



STANDARDS AND CONDUCT COMMITTEE

Meeting to be held in Civic Hall, Leeds on
Friday, 11th January, 2013
at 1.30 pm

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>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 19 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 19, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <ol style="list-style-type: none"> 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. 2. To consider whether or not to accept the officers recommendation in respect of the above information. 3. If so, to formally pass the following resolution:- <p style="margin-left: 40px;">RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p> 	

Item No	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</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 13-17 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 18-19 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p>MINUTES OF THE PREVIOUS MEETING</p> <p>To approve the minutes of the Standards and Conduct Committee meeting held on 19th October 2012.</p>	1 - 4
7			<p>OFFICER DECLARATION OF INTERESTS</p> <p>To receive a report of the Chief Planning Officer providing assurances on the arrangements in place for officers to declare or make known any beneficial interest in land or property where it is in the public interest to do so.</p>	5 - 12

Item No	Ward	Item Not Open		Page No
8			<p data-bbox="676 181 1362 286">REVIEW OF THE CODES OF PRACTICE FOR THE DETERMINATION OF LICENSING AND PLANNING MATTERS</p> <p data-bbox="676 331 1410 510">To receive a report of the City Solicitor outlining the comments and suggestions received from the Licensing Committee and the Joint Plans Panel, and to consider how the Codes of Practice should be amended and approved in future.</p>	13 - 16
9			<p data-bbox="676 584 1394 651">REVIEW OF THE STANDARDS AND CONDUCT ARRANGEMENTS</p> <p data-bbox="676 696 1394 875">To receive a report of the City Solicitor asking the Committee to consider whether the new standards and conduct arrangements are operating effectively and remain fit for purpose, including the Members' Code of Conduct.</p>	17 - 40
10			<p data-bbox="676 943 1283 1010">APPOINTMENT OF THE INDEPENDENT PERSON</p> <p data-bbox="676 1055 1394 1144">To receive a report of the City Solicitor considering the appointment process for the Independent Person.</p>	41 - 46
11			<p data-bbox="676 1234 1331 1301">STANDARDS AND CONDUCT COMMITTEE WORK PROGRAMME</p> <p data-bbox="676 1346 1378 1480">To receive a report of the City Solicitor presenting the Committee with a draft work programme for the final meeting of the municipal year.</p>	47 - 50

Agenda Item 6

STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 19TH OCTOBER, 2012

PRESENT: Councillor E Nash in the Chair
Councillors C Campbell, B Gettings and
B Selby

10 Appeals against refusal of inspection of documents

There were no appeals against refusal of inspection of documents in accordance with Procedure Rule 19 of the Access to Information Procedure Rules.

11 Exempt Information - Possible exclusion of the press and public

There were no resolutions to exclude the press and public.

12 Late items

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

13 Declaration of Disclosable Pecuniary and Other Interests

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

14 Apologies for absence

Apologies for absence were received from Councillor Janet Harper, Councillor Kamila Maqsood, and Councillor Peter Harrand.

15 Minutes of the previous meeting

The minutes of the meeting held on Friday 20th July 2012 were approved as a correct record.

Members discussed that a quorum of four Members might be impractical for the Standards and Conduct Committee given that the overall size is only seven Members. Members of the Standards and Conduct Committee resolved to propose to General Purposes Committee that the quorum be reduced to three Members. Given that General Purposes Committee are to consider amended Council Procedure Rules at their October meeting, the Head of Governance Services undertook to raise this on the Committee's behalf at that meeting.

Members also considered the substitute arrangements for the committee and resolved that, subject to the agreement of a reduction in the quorum to three, there would be limited need to use substitute provisions moving forward.

16 Employee Code of Conduct

The Chief Officer, Human Resources submitted a report proposing amendments to the Employee Code of Conduct and the Protocol for Member/Officer Relations. The Head of Human Resources was in attendance to present the report and answer any questions from the Committee.

In relation to the Employee Code of Conduct, Members particularly discussed the following issues:

- That the Code of Conduct should contain more specific guidance on the issue of inappropriate use of the internet and electronic equipment belonging to the Council. Members agreed that a further bullet point could be added under the heading 'honesty and integrity' to address this issue, as well as incorporating a reference to any other Council policies which might be relevant.
- That the Code of Conduct should make clear to employees how they can use social media without it becoming a disciplinary issue. It was clarified that inappropriate comments made about Leeds City Council anywhere (regardless of the media used) are not acceptable.

In relation to the Protocol for Member/Officer Relations, Members commented that:

- In paragraph 4.10, the inclusion of the words "constructive and non-confrontational" mean that Members are unable to challenge officers or probe issues in an effective way during the scrutiny process. Members agreed that these words should be deleted, and the Protocol should make clear that "robust challenge" by Members is important during the scrutiny process.
- Members also commented that it was sometimes difficult for Members to conduct inquiries into issues or to challenge decisions when the officers were no longer available to attend the scrutiny meetings, for example, if they had retired or left the Council's employment. Members requested that officers look into whether officers could be compelled to take part in the scrutiny process through their contract of employment, or by other means.

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

- (a) note the information contained in the report;
- (b) request that the Chief Officer, Human Resources considers the comments made before approving the revised Employee Code of Conduct;
- (c) request a further report and draft guidance on the appropriate use of resources by Members and employees; and

- (d) approve the revised Protocol for Member/Officer Relations for insertion into the Council's Constitution, subject to one further amendment in relation to the operation of Scrutiny Boards.

17 Implementation of new standards and conduct arrangements

The City Solicitor submitted a report updating Members of the Standards and Conduct Committee on the progress made towards implementing the new standards regime in Leeds. Further to the Committee's request at the previous meeting, it was reported that there have been no formal complaints made against Leeds City Councillors or Parish and Town Councillors in Leeds to date.

At the meeting the Deputy Monitoring Officer reported that there had been an increase in the number of completed register entries received from Parish and Town Councillors since the report was submitted, and that now 86% were published on the Council's website. In relation to the three Parish Councils outstanding, all three Clerks had confirmed that their completed register of interests forms would be sent to Governance Services by the end of October.

Members of the Standards and Conduct Committee particularly discussed whether training could be provided to the Parish and Town Councillors in Leeds, especially regarding Disclosable Pecuniary Interests. Members agreed that the Parish and Town Councillors should be invited to attend the future training sessions held for Leeds City Councillors on the Code of Conduct at no cost, and that a further training session be offered to the Parish and Town Clerks. Members also asked officers to consider what other options were open for training the Parish and Town Councillors on the provisions of the Code of Conduct.

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

18 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.

