



STANDARDS AND CONDUCT COMMITTEE

Meeting to be held in Civic Hall, Leeds on
Friday, 5th April, 2013
at 2.00 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 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 13-16 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 11th January 2013.</p>	1 - 4
7			<p>COUNCILLORS ACTING FOR DEVELOPERS - RECENT NATIONAL PRESS COVERAGE</p> <p>To receive a report of the City Solicitor drawing the Committee's attention to recent publicity regarding the alleged practice of Councillors acting for developers for a fee.</p>	5 - 18
8			<p>ANNUAL REPORT OF THE MONITORING OFFICER</p> <p>To receive an annual report from the Monitoring Officer regarding whether the arrangements set out in the Monitoring Officer Protocol have been complied with, and including any proposals for amendment.</p>	19 - 32

Item No	Ward	Item Not Open		Page No
9			<p>ANNUAL REPORT OF THE STANDARDS AND CONDUCT COMMITTEE</p> <p>To receive a report of the City Solicitor presenting an annual report of the Standards and Conduct Committee for approval and referral to full Council.</p>	33 - 42

Agenda Item 6

STANDARDS AND CONDUCT COMMITTEE

FRIDAY, 11TH JANUARY, 2013

PRESENT: Councillor E Nash in the Chair
Councillors C Campbell, J Harper,
P Harrand and B Selby

19 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.

20 Exempt Information - Possible exclusion of the press and public

There were no resolutions to exclude the press and public.

21 Late items

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

22 Declaration of Disclosable Pecuniary and Other Interests

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

23 Apologies for absence

Apologies for absence were received from Councillor Kamila Maqsood and Councillor Bob Gettings. The Independent Person, Mr Gordon Tollefson, provided apologies due to an overrunning prior commitment.

24 Minutes of the previous meeting

The minutes of the meeting held on Friday 19th October 2012 were approved as a correct record.

25 Officer declaration of interests

The Chief Planning Officer submitted a report 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. The Chief Planning Officer was in attendance at the meeting to present the report and answer any questions from the Committee.

Members discussed the following issues:

- Members questioned whether there would be any disciplinary action taken against employees who did not make the necessary declaration. The Chief Planning Officer advised the Committee that this would be the case, but there had been no instances of an employee failing to make a declaration in the last six years. The Committee were also advised that all personal planning applications made by an officer were decided by the relevant Area Plans Panel, rather than by another officer.
- Members asked what sorts of interests officers were required to declare and whether only officers making decisions were required to make declarations of interest. The Chief Planning Officer outlined that employees were expected to declare interests in relation to applications made by their family members, as well as those made by the employers of their family members. It was also outlined that all employees are encouraged to make declarations of interest even though they are not involved in the decision making process.
- Finally, Members asked whether other departments had similar arrangements in place for officers to declare any conflicts of interest. It was outlined that it is for each Director to review the arrangements and to decide which of their employees needs to complete a register of interests.

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

26 Review of the Codes of Practice for the Determination of Licensing and Planning Matters

The City Solicitor submitted a report which outlined the comments and suggestions received from the Licensing Committee and the Joint Plans Panel in relation to the review of the Codes of Practice, and asked the Committee to consider how the Codes of Practice should be amended and approved in future.

Members discussed that it was part of the Standards and Conduct Committee's role to ensure that the Council has proper arrangements in place to deal with the issue of bias and predetermination, but that the individual Committees were better placed to formulate the contents of the Codes of Practice. It was also clarified that if the recommendations were accepted, complaints about potential breaches of the Codes of Practice would no longer be dealt with by the Standards and Conduct Committee under the Code of Conduct complaints procedure.

RESOLVED – Members of the Standards and Conduct Committee resolved to note the information in the report and agreed to transfer responsibility for the Codes of Practice to the Joint Plans Panel and the Licensing Committee respectively.

27 Review of the standards and conduct arrangements

The City Solicitor submitted a report 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.

In relation to the complaints procedure, Members of the Committee agreed that it would be helpful to expand the list of criteria against which each complaint is assessed to specifically cover complaints which otherwise do not fall under the Members' Code of Conduct.

