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## STANDARDS AND CONDUCT COMMITTEE

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Meeting to be held in Civic Hall, Leeds on  
Friday, 19th October, 2012  
at 1.30 pm

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### MEMBERSHIP

#### Councillors

J Harper  
K Maqsood  
E Nash (Chair)  
B Selby

C Campbell

P Harrand

B Gettings

# 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> <ol style="list-style-type: none"> <li>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.</li> <li>2. To consider whether or not to accept the officers recommendation in respect of the above information.</li> <li>3. If so, to formally pass the following resolution:- <p style="margin-left: 40px;"><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> </li> </ol>	

Item No	Ward	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 DISCLOSABLE PECUNIARY AND OTHER INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 of the Members' Code of Conduct.</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p><b>MINUTES OF THE PREVIOUS MEETING</b></p> <p>To approve the minutes of the Standards and Conduct Committee meeting held on 20<sup>th</sup> July 2012.</p>	1 - 4
7			<p><b>EMPLOYEE CODE OF CONDUCT</b></p> <p>To receive a report of the Chief Officer (Human Resources) outlining any amendments proposed to the Employee Code of Conduct, and to receive feedback on the proposed amendments to the Protocol on Member/Officer Relations.</p>	5 - 20
8			<p><b>IMPLEMENTATION OF NEW STANDARDS AND CONDUCT ARRANGEMENTS</b></p> <p>To receive a report of the City Solicitor outlining the steps taken to implement the new standards and conduct arrangements, including details of the training provided to Leeds City Councillors, and the further work which needs to be carried out.</p>	21 - 28

Item No	Ward	Item Not Open		Page No
9			<p><b>STANDARDS AND CONDUCT COMMITTEE WORK PROGRAMME</b></p> <p>To receive a report of the City Solicitor presenting the Committee with a draft work programme for the remaining meetings of the municipal year.</p>	29 - 32

# Agenda Item 6

## STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 20TH JULY, 2012

**PRESENT:** Councillor E Nash in the Chair

Councillors C Campbell, B Gettings,  
P Harrand and K Maqsood

**Apologies:** Councillors J Harper and B Selby

### **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**

There were no resolutions to exclude the press and public.

### **3 Late items**

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

### **4 Declaration of Disclosable Pecuniary and Other Interests**

There were no declarations of disclosable pecuniary or other significant interests.

### **5 Apologies for absence**

Apologies for absence were received from Councillor Janet Harper and Councillor Brian Selby.

### **6 Chair's Opening Remarks**

The Chair welcomed everyone to the meeting and expressed her hopes that the new standards regime would lead to less frivolous and malicious complaints against Members, and that far fewer complaints would progress through the formal process. The Chair also encouraged Members of the Committee to continue the practice of the former Standards Committee in acting non-politically when dealing with complaints.

## **7 New Standards and Conduct Regime**

The City Solicitor submitted a report setting out the new standards and conduct arrangements adopted by full Council and proposing terms of reference for the new sub-committee of the Standards and Conduct Committee.

Members discussed the procedure for considering complaints alleging a failure to comply with the Members' Code of Conduct. In particular, Members noted that the Standards and Conduct Committee and any sub-committee would be subject to the provisions in Part 5 of the Local Government Act 1972 and therefore those meetings would be held in public, even when complaints were being discussed. However, the Deputy Monitoring Officer advised the Committee that if confidential or exempt information is identified within the reports or appendices, it would be up to the Committee to decide whether the press and public should be excluded from the meeting during consideration of those items.

Members also discussed the time limit for complaints to be informally resolved and whether the subject Member would always be given 28 days in which to attempt to resolve the issue. The Deputy Monitoring Officer advised that the 28 day time period was primarily to help support the early informal resolution of complaints but that this could be extended in exceptional circumstances.

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

- (a) Note the new standards and conduct arrangements adopted by full Council;
- (b) Approve the terms of reference for the Consideration Sub-Committee; and
- (c) Agree the proposed substitute arrangements as set out in the report.

## **8 Review of the local codes and protocols**

The City Solicitor submitted a report proposing amendments to some of the local codes and protocols to bring them up to date and asking the Committee to consider how they could be further improved in due course.

In relation to the Codes of Practice for the Determination and Planning Matters, Members commented that the sections on bias and predetermination needed to be reviewed following the clarification provided by the Localism Act 2011. The Committee concluded that further advice needed to be sought from Legal Officers on this subject.

In relation to the Protocol on Member Officer Relations, Members commented that the document was too detailed and required a thorough review in order to make it fit for purpose. The Committee concluded that it was minded to delete the contents of the Protocol from paragraph 5 onwards, but that the Chief Officer (Human Resources) and the City Solicitor be asked to review the Protocol and report back to the Committee.