RESOLVED – Members of the Standards and Conduct Committee resolved to note the work programme¹.

¹ Following the conclusion of the meeting Members agreed that assurance be sought from the Chief Planning officer on the arrangements in place for officers to declare or make known any beneficial interest in land or property where it is in the public interest to do so.

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Report of Chief Planning Officer

Report to Standards and Conduct Committee

Date: 11 January 2013

Subject: Officer declaration of interests

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

Summary of main issues

1. This report responds to the request of the Standards and Conduct Committee to provide a report outlining the measures and procedures that are involved in the development management process to declare or make it known any beneficial interest in land or property and how potential conflicts of interest are avoided.
2. All Leeds City Council employees are required to declare any external interests which may conflict with their Council duties through the Council's Register of Interests procedure. Officers who are in "high risk posts" are automatically asked by the Business Support Centre (BSC) on an annual basis to make a Register of Interest declaration. Other officers, not deemed to be in high risk posts, are required to make a Register of Interest declaration if they think they have a conflicting interest.
3. In planning services, avoiding potential conflicts of interest is further managed through a procedure for the determination of planning applications and where planning officers inform their line manager in writing of any interest in an application they may be dealing with and the application is reallocated to another planning officer. This process has recently been tested by Internal Audit and their conclusions are awaited.
4. This report provides assurances to the robustness and transparency of the processes in place.

Recommendations

5. Members are recommended to

- I. note the contents of this report and the robust assurances that it provides in terms of the measures used in mitigating the risk of officer conflict of interest and in declaring interests.

1 Purpose of this report

- 1.1 At the meeting of the Standards and Conduct Committee on 30 October 2012, Members sought assurances from the Chief Planning Officer on the arrangements in place for officers involved in development management to declare or make known any beneficial interest in land or property where it is in the public interest to do so and how conflicts of interest are avoided in the process of determining planning applications.
- 1.2 This report sets out the framework for planning officers declaring or making known any beneficial interest they might have that may present a conflict of interest, secondly it describes the measures which are in place to mitigate potential conflicts of interest and finally, assurances are provided as to the robustness of the measures in place and where improvements are required.

2 Background information

- 2.1 There is a clear framework for elected members to make a declaration of disclosable pecuniary interests, as members need to make a declaration of such interests on a register accessible to the public.
- 2.2 The Standards and Conduct Committee at its meeting in October expressed concerns about the robustness of processes for planning officers in demonstrating they are not involved in any decisions where they have a conflict of interest. The Committee requested that the Chief Planning Officer (CPO) provided details of the measures that are in place for planning officers to declare or make known any beneficial interest in land or property and the measures in place to mitigate the risk of officers making decisions on planning decisions where there is a conflict of interest.

3 Main issues

3.1 Council Register of Interests

- 3.1.1 The Register of Interests is a Council procedure where employees should declare outside interests where there may be, or could be perceived to be, a conflict of interest between their duties as an employee and their personal interests. The declaration covers:

- Membership of organisations the council needs to know about
- Associations with other businesses

- Beneficial interest in land or property,
- Certain personal relationships
- Financial interests in Council contracts and sponsorship

- 3.1.2 The City Development Directorate identifies employees in high risk posts within each service area. Posts are classified as “high risk” based on duties and responsibilities in terms of advising people, taking decisions, purchasing and grades (all JNC posts). Declaration of Interest forms are automatically sent out annually to employees who are deemed to be in high risk posts. To make a declaration on the Register of Interests, employees complete a register of interest form and return it to the Business Support Centre (BSC).
- 3.1.3 For planning services, there are additional officers in high risk posts who are identified as those planning officers, who under the Chief Planning Officer’s sub-delegation scheme are able to make the final decision and sign off applications, i.e. Principal Planners, graded PO4 and above, plus any other officers who have the duties outlined in paragraph 3.1.2 above.
- 3.1.4 Declaration of Interests forms part of the Employees Code of Conduct and failure to follow the Code could mean an employee is referred into formal policies and procedures, including the Disciplinary Policy Procedure.
- 3.1.5 The responsibility lies with the Director or Assistant Chief Executive to check the returns to ensure that the returns are credible, assess whether any declared interests may create a potential problem and if there is a potential conflict then to take steps to address it.

3.2 **Planning services internal processes for declaring an interest**

- 3.2.1 For officers who are not deemed to be in high risk posts, there is no necessity to complete a Register of Interest declaration. However, where any employee thinks there may be a perception of a conflict of interest, a precautionary approach should be taken and a declaration made.
- 3.2.2 Planning officers may face a conflict of interest on a day to day basis; this may occur when planning officers know the applicant or agent or live in the proximity of an applicant or application site, or have an interest in the application site. Usually when a conflict arises it is identified at an early stage of the project and the line manager is informed in writing and the case is immediately reallocated to another planning officer to reduce the chances of any possible later challenge to the decision making process. The planning officer with an identified risk takes no part in the decision making process.
- 3.2.3 Principal planners may also face a potential conflict when signing off applications and the established process is to inform the line manager in writing and have the case reallocated to another planning officer for final determination, again the planning officer with an identified risk takes no part in the decision making process.

3.3 Making representations

3.3.1 Planning officers, like any other citizen can make representations on planning applications. In these circumstances, officers inform their line manager in writing that they have made a representation, they have no contact or involvement in relation to the application, so there is no accusation that they can seek improperly to influence a decision. All comments, in the same way as comments from other members of the public are available on Public Access.

3.4 Measures in place to mitigate conflicts of interest

3.4.1 There are robust safeguards in place to mitigate the risk of potential conflict of interests which are described below.

3.4.2 There is a clear process for the determination of planning applications which is adhered to by all officers which ensures a consistent and accountable approach is taken. Officer reports address all the relevant planning policies and material planning considerations and take into account the views of consultees and representations made by the public. All information is considered and a recommendation is made.

3.4.3 No case officer can 'sign off' applications they have been working on and the Chief Planning Officer's sub-delegation scheme ensures that an appropriate level of scrutiny is brought to bear on each proposal. Decision making is undertaken at the appropriate level of seniority and experience before it is finally determined and reports are signed off by officers at Principal Planner level or above. In the case of smaller or policy compliant major applications, only senior planning officers graded at PO6 level and above have the delegated authority to make the final decision. This ensures there is the appropriate level of seniority brought to making decisions on significant and major applications. The largest and/or most contentious planning applications, usually major applications, are determined by members at the Plans Panels.