Members of the Committee particularly discussed the feedback that had been received from Leeds City Councillors attending the training sessions on the new standards arrangements, as outlined in paragraph 3.8 of the report:

- In relation to appeal arrangements, Members discussed whether it was necessary to offer the subject Member an appeal after Stage 3 of the complaints procedure. Members were advised that there was no provision in the Localism Act 2011 for an appeal to be heard. Members agreed that this was not necessary especially as the Independent Person must be consulted prior to the Committee making a decision, and in doing so the Independent Person may offer a view as to the reasonableness of a proposed finding.
- Members discussed whether Leeds City Councillors who have a disclosable pecuniary interest, but are not part of the decision making body, should be required to leave the room during the discussion and vote. Some Members felt that there was potential for a perception of a Member unduly influencing the decision making body if they remained in the room, but on balance Members concluded that it should be down to personal choice whether they choose to leave the room or not, and they should have the right to observe the proceedings as a member of the public would.
- Finally, Members of the Committee agreed that the Code of Conduct should be kept as simple as possible and that the provisions about 'other significant interests' should be removed from Part 2 of the Code of Conduct, and instead Members should be advised that they may make a declaration of a significant and relevant interest if they wish in accordance with the principle of 'honesty and integrity'.

The Committee also noted the Deputy Monitoring Officer's intention to write to the relevant Director at the Department for Communities and Local Government to seek clarification on the definitions of disclosable pecuniary interests.

RESOLVED – Members of the Standards and Conduct Committee resolved:

- To note the information in the report;
- To recommend to General Purposes Committee that the list of assessment criteria in paragraph 6 of the complaints procedure is expanded;

Draft minutes to be approved at the meeting
to be held on Friday, 5th April, 2013

- To request an annual reminder to update the register of interests following the Annual Council Meeting;
- To recommend to General Purposes Committee that the Members' Code of Conduct is amended by full Council to remove the provisions regarding 'other significant interests' from Part 2 of the Code of Conduct, and instead to insert a footnote to the principle of 'honesty and integrity' in Part 1 of the Code to emphasise that it is entirely down to the personal judgement of the Member whether they wish to declare any other conflicts of interest rather than a requirement;
- To recommend to General Purposes Committee that the Members' Code of Conduct is also amended by full Council to clarify that only Members of the decision making body are required to leave the room when they have a disclosable pecuniary interest in an item of business, and that Members who are attending the meeting in another capacity who have a disclosable pecuniary interest can remain in the room to observe the discussion and voting; and
- That the current arrangements are operating effectively and are fit for purpose.

28 Appointment of the Independent Person

The City Solicitor submitted a report outlining the options for the appointment process for the Independent Person.

Before this item was considered Councillor Janet Harper explained that she had previously worked with Mr Gordon Tollefson as a Magistrate, and therefore felt unable to participate in the discussion and vote on the matter. Councillor Harper therefore left the meeting.

RESOLVED – Members of the Standards and Conduct Committee resolved to recommend to General Purposes Committee that full Council vary its original decision taken on 11th July 2012 and extend the current appointee's appointment for a further four years.

29 Standards and Conduct Committee Work Programme

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

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

- Remove the report on the review of the standards and conduct arrangements, as this had been sufficiently dealt with;
- Remove the report on the use of Council resources by Members and officers, as this was the remit of the Member Management Committee;
- Amend the time of the meeting to 2pm; and
- Note the amended work programme.

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 5th April 2013

Subject: Councillors acting for developers – Recent national press coverage

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 draw the Committee's attention to recent publicity regarding the alleged practice of Councillors acting for developers within their own authority for a fee. These stories have appeared in the national press, and the Government has responded to them by press release and letter.
2. Such practices are likely to be contrary to the general principles of public life, and although Councillors may not breach the rules regarding disclosable pecuniary interests if they are not involved in the decision making process, they may commit the common law offence of misconduct in public office.
3. The register of interests held by Leeds City Council has been reviewed in the light of this publicity, but no Councillors have registered an interest in planning consultancy services operating within the Leeds City Council area.

Recommendations

4. Members of the Standards and Conduct Committee are asked to note the information contained in this report, and to consider whether any further action is required.