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

- (a) Approve the amendments to the codes and protocols as shown in the appendices to the report;
- (b) Ask the Licensing Committee to review the Code of Practice for the Determination of Licensing Matters to ensure it is fit for purpose and to report back to the next available meeting of the Standards and Conduct Committee;
- (c) Ask the Joint Plans Panel to review the Code of Practice for the Determination of Planning Matters to ensure it is fit for purpose and to report back to the next available meeting of the Standards and Conduct Committee; and
- (d) Ask the Chief Officer (Human Resources) and City Solicitor to review the Protocol on Member Officer Relations and to report back to the next meeting of the Standards and Conduct Committee.

## **9 Standards and Conduct Committee Work Programme**

The City Solicitor submitted a report presenting the Committee with a draft work programme for the remaining meetings of the municipal year.

Members made the following comments:

- In relation to the review of the Employee Code of Conduct, Members commented that the Chief Officer (Human Resources) should consider amending the Code to reflect the provisions of the new Members' Code of Conduct as far as possible.
- That the Committee should receive a breakdown of the number of complaints received in relation to the Members' Code of Conduct at each meeting.
- That the non-voting Parish Members of the Consideration Sub-Committee and the Independent Person should be invited to attend future meetings of the Standards and Conduct Committee to observe the proceedings.

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

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**Report of the Chief Officer, Human Resources**

**Report to Standards and Conduct Committee**

**Date: 19<sup>th</sup> October 2012**

**Subject: Employee Code of Conduct**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This report proposes separating the Employee Code of Conduct from the policies for the register of interests, gifts and offers of hospitality, and politically restricted posts.
2. The Code needs to be updated to make it compliant with a recent Information Commissioner's Office ruling regarding the publication of senior officer business interests.
3. The new Employee Code of Conduct is based upon the Nolan Principles and aims to mirror the Members' Code of Conduct.

**Recommendations**

4. The Standards and Conduct Committee are asked to note the information contained in this report and provide their views on the revised Employee Code of Conduct (attached as Appendix 1).
5. The Standards and Conduct Committee are also asked to approve the revised Protocol for Member / Officer Relations, attached as Appendix 2 to this report.

## **1 Purpose of this report**

- 1.1 This report provides an update to the Standards and Conduct Committee on work which has taken place, and is taking place, around the Employee Code of Conduct.
- 1.2 This report also seeks the views of the Standards and Conduct Committee on the revised Employee Code of Conduct.

## **2 Background information**

- 2.1 The employee code of conduct was subject to a 'light-touch' review in 2010 when the authority to amend the Code was sub-delegated from the Director of Resources to the Chief Officer - Human Resources. A commitment was made at that time to undertake a full review of the Code in 2012.
- 2.2 The existing Employee Code of Conduct forms parts of employees' terms and conditions of employment, so changes to the Code have to be agreed with the recognised trade unions through the Corporate Negotiating Committee.
- 2.3 The existing Employee Code of Conduct contains the policies on: register of gifts and offers of hospitality, register of interests and politically restricted posts.
- 2.4 Following the abolition of the standards board regime, Leeds City Council has adopted a new locally drafted Members' Code of Conduct which is based upon the Nolan Principles. The Employee Code of Conduct uses the same principles and approach where possible.
- 2.5 As agreed by the Standards and Conduct Committee, the Protocol for Member/Officer Relations has also been reviewed by the Monitoring Officer and HR have been consulted with as part of this review. A copy of the proposed Protocol for Member Officer Relations is attached as an appendix.
- 2.6 The Local Government Act (1972) Section 117 provides that any officer becoming aware of contract being entered into by the Council, in which they have a pecuniary interest, has to declare their interest.

## **3 Main issues**

- 3.1 The existing Employee Code of Conduct contains the rules relating to: the register of employee interests; register of gifts and offers of hospitality; and politically restricted posts. This revised Code proposes removing these schemes from the Code and establishing them as three separate policies. This enables these policies to be updated without reviewing the whole Employee Code of Conduct.
- 3.2 The new policies for the register of interests, register of gifts and offers of hospitality and politically restricted posts are currently being developed. The threshold value of gifts to be declared will be low to ensure that no gifts could be perceived to influence employee behaviour. The policies for registering interests and gifts will include guidance for officers involved in procurement exercises.
- 3.3 A recent ruling by the Information Commissioners Office (ICO) directed that Bolton Metropolitan Borough Council must externally publish the business

interests of its senior officers, where senior officers is defined as employees graded at Chief Officer level and above. Leeds City Council does not currently publish the business interests of its senior officers. This means that the Council is not complying with this ICO ruling and is at risk of financial penalty. The existing register of interest process does not allow for the publication of the business interests of senior officers so it is necessary to amend the Employee Code of Conduct to include this provision.