3.4.4 Where a conflict of interest arises, planning case officers inform their line manager in writing and the application is allocated to another planning officer. Principal Planners inform their line manager in writing of a potential conflict of interest in signing off an application and another Principal Planner will determine the application and sign it off. In both circumstances the officer with a declared interest takes no part in the decision making process. Additionally, wherever possible planning officers do not cover the same geographic area as where they live to avoid possible conflicts of interest.

3.4.5 Any planning officer who submits an application for their own property, or on behalf of a friend or family member should inform the CPO in writing. These officer applications are exceptions in the CPO sub-delegation agreement and can only be determined by the relevant Plans Panel.

- 3.4.6 In circumstances where an applicant has made a formal complaint about how an application has been dealt with in the past, any subsequent re-submission is dealt with by another officer, to ensure the application is being dealt with impartially
- 3.4.7 The basic principle that planning officers abide by is where there is a potential conflict of interest, officers do not get involved in any way either at the pre-application stage or formal application in order to avoid any perception of bringing undue influence.

4 Assurances

4.1 Up to date and fit for purpose

- 4.1.1 The process of notifying line managers and the Chief Planning Officer, as appropriate, in writing where there is a possible conflict of interest appears to have operated satisfactorily for a number of years. There are very few instances of conflict of interest due to the measures identified in section 3.4 above.

4.2 Compliance and Monitoring

- 4.2.1 It is the responsibility of Directors and Assistant Chief Executives to check the register of interest returns and to acquaint themselves of any potential conflicts of interest and address as appropriate.
- 4.2.2 Officers who have identified an interest inform their line manager in writing of the situation. This should be in the form of an email, which is kept by the line manager. The procedure appears to be working satisfactorily and in the last five years there have not been any formal complaints of planning officer conflict of interest under the Council's complaint procedure.
- 4.2.3 A written note is often made on the planning application file that the case has been reallocated to another officer, although this is not always done consistently. There is room for improvement in strengthening this practice so it is more robust and transparent.
- 4.2.4 From time to time internal audit carry out a check of some applications to ensure the due processes are being followed. This has happened recently in relation to the issue of officer interests and internal audit have looked at a number of case files as a result. The results and conclusions of that audit are awaited.

4.3 Communication of the process

- 4.3.1 BSC send out general reminders to prompt all employees to register potential conflicts of interest, even if they are not in posts deemed to be high risk.
- 4.3.2 Planning officers are aware of the need to make declarations of interest where potential conflicts arise however, it is some time since officers were reminded of the process and this will be addressed at a planning case workers meeting - a future meeting attended by all planning officers.

5 Corporate Considerations

5.1 Consultation and Engagement

5.1.1 Consultation has taken place with the planning services leadership team. Where practicable, comments have been incorporated. Following the views of the Standards and Conduct Committee the Trade Unions will be consulted.

5.2 Equality and Diversity / Cohesion and Integration

5.2.1 There are no adverse equality implications arising from this report.

5.3 Council policies and City Priorities

5.3.1 The importance of ensuring that the council's processes for decision making on planning applications are lawful, accountable, transparent and fair is crucial to ensuring public confidence in the system from all sectors of the community including residents and developers.

5.4 Resources and value for money

5.4.1 There are no direct resource implications arising from this report.

5.5 Legal Implications, Access to Information and Call In

5.5.1 Ensuring the system is fair, transparent and lawful can minimise the risk of potential legal challenges.

5.6 Risk Management

5.6.1 There are a number of risks associated with the decision making process which are both financial and reputational. The measures outlined in the report seek to minimise the risk of challenge on the grounds of conflict of interest.

6 Conclusions

6.1 Planning decisions made by the local planning authority can have far reaching implications in terms of the effect on the future quality of the environment and also the amenities of local residents of the city and in some cases financial gain. Decisions have the potential to effect the lives of many people. It is therefore important that the decision making process is robust.

6.2 The Council's Register of Interest process is part of the Employees Code of Conduct which applies to all staff and is an important tool to maintain confidence in the impartiality of public services. Officers in high risk posts are required to make an annual declaration, even if they have nothing to declare. All officers, irrespective of their grade must make a declaration if they have personal interests which could be perceived to be in conflict with their Council duties.

6.3 At a service level, planning officers understand the need to inform their line manager in writing when there are any potential conflicting interests. The basic principle is that where there is any perceived conflict, officers step aside and the work is reallocated to another colleague. This removes the risk of accusations of undue influence or impropriety. It has been some time since the procedure was communicated to planning officers and this will be addressed at a future planning case workers meeting.

7 Recommendations

7.1 Members are recommended to

- I. note the contents of this report and the robust assurance that it provides in terms of the measures used in mitigating the risk of officer conflict of interest and in declaring interests

8 Background documents¹

8.1 None.

¹ 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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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 11th January 2013

Subject: Review of the Codes of Practice for the Determination of Licensing and Planning Matters

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 provide an update on the progress of the review of the Codes of Practice for the Determination of Licensing and Planning Matters.
2. At the meeting on 20th July 2012 the Standards and Conduct Committee considered how the local codes and protocols should be reviewed to bring them up to date with the new standards and conduct regime. Members particularly commented that the sections relating to bias and predetermination needed to be reviewed following the introduction of the Localism Act 2011, and that further advice needed to be sought from Legal Officers on this subject.
3. Members of the Standards and Conduct Committee also requested that the Joint Plans Panel and the Licensing Committee be asked to review their respective Codes of Practice to ensure they are fit for purpose, and to report back to the Standards and Conduct Committee in due course.

Recommendations

4. The Standards and Conduct Committee are asked to note the information in this report, and to consider whether to transfer responsibility for the Codes of Practice to the Joints Plans Panel and the Licensing Committee respectively.

1 Purpose of this report

- 1.1 The purpose of this report is to provide an update on the progress of the review of the Codes of Practice for the Determination of Licensing and Planning Matters.

2 Background information

- 2.1 At the meeting on 20th July 2012 the Standards and Conduct Committee considered how the local codes and protocols should be reviewed to bring them up to date with the new standards and conduct regime. Members particularly commented that the sections relating to bias and predetermination needed to be reviewed following the introduction of the Localism Act 2011, and that further advice needed to be sought from Legal Officers on this subject. At the meeting on 19th October 2012 Members were presented with a draft guidance note on the issue of bias and predetermination for comment.
- 2.2 Members of the Standards and Conduct Committee also requested that the Joint Plans Panel and the Licensing Committee be asked to review their respective Codes of Practice to ensure they are fit for purpose, and to report back to the Standards and Conduct Committee in due course.