1 Purpose of this report

- 1.1 The purpose of this report is to draw the Committee's attention to recent publicity regarding the alleged practice of Councillors acting for developers within their own authority for a fee. These stories have appeared in the national press, and the Government has responded to them by press release and letter.

2 Background information

- 2.1 The Standards and Conduct Committee has a duty to promote and maintain high standards of conduct amongst Leeds City Councillors. As such the Committee is being asked to note the information in this report and to consider whether any further action is necessary to address the national issues raised.

3 Main issues

- 3.1 On 10th March 2013 the Telegraph newspaper published a story claiming that Councillors across the country are offering themselves for hire to property developers in order to receive fees of up to £20,000 for advice on how to get developments approved. The article particularly highlighted three Councillors in East Devon, Newcastle and Surrey.
- 3.2 In one of the cases highlighted in the article the Member involved has since resigned from the Council, and has been referred to the Police by the local authority under the Bribery Act 2010 and the Council's own policy on fraud, theft and anti-corruption.
- 3.3 Separately the article alleged that a 'lobbying company' was boasting to potential clients that it employs Councillors, and Councillors who have set up their own consultancy services are also offering to help push through planning applications.
- 3.4 One company, Indigo Public Affairs, have responded to the article stating that all Councillors that they employ have registered their employment in the Council's register of interests, and that the company's Code of Conduct prohibits all members of staff who are serving Councillors from making representations to anyone on behalf of any client of the company regarding a decision of the local authority on which they serve.
- 3.5 Indigo Public Affairs also state that the purpose of the company is the help developers consult with and listen to local communities and their elected representatives to find out what they actually want when new developments are proposed.
- 3.6 Local Government Minister Brandon Lewis responded to the article on 11th March 2013 stating the Councils should adopt a Code of Conduct which is consistent with the general principles of public life, with Councillors declaring any private interests that relate to their public duties and taking steps to resolve any conflicts arising in a way that protects the public interest.
- 3.7 The press release also stated that it is now a criminal offence to fail to declare or register disclosable pecuniary interests, which includes any employment or trade

carried out for profit or gain, and that Councillors should act in an open and transparent way, to avoid conflicts of interest on issues such as planning applications or benefitting financially from the issuing of council contracts.

- 3.8 However, although it would be a criminal offence for a Councillor to fail to register such employment, this disclosable pecuniary interest would not prevent them from being involved in the planning process so long as they were not involved in the decision itself.
- 3.9 In addition, the Secretary of State for Communities and Local Government wrote a letter responding to the issues raised in the article. The Secretary of State stated that it is unacceptable for Councillors to be receiving any form of payment to lobby their own Council, which would be a clear breach of the general principles of public life. The letter from the Secretary of State is attached as Appendix 1 to this report.
- 3.10 The Department's own illustrative Code of Conduct states:
- "You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person to act to gain financial or other material benefits for yourself, your family, a friend or close associate."
 - "You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties."
 - "You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest."
- 3.11 Although the wording of the Leeds City Council Members' Code of Conduct differs from the Department's illustrative Code, it is considered that the above points are still sufficiently covered. The Leeds City Council Code of Conduct is attached as Appendix 2 for information.
- 3.12 In his letter the Secretary of State also set out that depending on the circumstances of the case, the receipt of such payments to lobby could also constitute a criminal offence under the Bribery Act 2010, in that "payments to a Councillor to misuse or abuse their privileged position in their local authority to induce favours or advantage to one party in that Council's planning process could entail 'improper performance', by virtue of being a breach of the expectation of good faith by holders of public office and breach of their position or trust".
- 3.13 Furthermore the Bribery Act also covers those who promise or provide such payments, whether they are individuals or consultancy firms, so "those who offer financial advantage to any Councillor to attempt to influence the planning process in their local authority are themselves potentially committing a criminal offence."
- 3.14 In response to these issues the Deputy Monitoring Officer has reviewed the Register of Interests held by Leeds City Council and has not identified any

Members who provide planning consultancy services within the Leeds City Council area.

- 3.15 Members of the Standards and Conduct Committee are asked to consider whether further action should be taken to raise awareness of these issues amongst Leeds City Councillors.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No consultation has taken place on the contents of this report.