- 3.4 The annual requirement for officers in 'high risk' positions to declare any outside interests is currently on hold to enable the new requirement around externally publishing their interests to be included. The list of positions categorised as being at a high risk (of the potential for the perception of a conflict of interests arising) was updated earlier this year.
- 3.5 Guidance has been included in the 'Leadership' section on professional relationships with vulnerable adults and children because it is required by Adult Social Care and Children's Services.
- 3.6 Schedule 7 of the Localism Act 2011 came into force on 1<sup>st</sup> July 2012, which has made some minor amendments necessary to the Politically Restricted Posts policy, currently contained with the Code.
- 3.7 The Members' Code of Conduct has been reviewed in line with the 'Nolan principles' and at the last meeting the Standards and Conduct Committee suggested that the Employee Code of Conduct uses the same style.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Consultation has been undertaken with Legal Services, Internal Audit, Corporate Governance, Equality & Diversity Team and across Human Resources including the Human Resources Leadership Team. Where practicable, comments and suggestions have been incorporated.
- 4.1.2 Negotiation with the trade unions is currently taking place and any subsequent changes will be made in conjunction with Legal Services.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The Equality Team have been consulted upon the new Code and there are no adverse equality implications.

### **4.3 Council policies and City Priorities**

- 4.3.1 The ongoing work will make the Code of Conduct and the associated registers clearer and more accessible to employees.

### **4.4 Resources and value for money**

- 4.4.1 No additional implications.

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The revised policy on the register of employee interests will now be consistent with the Information Commissioners Office recent ruling (in relation to Bolton Metropolitan Borough Council) on the publications of senior officers' business interests.
- 4.5.2 The Politically Restricted Posts Policy requires amending to include reference to the Head of Paid Service taking on responsibilities around political restrictions, to bring it in line with Chapter 7 of the Localism Act 2011.
- 4.5.3 The Chief Officer (Human Resources) has the authority to change the Employee Code of Conduct under the Director of Resources sub-delegation scheme.

## **4.6 Risk Management**

- 4.6.1 There is a risk of a financial penalty issued by the ICO if the Council does not publish the business interests of its senior officers.
- 4.6.2 Amending the Employee Code of Conduct and the Register of Interest Policy enables the annual register of employees in 'high risk' positions to be completed and reduces the risk of potential risks not being identified and acted upon.

## **5 Conclusions**

- 5.1 The new code will be clearer with separate policies for register of interests, register of gifts and offers of hospitalities and politically restricted posts.
- 5.2 The changes to the code and the associated policies are necessary to ensure compliance with new legislation.
- 5.3 The changes are necessary to enable the register of employee interests to be undertaken this year.

## **6 Recommendations**

- 6.1 The Standards and Conduct Committee are asked to note the information contained in this report and provide their views on the revised Employee Code of Conduct (attached as Appendix 1).
- 6.2 The Standards and Conduct Committee are also asked to approve the revised Protocol for Member / Officer Relations, attached as Appendix 2 to this report.

## **7 Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

# Employee Code of Conduct

## Policy and Procedure



Members of the public are entitled to expect the highest standards of conduct from everyone who works for the Council. The Employee Code of Conduct sets out some of the standards of behaviour expected of employees. It applies to all employees of the Council, irrespective of grade or role. The Code forms part of your terms and conditions of employment.

If you supervise/line manage other employees you must make sure they know about and understand the Code. If you supervise people who are not employees of the Council (for example contractors and temporary agency workers) you must make them aware of the Code, and make it clear that they are under a duty to follow the Code.

If the people you supervise behave in ways that are inconsistent with the Code, you must take action. You may want to ask your supervisor for guidance, or consider using another policy to guide your response, for example the Probationary, Improving Performance or Disciplinary Policies and Procedures.

If you are unsure about any part of Code you should get clarification from your line manager or from the Human Resources service.

## Part One – Standards of Conduct

In performing their duties, local government employees must act with integrity, honesty, impartiality and objectivity. There is further guidance on the principles in the appendices to this code.

### 1. Selflessness

- You must not use materials in breach of copyright.
- You must take reasonable action to keep yourself and others safe.
- You owe a duty of loyalty to the Council.
- You must not work against the best interests of the council.
- You must not behave in a way which is incompatible with your role.
- You must report wrong-doing and any genuine and reasonable suspicion of wrong-doing as set out in the Code.
- You must only spend the Council's money wisely.