3 Main issues

Code of Practice for the Determination of Licensing Matters

- 3.1 The Licensing Committee was asked to consider the current Code of Practice for the Determination of Licensing Matters at a meeting on 14th August 2012. The Licensing Committee considered that the Code should be retained as part of the Council's conduct framework as it had particular value in regulating the Committees' decision making process. They requested that officers should report their continued support of the Code to the Standards and Conduct Committee, and to confirm that no further amendments were required.

Code of Practice for the Determination of Planning Matters

- 3.2 The review of the Code of Practice for the Determination of Planning Matters is still underway and was initially considered by the Joint Plans Panel on 5th December 2012. The report to the Joint Plans Panel set out proposals to replace the Code with a new guidance document of planning good practice which would be owned by Joint Plans Panel with appropriate review and amendment arrangements, rather than feature in the Council's own Conduct Framework. Members broadly supported the proposed approach.
- 3.3 The Joint Plans Panel resolved to request that officers draft further amendments to the Code for consideration by the Planning Joint Member Officer Working Group in the first instance.

Future of the Codes of Practice

- 3.4 Members of the Standards and Conduct Committee are asked to consider to what extent the Codes of Practice should be considered to be an extension of the

Members' Code of Conduct, and whether Members of Plans Panels and Licensing Committee should be subject to more restrictions than other Members. If the Codes of Practice are not considered to be additional requirements on top of the Members' Code of Conduct, then it would assist in clarifying the situation if any repetition of the provisions of the Members' Code of Conduct is removed from the Codes of Practice.

3.5 It should also be clarified that the Codes of Practice are recommended practice and are not enforceable in their own right.

3.6 Finally, if Members of the Standards and Conduct Committee are minded that the Code of Conduct elements should be removed from the Codes of Practice, then they are asked to consider whether responsibility for the Codes of Practice should be transferred to the Joint Plans Panel and the Licensing Committee. As the Codes of Practice will no longer be about Member conduct, it will no longer be incidental to the functions of the Standards and Conduct Committee to monitor and approve them.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Both the Licensing Committee and the Joint Plans Panel have been consulted on possible amendments to the Codes of Practice. No other consultation has taken place.

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 It is a priority of the Council Business Plan that the Council has good rules and procedures to govern its business. It is therefore important that the rules and procedures are regularly reviewed to ensure they reflect current good practice and legislation.

4.4 Resources and value for money

4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Localism Act 2011 has introduced a definition of bias and predetermination and has introduced rules around disclosable pecuniary interests which Members must comply with. These legislative changes have already been reflected in the Codes of Practice.

4.5.2 Members of the Standards and Conduct Committee may also wish to note that both Codes of Practice require amendment following the guidance issued by the Department for Communities and Local Government which set out that Members

must leave the room for the whole of the item and are not able to participate in a meeting at all where they have a disclosable pecuniary interest, even as a member of the public.

- 4.5.3 There are no implications for access to information or call in arising from this report.

4.6 Risk Management

- 4.6.1 Should a Member of the Licensing Committee or Plans Panel fail to comply with the good practice outlined in the Code of Practice, there is a risk that the decision on the particular application may be appealed or reviewed.
- 4.6.2 In order that these Members are aware of their responsibilities both under the Members' Code of Conduct and Codes of Practice, they must complete all compulsory training (including Governance and Conduct training) and shall not sit as members of the Committee, Sub-Committee or Panel unless such training has been undertaken in accordance with the Council's prescribed training programme. These requirements are set out in Articles 8 and 8A of the Council's Constitution.

5 Conclusions

- 5.1 As part of the implementation of the new standards regime, the Standards and Conduct Committee requested that the Codes of Practice for the Determination of Licensing and Planning Matters be reviewed by the Licensing Committee and the Joint Plans Panel respectively.
- 5.2 Having considered the current Code of Practice for the Determination of Licensing Matters, the Licensing Committee have expressed their continued support for the Code of Practice in its current form, and confirmed that no further amendments were required.
- 5.3 The Joint Plans Panel initially considered the revised Code of Practice for the Determination of Planning Matters on 5th December 2012, and Members broadly supported the proposal to replace the Code of Practice with a new guidance document of planning good practice which would not form part of the Council's conduct framework.

6 Recommendations

- 6.1 The Standards and Conduct Committee are asked to note the information in this report, and to consider whether to transfer responsibility for the Codes of Practice to the Joints Plans Panel and the Licensing Committee respectively.

7 Background documents¹

- 7.1 None.

¹ 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.

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 11th January 2013

Subject: Review of the 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 for Members to consider whether the new standards and conduct arrangements are operating effectively and remain fit for purpose, including the Members' Code of Conduct.
2. This report particularly outlines:
 - the number of complaints received and how these have been concluded;
 - the extent and take up of training on the new standards arrangements;
 - arrangements for updating the Members' register of interests; and
 - how consistent the Code of Conduct is with those adopted by the other Core Cities.

Recommendations

3. Members of the Standards and Conduct Committee are asked to:
 - note the information in this report;
 - consider whether any amendments need to be made to the procedure for considering complaints;
 - consider whether Members would wish to receive regular reminders to review and update their register of interests;
 - consider whether any amendments need to be made to the Members' Code of Conduct; and
 - consider whether the current arrangements are operating effectively and remain fit for purpose.

1 Purpose of this report

1.1 The purpose of this report is for Members to consider whether the new standards and conduct arrangements are operating effectively and remain fit for purpose, including the Members' Code of Conduct.

1.2 This report particularly outlines:

- the number of complaints received and how these have been concluded;
- the extent and take up of training on the new standards arrangements;
- arrangements for updating the Members' register of interests; and
- how consistent the Code of Conduct is with those adopted by the other Core Cities.

2 Background information

2.1 When the new local standards arrangements were being developed in Leeds Members commented that it would be sensible to review the arrangements after a year to ensure that they are operating effectively and are fit for purpose.

2.2 Both the Code of Conduct and the complaints procedure require approval by full Council, and beforehand require consideration by the General Purposes Committee. Therefore Members of the Standards Committee are being asked to consider whether any amendments are required now so that there is sufficient time to draft any proposed amendments.

3 Main issues

Number of complaints received regarding Councillors in Leeds

3.1 To date there have been 11 general enquiries received, and three of these have become formal complaints. Out of the 11 general enquiries, four relate to Parish or Town Councillors, one of which became a formal complaint.

3.2 All three formal complaints were concluded under Stage 1 of the procedure, meaning that they were considered 'invalid' and not progressed further. Two of these complaints related to issues relating to non-declaration of interests, and the other complaint related to an alleged failure to respond to the complainant. All three were considered invalid because the allegations did not constitute a potential breach of the Code of Conduct.

3.3 One of these formal complaints has also been considered by the West Yorkshire Police as a complaint about a potential failure to comply with the requirements around disclosable pecuniary interests. However, the Police concluded that there had been no breach of the legal requirements.