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 The Standards and Conduct Committee has a duty (on behalf of the Council) to promote and maintain high standards of conduct amongst Members of Leeds City Council. The Committee is therefore being asked to advise officers as to whether any further action is necessary to raise awareness of these issues, or prevent them from arising within Leeds City Council.

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 Under the Localism Act 2011 it is a criminal offence for a Councillor to fail to declare or register any employment carried on by them for profit or gain. It is also an offence under the Bribery Act 2010 for a Councillor to accept payments to induce favours or advantage to a particular party in the planning process, and for an individual or company to promise or provide such payments.

4.6 Risk Management

- 4.6.1 As stated above the Deputy Monitoring Officer has reviewed the Register of Interests held by Leeds City Council and has not identified any Members who provide planning consultancy services within the Leeds City Council area.

5 Recommendations

- 5.1 Members of the Standards and Conduct Committee are asked to note the information contained in this report, and to consider whether any further action is required.

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.

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Department for
Communities and
Local Government

The Rt Hon Hilary Benn MP
House of Commons
London
SW1A 0AA

Appendix 1

The Rt Hon Eric Pickles MP
*Secretary of State for Communities and Local
Government*

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

Tel: 0303 444 3450
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www.communities.gov.uk

Dear Hilary

12 MAR 2013

Councillors and lobbying

Thank you for your letter of 11 March, further to the reports in the *Daily Telegraph* on planning and councillors' interests.

I entirely share your concerns and sentiments. I do not believe such conduct is widespread, although I suspect that any (extremely rare) practices in this regard date back to the previous standards regime.

Localism Act 2011

It is unacceptable for councillors to be receiving any form of payment to lobby their own council. Such behaviour is a clear breach of the Nolan Principles (embedded in the Localism Act), and we would expect such conflicts of interest to be prohibited in councils' own local codes of conduct, which the statute requires must be consistent with those principles.

Under the Act, councillors must also register their employment and any trade for profit or gain, and failure to do so is a criminal offence. It is a requirement in law for such registers to be online by the local authority. I have asked my officials to remind councils of this requirement.

My department's illustrative Code of Conduct¹ clearly states:

"You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate."

"You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties."

"You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest"

¹ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

Bribery Act 2010

In addition, depending on the circumstances, the receipt of such payments to lobby could also constitute a criminal offence under the Bribery Act (which incorporates the previous Prevention of Corruption Acts).

Planning is a quasi-judicial and an administrative process. Payments to a councillor to misuse or abuse their privileged position in their local authority to induce favours or advantage to one party in that council's planning process could entail 'improper performance', by virtue of being a breach of the expectation of good faith by holders of public office and a breach of their position of trust.²

The Bribery Act also covers those who promise or provide such payments, be they consultancy firms or individuals. Those who offer financial advantage to any councillor to attempt to influence the planning process in their local authority are themselves potentially committing a criminal offence. It is no different than offering a bribe to a police officer – a practice that is both unacceptable and illegal.

Role of political parties

More broadly, separate to the law of the land, there is also a role for local and national political parties to promote high standards in public life, especially in relation to day to day conduct on avoiding conflicts of interest. I understand the Conservative Party has already taken firm action to suspend the party whip from one councillor. I would hope that political parties of other colours also take any necessary action in this regard, which would send an unambiguous signal on the expectation of high standards, especially in the planning process.

Councillors as local champions

Notwithstanding my comments above, I do believe it is important to have a sense of proportion in relation to recent reports. Instances of corruption in local government are, and remain, extremely rare. Whilst recognising the need for due process and a fair hearing, we must also protect the right of freedom of speech to allow councillors to champion their local residents: the narrow interpretation of pre-determination rules has previously been corrosive to local democracy.

Councillors are not full-time politicians: they can and should have outside jobs and interests. I believe the sunlight of transparency will be the best disinfectant.

Given your letter was issued to the press and given the broader public interest, I am placing this letter in the Library of the House of Commons.

Your ever
Sincere

THE RT HON ERIC PICKLES MP

² http://www.cps.gov.uk/legal/a_to_c/bribery_act_2010/#a05

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.⁴

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.

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.