### 2. Honesty and integrity

- You must not misuse your official position or information acquired in the course of your employment to further your private interest or the interests of others.
- You must not engage in, or otherwise be involved in any bribery or corrupt activities or practices.
- You must avoid any reasonable suspicion of bribery and/or corruption

and/or any reasonable perception of bribery and/or corruption.

- You must, in carrying out your duties, ensure you comply with any legal requirements.
- You must ensure that public funds and assets, including information entrusted to you are only used in a responsible and lawful manner.
- You must not use property, vehicles or other facilities of the Council for personal use unless properly authorised to do so by your line manager or other appropriately authorised person.

### **3. Objectivity**

- You must follow the policies, procedures and rules of the Council.
- You must not give political advice.<sup>1</sup>
- You must not allow your own personal and/or political opinions and/or interests to interfere with your work.

### **4. Accountability**

- You are accountable to the Council for your actions and decisions.
- You must discharge your public functions reasonably.
- You must cooperate fully with any Council investigations.

### **5. Openness**

- You must use and share information appropriately, having regard to your data protection obligations.
- You must treat information with the appropriate level of confidentiality.
- You must not engage in, or otherwise be involved in any insider dealing.

### **6. Leadership**

- You must deal with the public, councillors and other employees sympathetically, efficiently and without bias.
- You must treat people fairly and equally.
- Professional relationships with vulnerable adults and with children who are service users must not develop into personal friendships and/or inappropriate relationships.
- You must maintain standards of dress and appearance which are appropriate to your role.
- You must behave appropriately when involved in tendering contracts and dealing with contractors.

### **7. Representing the Council**

- You must only deal with the media if you are authorised to do so.

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<sup>1</sup> This does not apply to officers appointed to posts which specifically provide political advice

- You must ensure any dealings with the media in an official capacity are appropriate.
- You must follow the rules for contact with the media in the capacity of a trade union representative.
- You must follow the rules for contact with the media in a personal capacity and/or in your capacity for other organisations.
- You must not create a false impression that you are authorised to speak for the Council if you do not have the authorisation to do so.

You are also required to follow the rules set out in these policies/procedures:

- Employee gifts and hospitality – you should obtain the permission of your director before accepting an offer of hospitality or a gift.
- Employee outside interests – you should declare: your membership of organisations the council needs to know about; associations with other businesses; beneficial interests in land and property; certain personal relationships; and financial interests in council contracts and sponsorship.
- Politically restricted posts – you should not stand for office or hold certain political positions if you are in a politically restricted post.

### **If you do not follow this Code**

If you fail to follow the Code you may be referred into formal policies and procedures, including the Disciplinary Policy and Procedure. Depending on the circumstances, including the seriousness of any breach of the Code, a potential outcome of disciplinary action could result in your dismissal with or without notice or payment in lieu of notice.

You must treat this Code seriously, and make sure you understand it. If you do not understand any aspect of the Code or the Council's requirements with regards to the conduct of employees then you should speak to your line manager urgently.

## **Part Two – Reporting wrong-doing**

### **You have a duty to report suspicions or knowledge of wrong-doing you become aware of, for example:**

- activities which you believe to be illegal, improper, unethical or otherwise inconsistent with this code.
- anything which involves – or you think involves – irregularities concerning cash, stores or other property of the Council.
- any suspected irregularity in the exercise of the functions of the Council, including unofficial funds.
- council employees or any other individuals being involved in potentially fraudulent or corrupt activities, or theft.

You should normally report matters to your manager, giving them enough detail to understand your concerns and to follow them up. You should not report suspicions of misconduct to anyone who you believe is (or is likely to be) involved in the alleged misconduct.

If you want or need to report something, but have a good reason not to report the matter to your line manager, you should tell one of the following people:

- The manager of the person you think may have breached the Code.
- A director (either your own director, or the one for the area where the breach may have occurred).
- Internal Audit.

### **Reporting matters to Internal Audit**

You can refer a matter to Internal Audit by using

- the whistle blowing reporting line on 0113 247 4645
- email address [concerns@leeds.gov.uk](mailto:concerns@leeds.gov.uk)
- using the on-line reporting form on the intranet
- post, to Internal Audit, 3rd Floor West, Civic Hall, Portland Crescent, LS1 1JF.

You can also contact Internal Audit for advice on 0113 247 4147, or by post.

The council's whistle-blowing policy contains more information on the protections offered to staff reporting legitimate concerns under the Public Interest Disclosure Act 1988.

If, following an investigation no wrong-doing is found to have occurred, any innocently motivated "whistleblower" will not be subject to any disciplinary action.