- 3.4 Members may wish to note that during the first five months of the previous standards regime (May to October 2008) 15 general enquiries were logged and 10 of these had to be treated as formal complaints under the Regulations.
- 3.5 Members may wish to review the complaints procedure in light of its use so far. In particular, the following amendments have been proposed:
- The introduction of a review process following stage one of the procedure to allow the complainant to seek a re-assessment of their complaint by the Monitoring Officer; and
 - The list of criteria against which each complaint is assessed needs to be expanded specifically to cover complaints which otherwise do not fall under the Members' Code of Conduct. This will assist officers in preparing the letter to the complainant, and will also assist the complainant in understanding why their complaint has not been progressed.
- 3.6 A copy of the current procedure for dealing with complaints is attached as Appendix 1 to this report for Members' information.

The extent and take up of training on the new standards arrangements

- 3.7 All Leeds City Councillors have now received training on the new standards arrangements. Training has been provided through group sessions, some evening sessions, and one to one meetings.
- 3.8 As a result of these training sessions, the following suggestions have been made regarding how the complaints process and the Code of Conduct could be improved:
- That the subject Member should have the right to some form of appeal or a review following stage three of the complaints procedure, prior to any sanction being carried out.
 - That Members who have a disclosable pecuniary interest in a matter who are attending a meeting (but not as a member of the decision making body) should not be required to leave the room for the duration of the item.
 - That the rules regarding interests should be restricted to the requirements set out in the Localism Act 2011 and the regulations in order to avoid any confusion for Members and the public.
- 3.9 Three of these training sessions have also been opened up to Parish and Town Councillors to attend, and so far 17 Members have done so. As there are approximately 320 Parish and Town Councillors in total, Governance Services are attempting to arrange a group training session during January 2013 to take place in the Council Chamber as well as a separate training session in February 2013 for the Parish and Town Council Clerks.

Arrangements for updating the Members' Register of Interests

- 3.10 Unlike under the previous Code of Conduct, there is no process in place to remind Members to review and update their Register of Interests entry every three months. This is because the interests Members are obliged to register under the new Regulations are unlikely to change as often as the non-pecuniary interests Members had to register previously. In addition, officers are not able to remind Members when their register requires updating as the Council does not hold the relevant information.
- 3.11 Members are asked to consider whether they would prefer to receive regular reminders to review their entry and how regularly these should be received, even though specific advice about updates could not be provided.
- 3.12 Regarding the Parish and Town Councils, there are still 21 register entries outstanding. The Monitoring Officer will write to the Chairs of these Parish and Town Councils shortly to remind them of their legal obligations under the Localism Act 2011. There is no system in place to remind Parish and Town Councillors to update their register entries, but where we are informed of resignations or co-options the Council's website is updated accordingly.

The Members' Code of Conduct

- 3.13 The Codes of Conduct adopted by the other core cities have been reviewed. The main differences in their codes of conduct are listed in the table below:

Core city	Comments regarding the Code of Conduct
Liverpool	<p>The Code of Conduct includes the six general principles of public life, but the general obligations are the same as in the Model Code of Conduct 2007.</p> <p>Members are required to register gifts and hospitality received worth over £25, but the details are entered into a separate register of gifts.</p> <p>As well as disclosable pecuniary interests (DPIs), Members are required to declare 'prejudicial interests' which are any interests the Member considers is so significant that a member of the public would consider it would prejudice their judgement of the public interest. When they have a prejudicial interest the Member can choose whether to take part in the meeting or not.</p>
Manchester	<p>The Code of Conduct has not been updated following the implementation of the Localism Act 2011. The format of the Code is the same as the Model Code of Conduct 2007.</p>
Newcastle	<p>The Code of Conduct includes the ten general principles of public life, but the general obligations are the same as in the Model Code of Conduct</p>

Core city	Comments regarding the Code of Conduct
	<p>2007.</p> <p>Members are required to register their DPIs, and 'other interests'. These are defined as bodies to which the Member has been appointed by the Council, any bodies directed to charitable purposes to which the Member belongs or is in a position of general control or management, and any gifts or hospitality the Member has been offered (even if the offer was subsequently refused). Members must update their register of interests within 28 days of a change to their registrable interests.</p> <p>The Code sets out that a Member will have a personal interest in an item of business if it affects the well-being or financial position of them, a member of their family or a close associate (or their employer, a company in which they are a partner or a director, or in which they hold shares worth more than £25,000), more than it affects the majority of people in the ward affected.</p> <p>When at a meeting a Member need only take action on an interest (including DPIs) if:</p> <ul style="list-style-type: none"> • It is so significant that a member of the public would consider that it would prejudice their view of the public interest; • It affects the financial position of the relevant person or body; or • It relates to a permission, licence, consent or registration affecting the relevant person or body. <p>If the above criteria are met, then the Member must not take part in the discussion or vote on the matter.</p> <p>Finally, the Code sets out that a Member does not have any interest (including a DPI) if the matter relates to housing, school meals, statutory sick pay, ceremonial honours for Members, or setting Council tax.</p>
Sheffield	<p>The Code of Conduct includes the ten general principles of public life, but the general obligations are the same as in the Model Code of Conduct 2007.</p> <p>Members are required to keep their register of interests up to date at least annually. Members are required to register any gifts or hospitality they receive worth over £50, but this information is kept in a separate register.</p> <p>Members are able to declare 'other interests' in meetings, but there is no mechanism in the Code for the Member to decide that the interest is so significant that they should not participate in the meeting. The definition of an 'other interest' is a decision which affects the well-being or financial standing (including interests in land and easements over land) of the</p>

Core city	Comments regarding the Code of Conduct
	<p>Member, or a member of their family, or a person or an organisation with whom they have a close association, to a greater extent than it would affect the majority of people living in the ward affected, or a decision which relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of their family (other than a partner) or a person with whom they have a close association.</p>
Nottingham	<p>The Code of Conduct has not been updated following the implementation of the Localism Act 2011. The format of the Code is the same as the Model Code of Conduct 2007.</p>
Birmingham	<p>This Code applies to Members when they are acting in their official capacity as well as in their private life when their conduct constitutes a criminal offence for which they have been convicted or received a caution from the Police.</p> <p>The Code of Conduct includes the ten general principles of public life, but the general obligations are the same as in the Model Code of Conduct 2007.</p> <p>Members are required to keep their register up to date within 28 days of a change occurring, and must register any gifts or hospitality they receive worth over £25.</p> <p>The Code distinguishes between pecuniary and non-pecuniary interests. If a Member declares a non-pecuniary interest they can remain in the room and take part in the meeting. If a Member has a DPI in a matter, the Code allows them to speak at the meeting, if the public are able to speak.</p> <p>There is also an additional provision which states that no Councillors shall provide (or offer to provide) a formal reference for any candidate for employment with the Council.</p>
Bristol	<p>Bristol City Council has replaced the Code of Conduct with a set of values which seek to explain the general principles of public life. These values include (amongst others):</p> <ul style="list-style-type: none"> • Championing the needs of residents; • Dealing with representations or enquiries appropriately and impartially; • Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituent's casework, the interests or the authority's area or the good governance of the authority in a proper manner; and