⁴ Where you are present at a formal meeting of the authority and identify any relevant and significant interest which is not a disclosable pecuniary interest and which relates to the business being conducted, you may declare the interest to the meeting, if you consider it is in the public interest to do so. You may also choose not to participate in the business as a result, although you are not obliged to do so.

Members' Code of Conduct

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

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 employees⁵.

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 time⁶.
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 £50⁷ which you receive in your role as a

⁵ 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.

⁶ 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.

⁷ 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).

Leeds City Councillor⁸. 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.⁹

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^{10 11}.

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 committee¹², 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, or
 - (c) remain in the room during the discussion or vote on the matter (subject to paragraph 18 below).

⁸ 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.

⁹ These details will be removed from the register two calendar years after they were added by the Monitoring Officer.

¹⁰ 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

¹¹ 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.

¹² This includes the Executive Board and any committee of the executive.

Members' Code of Conduct

18. If you are not a member of the relevant committee, sub-committee, joint committee or joint sub-committee, and are present at the meeting in another capacity, you may remain in the room to observe the proceedings but must not participate in the discussion on the matter, even as a member of the public.
19. In certain circumstances you may be granted a dispensation to permit you to take part in the business of the authority, even if you have a disclosable pecuniary interest relating to that business. Such dispensations are granted by the Head of Paid Service following a written request to the Monitoring Officer.

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'¹³

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 period¹⁴ 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 person¹⁵ (or a body in which the relevant person has a beneficial interest¹⁶) 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 land¹⁷ 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 securities¹⁸ 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 –

¹³ As defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

¹⁴ "Relevant period" means the period of 12 months ending with the day on which the Member completes their notification.

¹⁵ "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.

¹⁶ 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.

¹⁷ "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.

¹⁸ "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: 5th April 2013

Subject: Annual report of the Monitoring Officer

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

Summary of main issues

1. This report is the annual report of the Monitoring Officer required under Paragraph 5 of the Monitoring Officer Protocol.
2. The Monitoring Officer is required to report to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with and including any proposals for amendments in the light of any issues that have arisen throughout the year.

Recommendations

3. The Standards and Conduct Committee is asked to consider the assurances and performance information provided in this report, and to approve the proposed amendments to the Protocol (attached as Appendix 1 to this report).

1 Purpose of this report

- 1.1 This report is the annual report of the Monitoring Officer required under Paragraph 5 of the Monitoring Officer Protocol. The Monitoring Officer is required to report to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with and include any proposals for amendments in the light of any issues that have arisen throughout the year.

2 Background information

- 2.1 The last report from the Monitoring Officer was produced in February 2011 and was presented to the Standards Committee. At the time there were no issues to report and no proposed amendments to the Protocol.
- 2.2 Members will recall that the role of the Monitoring Officer is a statutory role by virtue of Section 5 of the Local Government and Housing Act 1989. The principal duties of the Monitoring Officer are set out in the Annex to the Monitoring Officer Protocol, which is attached to this report as Appendix 1.

3 Main issues

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

3.2 Resources

- 3.2.1 The Monitoring Officer considers that she has sufficient resources to discharge her statutory functions, and to address any matters concerning her functions.
- 3.2.2 The Monitoring Officer is satisfied that so far for the financial year 2012/13 she had a sufficient budget at her disposal to enable her to seek Counsel's opinion on matters concerning her functions as and when necessary during the course of the current Municipal year.
- 3.2.3 The Monitoring Officer has appointed the Head of Governance Services as the Deputy Monitoring Officer and keeps him briefed on any relevant issues that he may have to deal with in her absence.

3.3 Access to information / meetings

- 3.3.1 The Monitoring Officer is of the view that she has been alerted to any issues that may have become of concern to the authority. The Monitoring Officer has had advance notice of all relevant meetings of the authority, and has had the right to attend these meetings.
- 3.3.2 The Monitoring Officer has ensured that all meetings of the authority are sufficiently supported and advised. All meetings of Committees, Panels and Sub-Committees are attended by a member of Governance Services who maintains a

record of the meeting and advises on procedural issues. All Committees also have a legal officer who is responsible for providing legal advice to that body, and in some cases, especially where committees are acting in a quasi-judicial capacity; the legal officer also attends the meetings throughout.