However, you should also note that if a report of alleged wrong-doing is found, during the course of investigation, to have been vexatious or improperly motivated, then disciplinary action may be taken against the "whistleblower" and which may result in dismissal, with or without notice or payment in lieu of notice.

### **A note about the internet, social networking sites etc.**

Whenever there are restrictions on what you can communicate to people, or how you should communicate with them, it does not matter whether you are communicating face to face, by telephone, email, through social networking sites, or any of the other means. The rules apply to all ways of communicating.

Inappropriate comments made on social networking sites (whether you have enabled privacy settings or otherwise) about your employment with the Council, the Council at large or any employees or former employees of the Council could amount to a breach of loyalty. As a result of this, you may face disciplinary action, which could ultimately result in your dismissal with or without notice or payment in lieu of notice.

### **Updating this policy**

The Human Resources service will monitor this policy and update it as required. The trade unions will raise any pertinent issues through established meetings with the HR service if they feel that a review is due or required.

The Chief Officer (HR) may amend any contact details, team names and job titles (and the version control number of the policy) as required without further trade union consultation. If amendments are made, the trade unions will be advised via the

Corporate Negotiating Group at the earliest opportunity and an updated version of the policy will be made available through the intranet and through HR contacts.

### **Definition of director**

The term “directors” is used to refer to a group of senior officers which includes the Chief Executive and all posts (other than administrative posts) which report directly to the Chief Executive. Wherever possible, the term “director” should be understood in this sense.

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## A PROTOCOL FOR MEMBER/OFFICER RELATIONS

### 1.0 INTRODUCTION AND PRINCIPLES

- 1.1 The objectives of this Protocol are to guide Members<sup>1</sup> and officers of the Council<sup>2</sup> in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.
- 1.2 The Council has adopted Codes of Conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.3 Members and officers must at all times observe this Protocol. This Protocol is a local extension of the Members' and Employees' Codes of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.4 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and any guidance issued by the Standards and Conduct Committee and/or Monitoring Officer.
- 1.5 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.
- 1.6 Details of the resources provided to members and officer will be provided subsequently in a separate document.
- 1.7 Given the variety and complexity of relations between Members and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

### 2.0 THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

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<sup>1</sup> Unless the context indicates otherwise, the terms Member and Members include non-elected i.e. co-opted Members as well as elected councillors.

<sup>2</sup> Unless the context indicates otherwise, references to the term Council include the executive, overview and scrutiny committees, and other committees and sub-committees

## *Protocol on Member/Officer Relations*

- 2.2 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 2.3 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.6 Some Members have roles relating to their position as members of the Executive, Scrutiny Boards, Area Committees or other committees and sub-committees of the Council.
- 2.7 Members serving on Scrutiny Boards monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
- 2.8 Members serving on Area Committees work to promote and improve the economic, social and environmental well-being of the Committee's area and exercise Area Functions. In addition they advise the Council in relation to local community interests and proposals affecting the committee's area.
- 2.9 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 2.10 Some Members may be appointed to represent the Council on local, regional or national bodies.
- 2.11 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 2.12 Members are not authorised to instruct officers other than:
  - through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for Members' use<sup>4</sup>.
- 2.13 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

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<sup>4</sup> See paragraph 5 of this Protocol.

- 2.14 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.
- 2.15 Members must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
- 2.16 Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction Members should be aware of the requirements of the Contracts Procedure Rules and relevant guidance.

### **3.0 THE ROLE OF OFFICERS**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council, officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.
- 3.8 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

#### **4.0 THE RELATIONSHIP**

- 4.1 Members are elected by, and officers are servants of the public and Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction and control of the Council.
- 4.2 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
- 4.4 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to other Members and Officers. To protect both Members and officers, officers should address Members as 'Councillor XX/Lord Mayor, save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting between a Director and their respective Executive Member.
- 4.5 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.6 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.7 A Member should not raise matters openly or through the media relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to

such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.

- 4.8 A Member who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - never make a criticism in public, and
  - take up the concern with the officer privately.
- 4.9 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the respective Director. The Director will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.10 Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the Council's strategic objectives, especially during the Scrutiny process. Nothing in this protocol is therefore intended to stop Members holding officers to account for decisions made under delegated powers. Officers are accountable to the Council for any decision they make and may be required to report to and answer questions from a Scrutiny Board except in relation to Council functions. A Scrutiny Board may also call-in Key Decisions before they are implemented. Members may also individually request sight of delegated decision notifications, and raise queries about a decision with the decision-maker or an appropriate senior officer.
- 4.11 Where an officer feels that s/he has been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a Member, s/he should raise the matter with his/her Director<sup>5</sup>, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Director, will after consultation with the complainant take appropriate action either by approaching the individual Member and/or group whip or by referring the matter to the Monitoring Officer.