Core city	Comments regarding the Code of Conduct
	<ul style="list-style-type: none"> • Always treating people with respect, including the organisations and public I engage with and those I work alongside. <p>This set of values does not incorporate any information or guidance about interests and there are no rules regarding how these should be registered or declared.</p>

3.14 Members of the Committee are asked to consider whether the Leeds City Council Code of Conduct would benefit from being amended in line with some of the suggestions listed above.

3.15 Members may wish to consider whether the rules regarding ‘other significant interests’ need reviewing, especially given that between 1st July and 5th December 2012 56 other significant interests have been declared compared to only four DPIs. There is also a concern that it is difficult for the public to understand that it is entirely down to the personal judgement of the Member whether they need to declare an interest and continue to participate, and therefore why it is acceptable for Members to make different decisions in relation to the same interest.

3.16 One option to address this would be to remove this provision from Part 2 of the Code of Conduct which deals with the declaration and registration of interests, and instead to incorporate it as a footnote to the principle of ‘honesty and integrity’ in Part 1 of the Code of Conduct.

3.17 Finally, a series of queries have been raised regarding the definitions of disclosable pecuniary interests. In the absence of any detailed guidance from the Department for Communities and Local Government (DCLG), together with the Chair of the Standards and Conduct Committee, the other West Yorkshire Monitoring Officers and West Yorkshire Police, the Deputy Monitoring Officer intends to write to the relevant Director at DCLG to seek clarification on the following issues:

- Whether Members have a disclosable pecuniary interest arising from any appointments or positions for which they receive a special responsibility allowance or attendance fees.
- Whether the definition of a ‘director’ is intended to incorporate non-remunerated directors, for example Members who are appointed to outside bodies by the Council and use the title ‘director’.
- Whether Members have a disclosable pecuniary interest in relation to any free premises for ward surgeries they receive, particularly where the Council would bear the cost of the room hire if free premises were not provided.
- Whether it is a correct interpretation of the Localism Act that Members with a disclosable pecuniary interest in a matter (who are not part of the decision

making body) are also unable to participate in the discussion, even as a member of the public.

- 3.18 A copy of the current Members' Code of Conduct is attached as Appendix 2 for Members' information.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Standards and Conduct Committee are being consulted on whether amendments are required to the local standards arrangements adopted in July 2012. If any amendments are proposed, these will be discussed by General Purposes Committee before being considered by full Council.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no issues relating to 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 states that the Council will establish and keep under review a Member Code of Conduct. Reviewing the local standards arrangements therefore contributes towards this principle.

4.4 Resources and value for money

- 4.4.1 There are no resource implications associated with the proposals outlined in this report.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Members may wish to note that some elements of the Codes of Conduct adopted by the other core cities may need further consideration to see if they would be compatible with the terms of the Localism Act 2011, and potentially the Department for Communities and Local Government may need to be contacted for further advice on these matters.
- 4.5.2 There are no implications for Access to Information or Call In.

4.6 Risk Management

- 4.6.1 The Members' Code of Conduct has been amended during the municipal year to ensure that it complies with any new guidance or legislation issued by the Department for Communities and Local Government. Therefore the Code of Conduct is currently up to date.

5 Conclusions

- 5.1 When the new local standards arrangements were being developed in Leeds Members commented that it would be sensible to review the arrangements after a year to ensure that they are operating effectively and are fit for purpose.
- 5.2 Members are asked to consider whether any amendments need to be made to the procedure for considering complaints in light of the formal complaints received so far, and whether any amendments need to be made to the Code of Conduct, particularly after considering the Codes of Conduct adopted by the other core cities.

6 Recommendations

- 6.1 Members of the Standards and Conduct Committee are asked to:
- note the information in this report;
 - consider whether any amendments need to be made to the procedure for considering complaints;
 - consider whether Members would wish to receive regular reminders to review and update their register of interests;
 - consider whether any amendments need to be made to the Members' Code of Conduct; and
 - consider whether the current arrangements are operating effectively and remain fit for purpose.

7 Background documents¹

- 7.1 None.

¹ 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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PROCEDURE FOR CONSIDERING COMPLAINTS ALLEGING A FAILURE TO COMPLY WITH A MEMBERS' CODE OF CONDUCT WITHIN THE AREA OF LEEDS METROPOLITAN DISTRICT COUNCIL

Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' should be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

Stage 1 - Initial assessment by the Monitoring Officer

4. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the correct complaints form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not.
6. The following types of complaint will not be considered as 'valid complaints' under this procedure:
 - a. Complaints which are submitted anonymously^{1 2};
 - b. Complaints which do not identify a subject Member;
 - c. Complaints which relate to a Member's personal or private life;
 - d. Complaints concerning a failure to respond to a request from a constituent or other individual;

¹ Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

² Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

- e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;
 - f. Complaints which relate to a decision of an employee or a Committee;
 - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
 - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
 - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
 - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
 - k. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests'³.
7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint. If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.
8. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
9. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

Stage 2 - Informal resolution

10. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to seek to resolve the issue in accordance with this procedure. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors.
11. At the same time the Monitoring Officer will refer the matter to the subject Member and the relevant Group Whip⁴ for their consideration. In this

³ Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

⁴ If the subject Member is the Group Whip, the complaint will be copied to his or her Group Leader. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

correspondence the Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days), and will provide the subject Member with the contact details for the Independent Person⁵.

12. Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;
- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

13. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer. It may also be advisable to seek advice from the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

14. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.

15. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.

16. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

17. Where it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision, and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).

⁵ See Annex 1 for a summary of the role of the Independent Person.

18. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

Stage 3 – Standards and Conduct Committee

19. The Monitoring Officer will prepare a report for consideration by the Standards and Conduct Committee. This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.

20. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee) to be convened to consider the Monitoring Officer's report of the complaint. Wherever possible the meeting will take place within 28 days of the Monitoring Officer's report being finalised.

21. The Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.

22. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Sub-Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.

