments.

### Involvement of Parish and Town Councils

- 3.32 Under the provisions of the Localism Bill, Parish Councils will be required to make their own arrangements for adopting a code of conduct and receiving and considering complaints against Members. Previously Leeds City Council has had responsibility for all the Parish and Town Councils in its area.
- 3.33 The Corporate Governance and Audit Committee and some of the Group Leaders felt that Parish and Town Councils should be offered the opportunity to 'buy in' to any arrangements Leeds City Council chooses to set up, if any. This might include providing them with a model code of conduct to adopt and allowing any complaints against their Members to be processed using Leeds City Council's system. Some Leaders expressed the view that any delegation of functions to Parish and Town Councils which the Council might contemplate should be conditional on that parish or town council adopting the local code of conduct arrangements of the City Council.

### **Timescales for further consultation and final decision**

- 3.34 The Localism Bill has now entered the Committee Stage in the House of Lords, and after this will progress to the report stage and third reading. Currently it is anticipated that Royal Assent might be gained in November or December 2011. The present conduct regime will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent.
- 3.35 This means that until the appointed day, an allegation of misconduct can be made; after the appointed day, no further allegations of misconduct can be made under the present regime. It also means that at the appointed day, allegations may be in the process of investigation and that appeals against sanctions will be pending. The Government intends to introduce transitional measures to address this.

### The Government's Proposed transitional measures

- 3.36 Any cases in the system at the appointed day will make their way through a transitional regime. The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.

- 3.37 Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date. The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).
- 3.38 Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do is, for instance, to issue a Councillor with a censure or a request that they undergo training.

#### Timescales in Leeds

- 3.39 In order for a final decision on any future standards arrangements to be made before the Localism Bill comes into force, a decision will need to be made by full Council in either January or early February 2012. Prior to this the proposals will need to be considered by General Purposes Committee for the purposes of making a recommendation to full Council. These arrangements will be agreed to come into force once any transitional period ends i.e. once the last complaint has been concluded.
- 3.40 A timetable showing a further round of consultation and timescales for the implementation of the Bill is attached as Appendix 2 to this report.

### **4.0 Implications For Council Policy And Governance**

- 4.1 One of the principles in the Council's Code of Corporate Governance is good conduct and behaviour. Members need to consider how good conduct can be ensured once the Localism Bill comes into force, and removes the current standards regime.
- 4.2 It is also important that Members consider how the new duty for the Council to promote and maintain high standards of conduct by its Members can be fulfilled after the current standards regime ends.

### **5.0 Legal And Resource Implications**

- 5.1 The legal and resource implications are clearly set out in the main issues section of this report.

### **6.0 Recommendations**

- 6.1 Standards Committee is asked to note;
- and comment upon the outcome of the initial consultation exercise;
  - the timetable for further consultation contained in Appendix 2.

## 7.0 Background Documents

- Report of the Assistant Chief Executive (Corporate Governance) to the Corporate Governance and Audit Committee, “Implications of the Localism Bill for the ethical framework in Leeds”, 14<sup>th</sup> February 2011
- Minutes of the Corporate Governance and Audit Committee, 14<sup>th</sup> February 2011
- Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, “Implications of the Localism Bill for the ethical framework in Leeds”, 16<sup>th</sup> February 2011
- Minutes of the Standards Committee, 16<sup>th</sup> February 2011
- Localism Bill 2010-2011
- “Localism Bill: the abolition of the Standards Board regime, clarification of the law on predetermination and the requirement to register and declare interests – Impact Assessment”, by Communities and Local Government
- Letter from Bob Neill MP (Parliamentary Under Secretary of State) to Dr. Robert Chilton (Chair of Standards for England) on “Conduct of Local Authority Members”, 15<sup>th</sup> October 2010
- Public Bill Committee Debate: Localism Bill – Session 2010-11, Thursday 3<sup>rd</sup> February 2011 (morning session)