## **5.0 BREACHES OF THE PROTOCOL**

- 5.1 In relation to Members, failure to comply with the Members' Code of Conduct may lead to a complaint to the Standards and Conduct Committee, and failure to comply with the rules in relation to Disclosable Pecuniary Interests may lead to the Member committing a criminal offence.

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<sup>5</sup> "Director" is defined by footnote 1 to Article 12 of the Constitution.

## *Protocol on Member/Officer Relations*

5.2 Allegations of breaches by officers will be referred to the employee's Director for consideration of appropriate action including disciplinary investigation under the Council's Disciplinary Rules.

### **6.0 MONITORING AND INTERPRETATION**

6.1 The Monitoring Officer will report to the Standards and Conduct Committee regarding any proposals for amendment to this protocol.

6.2 Questions on the interpretation of this protocol will be determined by the Monitoring Officer.

**Report of the City Solicitor**

**Report to the Standards and Conduct Committee**

**Date: 19<sup>th</sup> October 2012**

**Subject: Implementation of the new standards and conduct arrangements**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary of main issues**

1. The purpose of this report is to update Members of the Standards and Conduct Committee on the progress made towards implementing the new standards regime in Leeds. This includes providing training and guidance on the Members' Code of Conduct and publishing the register of interests for both Leeds City Councillors and Parish and Town Councillors in Leeds.
2. Significant progress has been made towards implementing the new standards regime, although further work is required in terms of providing training to Leeds City Councillors, and assisting the Parish and Town Councils.

**Recommendations**

3. Members of the Standards and Conduct Committee are asked to note the contents of this report and to provide suggestions regarding what further steps can be taken to assist the Parish and Town Councils in Leeds.
4. Members are also asked to comment on the draft briefing note on bias and predetermination (attached as Appendix 1).

## **1 Purpose of this report**

- 1.1 The purpose of this report is to update Members of the Standards and Conduct Committee on the progress made towards implementing the new standards regime in Leeds. This includes providing training and guidance on the Members' Code of Conduct and publishing the register of interests for both Leeds City Councillors and Parish and Town Councillors in Leeds.

## **2 Background information**

- 2.1 The new standards and conduct regime was introduced on 1<sup>st</sup> July 2012. The new regime includes:
- A new Members' Code of Conduct based around the general principles of public life and incorporating the new rules regarding disclosable pecuniary interests;
  - A register of disclosable pecuniary and other interests which includes the interests of a Members' spouse or civil partner, or person with whom they are living as if they were their spouse or civil partner, and which is published on the Council's website;
  - A new Standards and Conduct Committee with responsibility for overseeing the operation of the Code of Conduct and for promoting high standards of conduct; and
  - A new complaints process providing for complaints made under the general principles to be considered by the Standards and Conduct Committee, and complaints made about disclosable pecuniary interests being referred to the Police.
- 2.2 In relation to Parish and Town Councils in Leeds, the Localism Act makes Leeds City Council responsible for dealing with complaints against Parish and Town Councillors and for ensuring that their registers of interest are published on the Council's website.

## **3 Main issues**

### Guidance and training on the Members' Code of Conduct

- 3.1 The new Members' Code of Conduct was initially adopted by full Council on 21<sup>st</sup> May 2012 (to come into force on 1<sup>st</sup> July 2012), and was since updated on 11<sup>th</sup> July 2012 (to insert the definition of a disclosable pecuniary interest), and on 12<sup>th</sup> September 2012. This last amendment removed the provision for Members to speak at a meeting on an item of business in which they had a disclosable pecuniary interest, since it was made clear in guidance released by the Department for Communities and Local Government that this would not be acceptable.

- 3.2 Guidance notes were circulated to all Members regarding disclosable pecuniary interests and meetings as soon as the new regime came into force. These have since been revised following the amendments to the Code of Conduct.
- 3.3 Since the beginning of July training has been offered to Members of Leeds City Council on the new standards arrangements, focussing particularly on the Code of Conduct and disclosable pecuniary interests.
- 3.4 To date 55 Members (and the Independent Person) have attended the training sessions, leaving 44 Leeds City Councillors and four voting co-opted members of the Children and Families Scrutiny Board to be trained.
- 3.5 Overall five training sessions were arranged at various times, including an evening session. These training sessions were well received by the Members attending. Efforts have been made to arrange further training sessions, including one to one training sessions. The next training session is proposed to take place on Wednesday 31<sup>st</sup> October 2012.