23. The following people will also be invited to attend the Sub-Committee meeting:

- a. The complainant;
- b. The subject Member;
- c. The Group Whip (if relevant); and
- d. The Independent Person.

24. The Monitoring Officer will also attend the meeting in order to present their report.

25. After initial consideration of the Monitoring Officer's report, the Sub-Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):

- a. The complainant; and
- b. The subject Member.

26. The Sub-Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

27. Before reaching a final decision on the complaint, the Standards and Conduct Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.
28. If the Sub-Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Sub-Committee should consider whether the information will be readily available to the Monitoring Officer.
29. Once the Sub-Committee is satisfied with the information before it, it must decide the following issues:
 - a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
 - b. Whether further action is warranted; and
 - c. What form of action might be appropriate.
30. If the complaint relates to a Parish or Town Councillor the Sub-Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate.
31. In all other cases, if the Sub-Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Sub-Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.
32. If the Sub-Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Sub-Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
33. The recommendations available to the Sub-Committee are limited to:
 - a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee;
 - b. Formal censure by a motion of full Council; or
 - c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

34. The Sub-Committee may make a recommendation in relation to one or more of the above sanctions to full Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Sub-Committee meeting.
35. The Sub-Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.
36. Within five working days of the meeting the Chair of the Sub-Committee will write to the complainant and the subject Member explaining the final decision of the Sub-Committee and detailing any recommendations made.
37. There will be no right of appeal against a decision of the Sub-Committee.

ANNEX 1 - ROLE OF THE 'INDEPENDENT PERSON'

Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.

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MEMBERS' CODE OF CONDUCT

This Code applies to elected Members and voting co-opted Members of Leeds City Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives¹.

Part One - Standards of Conduct

You must have regard to, and act in accordance with, the following standards of conduct²:

1. Selflessness

You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.³

2. Honesty and Integrity

You should not place yourself in situations where your honesty and integrity may be questioned, you should not behave improperly and should avoid the appearance of such behaviour.

3. Objectivity

You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.

4. Accountability

You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

¹ When engaging in political activities such as canvassing for re-election Members are not acting in their official capacity, and for the purposes of this Code of Conduct, such political activities are considered part of a Member's private and personal life.

² And in accordance with any supplementary guidance or protocols agreed by the authority from time to time.

³ This does not mean that Members are under any obligation to support or become involved in all requests for assistance from their constituents.

5. Openness

You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

6. Leadership

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees⁴.

Part Two – Registration and disclosure of interests

Registration of Interests

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time⁵.
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
10. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described in Appendix 1, and either:
 - (a) it is an interest of yourself, or
 - (b) it is an interest of -
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you are civil partners, and you are aware that that other person has the interest.
11. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50⁶ which you receive in your role as a

⁴ Members may express themselves robustly in representing their, or their constituents' views, although where a Member engages in a sustained or systematic challenge of an employee which is unfounded or in any other way unreasonable, such conduct would fall within the scope of this code. However an unintentional remark, made in isolation, is unlikely to amount to a failure to comply with the code of conduct.

⁵ The Monitoring Officer must enter these interests into the Register of Interests, which will be made available for public inspection and published on the Council's website.

⁶ This financial limit will be maintained in line with the definition of a donation to be declared by election candidates during local authority elections in England and Wales (as set out in Schedule 2A of the Representation of the People Act 1983).

Members' Code of Conduct

Leeds City Councillor⁷. You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.⁸

Sensitive interests

12. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection^{9 10}.

Disclosure of disclosable pecuniary interests at meetings

13. The following provisions apply if you are present at a meeting of the authority or of any committee¹¹, sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
14. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
15. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
16. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
17. You may not:
- (a) participate, or participate further, in any discussion of the matter at the meeting,
 - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless the Member has requested and been granted a relevant dispensation by the Standards and Conduct Committee), or
 - (c) remain in the room during the discussion or vote on the matter.

⁷ This does not include civic gifts or hospitality received by the Lord Mayor of Leeds whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Lord Mayor's office.

⁸ These details will be removed from the register two calendar years after they were added by the Monitoring Officer.

⁹ Instead the Register of Interests may state that the Member has an interest the detail of which are withheld under section 32(2) of the Localism Act 2011

¹⁰ If the Member is required to disclose such an interest in a meeting, the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

¹¹ This includes the Executive Board and any committee of the executive.

Disclosure of other interests at meetings

18. Where you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and identify any other significant interests which you feel should be declared in the public interest, such interests may be declared to the meeting.
19. In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

Allegations of a Failure to Comply with Code of Conduct

20. All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

APPENDIX 1 - DEFINITION OF A 'DISCLOSABLE PECUNIARY INTEREST'¹²

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period¹³ in respect of any expenses incurred by you in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person¹⁴ (or a body in which the relevant person has a beneficial interest¹⁵) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land¹⁶ which is within the area of the relevant authority.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies - Any tenancy where (to your knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities¹⁷ of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either –

¹² As defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

¹³ "Relevant period" means the period of 12 months ending with the day on which the Member completes their notification.

¹⁴ "Relevant person" refers to the Member and their spouse or civil partner, or a person with whom the Member is living as husband or wife, or a person with whom the Member is living as if they were civil partners, so long as the Member is aware that that other person has the interest.

¹⁵ This means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. The definition of "director" includes a member of a committee of management of an industrial and provident society.

¹⁶ "Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

¹⁷ "Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Members' Code of Conduct

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 11th January 2013

Subject: Appointment of the Independent Person

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 consider the options for the role of the Independent Person after July 2013.

2. Members of the Standards and Conduct Committee will be aware that the Localism Act 2011 prevented former Independent Members of the Leeds City Council Standards Committee from becoming the Independent Person for a period of 5 years after their membership of the Committee ended. However, the Localism Act 2011 (Commencement No.6 and Transitional Savings and Transitory Provisions) Order 2012 dis-applied these rules in relation to appointments made before 1st July 2013. The Council used these transitional arrangements to appoint the Independent Person. An appointment being made for a period of one year by full Council on 11th July 2012.

Recommendations

3. The Standards and Conduct Committee is asked to consider the options for the role of the Independent Person after July 2013 set out in this report.

1 Purpose of this report

- 1.1 The purpose of this report is to consider the options for the role of the Independent Person after July 2013.

2 Background information

- 2.1 Following a recommendation from the General Purposes Committee, full Council appointed to the role of Independent Person on 11th July 2012 for a period of one year.