## The Localism Bill and the future of the standards regime

### Consultation questions

In order to help facilitate discussions around what local arrangements, if any, Members may wish to establish in Leeds, the following questions are posed to Members:

1. Should Leeds City Council adopt a voluntary code of conduct?
  - a. If yes, should the Council:
    - revise the existing code of conduct<sup>1</sup>; or
    - adopt a completely new code of conduct to be drafted locally?
  - b. If the Council wishes to adopt a completely new code of conduct, what types of behaviour / situations should this cover?
2. If a code is to be introduced, should there be different processes for dealing with differing types of complaints, namely:
  - Member against Member;
  - officer against Member; and
  - member of the public against Member?
  - a. If yes, how should these processes differ?
3. Should the Council have a separate 'Standards Committee' (or another name) to carry out any of the above functions, or instead give the function to an existing committee exercising Council functions?
  - a. If an existing committee is preferred, which committee would be the most appropriate?
  - b. Alternatively, would the Council prefer to delegate some of these functions to an officer?
4. Would there be value in retaining the facility to have a co-opted independent member(s)<sup>2</sup> on any committee dealing with complaints of member misconduct and if so, might that co-opted members have a role in chairing consideration of complaints against Members under any of the options shown in Question 2 above?
5. Is there an appetite for having a regional Standards Committee?

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<sup>1</sup> At the least the Council would need to remove the reference to the General Principles which will be revoked, and the requirements regarding the registration and declaration of interests as these will be covered in separate Regulations.

<sup>2</sup> The position of Independent Member as it currently stands will be abolished, but the Council could choose to co-opt someone onto the committee to fulfil a similar function.

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**Timeline for Leeds City Council  
Consultation and decision on the Localism Bill**

**Appendix 2**

Event / meeting	Date	Purpose
<b>July 2011 – September 2011</b>		
Standards Committee	6 <sup>th</sup> July 2011	To receive feedback following consultation process and to outline further consultation and drafting timetable.
Whips	12 <sup>th</sup> July 2011	To receive feedback following consultation process and to outline further consultation and drafting timetable.
Corporate Governance and Audit Committee	18 <sup>th</sup> July 2011	To receive feedback following consultation process and to outline further consultation and drafting timetable.
Group consultation process	July 2011 – Mid September 2011	For further consultation on proposals
<b>October 2011</b>		
Leader Management Team	6 <sup>th</sup> October 2011 (tbc)	To receive feedback from Group Consultation process and confirm preferred arrangements for review by Committees
<b>November / December 2011</b>		
Standards Committee	1 <sup>st</sup> November 2011	For final consultation on preferred arrangements
Corporate Governance and Audit Committee	9 <sup>th</sup> November 2011	For final consultation on preferred arrangements
Whips	15 <sup>th</sup> November 2011	For final consultation on preferred arrangements
Localism Bill receives Royal Assent	November / December 2011	n/a
Leader Management Team	Mid December 2011 (tbc)	To consider final arrangements for recommendation to General Purposes Committee.
<b>January 2012</b>		
General Purposes Committee to recommend local arrangements to full Council	5 <sup>th</sup> January 2012	Final recommendations for approval
Full Council to approve local arrangements (to come into force on the Appointed Day)	18 <sup>th</sup> January 2012	Final approval of local arrangements
tbc	Mid January to February 2012	Agreement of administrative arrangements to support any locally

**Timeline for Leeds City Council  
Consultation and decision on the Localism Bill**

**Appendix 2**

<b>Event / meeting</b>	<b>Date</b>	<b>Purpose</b>
		agreed arrangements
<b>February 2012</b>		
Appointed Day (when the Act comes into force)	February 2012	Local arrangements take effect from this date onwards (or transitional arrangements begin if complaints are in the system)
<b>April 2012</b>		
Supplementary legislation and Regulations expected to come into force	April 2012	Will provide details of the requirements for Members to register and declare interests