#### Progress in Reviewing Codes and Protocols

- 3.6 Members will recall that at the July meeting, the Committee resolved that the Licensing Committee and Joint Plans Panel be asked to review the two Codes of Practice relating to determining Licensing and Planning matters. The review has commenced and in particular the approach being advocated is to remove additional conduct requirements implicit in the two codes of practice (which appears to be an unreasonable additional burden on those Members who serve on Planning and Licensing Committees) whilst refocusing the codes as guidance in ensuring that risks to the decision making process (i.e. potential areas of challenge) are minimised.
- 3.7 Since the last meeting a draft briefing note has been prepared on the subject of bias and predetermination. The briefing note is attached as Appendix 1 to this report. Members are invited to consider the draft and provide feedback. The note will also be considered by the Joint Plans Panel and the Licensing Committee alongside the revised Codes of Practice for the Determination of Planning and Licensing Matters over the coming weeks, with a report back to this Committee in January 2013.

#### Register of Interests for Members

- 3.8 All Leeds City Councillors completed their Register of Interests by 10<sup>th</sup> August 2012. The Head of Scrutiny Support is assisting in ensuring all voting co-opted Members of Scrutiny Boards have submitted their completed form.
- 3.9 All completed registers have been published on the Leeds City Council website. The Deputy Monitoring Officer has provided feedback to Group Whips on the completion/return of registers in each Group.

- 3.10 In relation to the Parish and Town Councillors in Leeds, 81% of completed register entries have now been received and are published on the Council's website. There remain some Parish Councils who have not yet provided register returns.
- 3.11 Further feedback is being provided to Parish and Town Council clerks on the statutory obligations under the new conduct regime.

#### Complaints process

- 3.12 Members of the public are able to access details about the complaints process and a complaints form on the Council's website. To date there have been enquiries regarding the complaints process, but no complaints made against Leeds City Councillors or Parish and Town Councillors in Leeds.

#### Dispensations

- 3.13 Following the publication of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the procedure for Members seeking dispensations has been amended. Although written requests must still be made to the Monitoring Officer, applications will now be decided by the Head of Paid Service in consultation with the Chair of the Standards and Conduct Committee.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 No consultation has taken place on the training for Members or the arrangements for the register of interests. However, the feedback received from Members who have attended the training course has been positive.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

### **4.3 Council policies and City Priorities**

- 4.3.1 Principle 3 of the Code of Corporate Governance in Part 5 of the Constitution is good conduct and behaviour. Consideration of the issues highlighted in this report contributes towards this principle, as well as the Council's legal obligation to promote and maintain high standards of conduct.

### **4.4 Resources and value for money**

- 4.4.1 There are no resource implications.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The Standards and Conduct Committee is responsible for promoting and maintaining high standards of conduct amongst Members of Leeds City Council.

4.5.2 There are no implications for access to information or call-in.

## **4.6 Risk Management**

4.6.1 For individual Members there are risks associated with not submitting their disclosable pecuniary interests for publication. According to the Localism Act, it is a criminal offence if a Member (without reasonable excuse) fails to submit their completed notification form listing their disclosable pecuniary interests within 28 days of your election or appointment to the Council, or fails to add a new disclosable pecuniary interest to their register within 28 days of a meeting where they declared that interest. Such matters would be dealt with by the Police rather than the Council.

4.6.2 There is also a risk that if Members do not attend training on the new Members' Code of Conduct they will be unaware of their responsibilities both under the general obligations and the rules regarding disclosable pecuniary interests. This risk has been mitigated by distributing briefing notes and the course materials to Members who have not attended the training.

## **5 Conclusions**

5.1 Significant progress has been made towards implementing the new standards regime, although further work is required in terms of providing training to Leeds City Councillors, and assisting the Parish and Town Councils.

## **6 Recommendations**

6.1 Members of the Standards and Conduct Committee are asked to note the contents of this report and to provide suggestions regarding what further steps can be taken to assist the Parish and Town Councils in Leeds.

6.2 Members are also asked to comment on the draft briefing note on bias and predetermination (attached as Appendix 1).

## **7 Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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## **GUIDANCE NOTE ON BIAS AND PREDETERMINATION IN THE PLANNING PROCESS**

### ***What is Bias and Predetermination?***

The law on bias and predetermination (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly.

Decision makers are entitled to be **predisposed** to particular views. However, **predetermination** occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.

The leading case on local authority bias and predetermination<sup>1</sup> acknowledges the difference between judges sitting judicially and councillors making decisions in a democratic environment. Given the role of councillors, there must be 'clear pointers' before predetermination is established.

### ***Section 25 Localism Act 2011***

Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –

- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
- (b) the matter was relevant to the decision.