3 Main issues

- 3.1 During the last appointment process a Member panel made up of Group Whips (or their representatives) from the three largest political groups conducted the short listing and interview process and made a recommendation to the General Purposes Committee. Because the role of the Independent Person was new, and it was unclear how the new complaints process would operate in practice, a view was reached that, because of these uncertainties that the appointment be for only one year.
- 3.2 Having operated under the new arrangements for a number of months, and given the role and associated appointment restrictions (and transitional arrangements) set out by the Localism Act 2011 it is timely to reconsider the options available to the Council after July 2013.
- 3.3 Appendix 1 describes the role, appointment criteria and transitional arrangements which apply to the Independent Person.

Options for the role of the Independent Person after July 2013

- 3.4 Two options are presented in this report for Member's consideration.
- 3.5 Option 1 is for a fresh recruitment and appointment process to be conducted over the coming months. This would culminate in the appointment of a new Independent Person by Full Council in July 2013. The recruitment process would be overseen via Member panel (drawn from the Standards and Conduct Committee), with the panel making recommendations to General Purposes Committee for an appointment to be made by full Council.
- 3.6 The role would need to be advertised in such manner as the authority considers is likely to bring it to the attention of the public; candidates must submit an application to the authority, and the appointment must be approved by the majority of Members of the authority. The existing Independent Person would be ineligible to apply for the role because of the amendment to the transitional arrangements which state that he cannot be appointed for a term of office ending on or after 1st July 2013.

- 3.7 Given that the nature of the role is yet to fully evolve, and that the existing appointee is well versed in the recently adopted arrangements, officers' view is that repeating the formal appointment process (so soon after the last recruitment exercise) may be unduly costly in terms of Member and officer time and associated recruitment costs; added to which there would be no guarantee that a suitable candidate would be found.
- 3.8 Option 2 would be to ask full Council to vary their original decision taken on 11th July 2012 and extend the current appointee's appointment to a further four years. This decision would have to be made before 1st July 2013.
- 3.9 Members should note that it is not explicit in the Order whether an extension to the Independent Person's current term of office would be permissible or not, and therefore pursuing this option does represent a slight risk to the Council. However, it is considered that the benefits of extending the term of office outweigh any potential disadvantages and would be the most pragmatic solution as well as presenting value for money for the Council, particularly because the appointee is already familiar with the local standards regime and is willing to voluntarily take a reduction in the allowance payable to him.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Leaders and Whips have been informally consulted on the possibility of extending the current appointee's term of office and no objections have been made to the proposal.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no equality and diversity or cohesion and integration issues in relation to this report.

4.3 Council policies and City Priorities

- 4.3.1 The procedure for dealing with complaints under the Members' Code of Conduct (in Part 4 of the Council's Constitution) sets out the role of the Independent Person and their involvement in the complaints process.

4.4 Resources and value for money

- 4.4.1 According to the Members' Allowances Scheme, the Independent Person currently receives a special responsibility allowance of £2,500. This amount is due to be reviewed by 11th July 2013.
- 4.4.2 The current appointee has indicated that he would be willing to take a voluntary reduction in the level of this allowance from April 2013 (should his term of office be extended). In addition no further training would be required to the existing Independent Person; this presents further value for money for the Council.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The role of the Independent Person and the eligibility for the role is set out in Chapter 7 (Section 28) of the Localism Act 2011. The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 introduced transitional arrangements to allow former Independent Members of Standards Committees to be appointed as the Independent Person if the appointment was made before 1st July 2013.
- 4.5.2 These arrangements were further amended on 3rd July 2012 by the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) (Amendment) Order 2012, to state that former Independent Members of Standards Committees may not be appointed for a period ending on or after 1st July 2013, unless the appointment was made before 24th July 2012 and the appointment was due to end on or after 1st July 2013.
- 4.5.3 However, there is nothing in the Act or Order which explicitly state that it would not be permissible to extend the length of the existing Independent Person's term of appointment. To do so, full Council would need to vary the original appointment decision made on 11th July 2012 prior to 1st July 2013.

4.6 Risk Management

- 4.6.1 As stated above, the Act and the Order do not explicitly state whether it would be permissible or not to extend the current term of office. Therefore if Members were minded to pursue this option, there is a small risk to the authority that the decision to extend the term of office might not be in fully in accordance with the intention of the transitional arrangements.

5 Conclusions

- 5.1 The current Independent Person's term of office will expire on 11th July 2013. The options open to the Council are to conduct another appointment process (under which the current appointee would not be eligible to apply), or to extend the existing term of office by varying the original decision of the full Council.

6 Recommendations

- 6.1 The Standards and Conduct Committee is asked to consider the options for the role of the Independent Person after July 2013 set out in this report.

7 Background documents¹

- 7.1 None.

¹ 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.

Independent Person

Role

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.

Who is eligible to be appointed as the Independent Person?

A person cannot become an Independent Person if they are:

- a Member, co-opted member or officer of Leeds City Council;
- a Member, co-opted member or officer of a Parish Council in the Leeds area;
- a relative¹, or close friend, of one of the above people.

In addition, a person cannot become an Independent Person if they have been:

- a Member, co-opted member or officer of Leeds City Council; or
- a Member, co-opted member or officer of a Parish Council in the Leeds area;

at any time during the five years before the appointment.

Transitional Arrangements

The Government introduced transitional arrangements which allowed a person to be appointed if they have been a Member or co-opted Member of the Standards Committee of Leeds City Council during the five years ending on 30th June 2012. These transitional arrangements apply in relation to appointments made before 1st July 2013.

On 3rd July 2012 the Government issued amendments to the transitional arrangements which set out that such appointments may not be for a period ending on or after 1st July 2013. However, this provision does not apply to appointments made before 24th July 2012.

¹ The definition of 'relative' includes a spouse or civil partner, a person with whom the person is living as if they were a spouse or civil partner, a grandparent of the other person, a lineal descendent of the grandparent of the other person, a parent, sibling or child of the person's spouse or civil partner (or person with whom they are living as if they were a spouse or civil partner), the spouse or civil partner (or person with whom the person is living as if they were a spouse or civil partner) of a grandparent, a lineal descendant of a grandparent, or a parent, sibling or child.

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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 11th January 2013

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.

3.2 Members may also wish to note that the final meeting has been rearranged to take place on Friday 5th April 2013 at 1:30pm.

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 documents¹

6.1 None.

¹ 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
Meeting date: Friday, 5th April 2013		
Annual report of the Standards and Conduct Committee	To receive a draft annual report of the Standards and Conduct Committee for approval and referral to full Council on 17 th April 2013.	Senior Corporate Governance Officer – Amy Kelly
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 st 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
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
Use of Council resources by Members and officers	To receive a report and a draft protocol on the use of council resources by Members and employees.	Head of HR – David Almond

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