The section makes it clear that if a councillor has given a view on an issue, this, considered in isolation, does not show that the councillor has a closed mind on that issue. So, the mere fact that a councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it.

Having said this, the use of the words 'just because' in section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision, (and also, where appropriate, those following the decision) rather than looking at individual events in isolation.

The case law has also made it clear that the words used by particular members and the interpretation put on those words is of particular importance. So care still needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

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<sup>1</sup> (R(Lewis)v Persimmon Homes Teeside Ltd [2008] EWCA Civ 746

## **Guidance**

With this in mind:-

- It is always advisable to avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the officer's presentation and any representations made on behalf of the applicant and any objectors.
- With this in mind, if you do comment on a development proposal in advance the decision, consider using a form of words that makes it clear that you have yet to make up your mind and will only do so at the appropriate time and in the light of the advice and material put before you and having regard to the discussion and debate in the Panel meeting.
- Particular care should be taken where there are chance encounters with objectors to development proposals or in the context of meetings which are not formally minuted. These are situations where the risk of what you say being misrepresented or taken out of context is particularly high.

## **Concluding Comments**

As a councillor operating within a political environment you should not be afraid to express views on issues. However, in doing so it is important that you avoid giving the impression that you have already made up your mind and that your part in the decision is a foregone conclusion.

## Report of the City Solicitor

## Report to the Standards and Conduct Committee

Date: 19<sup>th</sup> October 2012

## Subject: Standards and Conduct Committee Work Programme

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### 1 Purpose of this report

- 1.1 This report is to notify Members of the draft work programme for the Standards and Conduct Committee. The draft work programme is attached at Appendix 1.

### 2 Background information

- 2.1 The work programme provides information about the future items for the Standards and Conduct Committee agenda, when items will be presented and which officer will be responsible for the item.

### 3 Main issues

- 3.1 Members are requested to consider whether they wish to make any amendments or add any items to the work programme.

### 4 Corporate Considerations

#### 4.1 Consultation and Engagement

- 4.1.1 This report consults Members on the content of the work programme of the Committee.

#### 4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications arising from this report.

### **4.3 Council Policies and City Priorities**

4.3.1 The work of this Committee helps the Council to fulfil the principles of the Code of Corporate Governance by promoting good conduct and behaviour.

### **4.4 Resources and Value for Money**

4.4.1 There are no implications arising from this report.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The work of the Committee fulfils the Council's legal duty under the Localism Act 2011 to promote and maintain high standards of conduct amongst Members and Co-opted Members of the Council.

### **4.6 Risk Management**

4.6.1 There are no implications arising from this report.

## **5 Recommendations**

5.1 Members are asked to note the work programme and advise officers of any amendments or items they wish to add.

## **6 Background documents<sup>1</sup>**

6.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## STANDARDS AND CONDUCT COMMITTEE - WORK PROGRAMME 2012/13

ITEM	DESCRIPTION	RESPONSIBLE OFFICER
<b>Meeting date: Friday, 11<sup>th</sup> January 2013</b>		
Review of the standards and conduct arrangements	To consider whether the new standards and conduct arrangements are operating effectively and remain fit for purpose, including the Members' Code of Conduct.	Head of Governance Services – Andy Hodson
Appointment of the Independent Person	To review the role description of the Independent Person in light of how the new arrangements have operated since July 2012, and to consider the recruitment process for the new Independent Person.	Senior Corporate Governance Officer – Amy Kelly
Review of the Code of Practice for the Determination of Planning Matters and the Code of Practice for the Determination of Licensing Matters	To review the comments received from the Joint Plans Panel and the Licensing Committee, and to consider the proposals made.	Development Project Manager - Helen Cerroti, and Section Head (Regulatory and Enforcement) - Gill Marshall
<b>Meeting date: Friday, 12<sup>th</sup> April 2013</b>		
Annual report on complaints under the Members' Code of Conduct	To receive a report detailing the number of complaints made under the Members' Code of Conduct since 1 <sup>st</sup> July 2012 and how they have been resolved, and highlighting any areas of concern.	Head of Governance Services – Andy Hodson
Review of the standards and conduct arrangements	To make recommendations to General Purposes Committee and full Council regarding any changes to the standards and conduct arrangements, including proposed amendments to the Members' Code of Conduct.	Head of Governance Services – Andy Hodson

**STANDARDS AND CONDUCT COMMITTEE - WORK PROGRAMME 2012/13**

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>RESPONSIBLE OFFICER</b>
Annual report of the Monitoring Officer	To receive an annual report from the Monitoring Officer regarding whether the arrangements set out in the Monitoring Officer Protocol have been complied with.	City Solicitor – Catherine Witham