- 3.3.3 The Monitoring Officer, as the City Solicitor, is a member of the Corporate Leadership Team, and therefore has had advance notice of its meetings, agenda and reports, and has had the right to attend and speak.
- 3.3.4 The Monitoring Officer has not been required to undertake any investigations during the 2012/13 municipal year, but is confident that she would have unqualified access to any information held by the Council and to any officer who can assist in the discharge of her functions.
- 3.3.5 As the proper officer for access to information, the Monitoring Officer is responsible for ensuring that the rules set out in the Access to Information Procedure Rules around the publication of notices, decisions, reports, background papers and minutes, are complied with. This function is sub-delegated to the Head of Governance Services who ensures that the Rules are routinely complied with.

3.4 **Relationships**

- 3.4.1 The Monitoring Officer has ensured that the other statutory officers have been kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues.
- 3.4.2 The Monitoring Officer has met regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues. They all attend weekly meetings of the Corporate Leadership Team, and any additional meetings are arranged as and when necessary.
- 3.4.3 The Monitoring Officer has a close working relationship of respect and trust with the Lord Mayor, group whips and the Chairs of the Executive Board, Standards and Conduct Committee, regulatory committees, Scrutiny Boards and Area Committees.
- 3.4.4 Through Governance Services the Monitoring Officer has developed and maintained an effective working liaison and relationship with the District Auditor and the Local Government Ombudsman.
- 3.4.5 The Monitoring Officer is required to make a report under Section 5 of the Local Government and Housing Act 1989 if it appears to her that any proposal, decision or omission by the Authority¹ has given rise to or is likely to give rise to a contravention by the Authority of any enactment or rule of law. The Monitoring Officer has not had reason to make any report under Section 5 of the Local Government and Housing Act 1989 or to consult in relation to making any of these formal reports.

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

- 3.4.6 The Monitoring Officer has informal mechanisms for dealing with issues which are brought to her attention which are not likely to give rise to a contravention of any enactment or rule of law. The Monitoring Officer keeps records of these matters and any appropriate action taken.
- 3.4.7 The Monitoring Officer has made arrangements to ensure effective communication between her office and clerks to parish councils. The Parish Council Liaison Officer sends correspondence as and when necessary, and provides information to meetings of the Parish Council Liaison Forum. Parish Clerks are also able to contact officers in Governance Services to seek advice on conduct issues or to provide updates to the Register of Interests.
- 3.5 Ombudsman Complaints**
- 3.5.1 It is the duty of the Monitoring Officer under the Local Government Act 1974 and the Local Government and Housing Act 1989 to prepare reports in relation to complaints which have been the subject of investigation by the Local Government Ombudsman (LGO) and which have revealed maladministration, whether or not that maladministration has been found to cause injustice. The Monitoring Officer carries out this duty by instructing the relevant director to produce a report for the Executive Board. The LGO investigated 107 enquiries and complaints during 2011/12 and found fault with the Council in four of these cases.
- 3.5.2 The Council received four public reports during 2011/12 which revealed maladministration causing injustice. These are the first such reports the Council has received since 2007. The first three cases related to Children's Services and the Director of Children's Services reported on these cases to the Executive Board on 7th September 2011. The fourth case involved Adult Social Care and Leeds Joint Care Management Team, and the Director of Children's Services reported on this case to the Executive Board on 4th January 2013.
- 3.5.3 The Monitoring Officer has a duty to prepare reports where considered necessary to bring to Members' attention issues of importance arising out of complaints made to the Local Government Ombudsman, whether or not those complaints were investigated or maladministration found. These reports are formally considered by the Corporate Governance and Audit Committee. The Monitoring Officer has not had occasion to provide Corporate Governance and Audit Committee with any such report during this municipal year.
- 3.5.4 A report to the Corporate Governance and Audit Committee on 28th September 2012 highlighted comments made by the Local Government Ombudsman in her annual letter. The Ombudsman's representative reported that the Leeds officers co-operated fully with all Ombudsman investigations, and commented that the authority took lessons learned from such cases seriously. In the annual letter the Ombudsman also highlighted a particular case involving a housing issue where the Council had missed many chances to resolve the problem with the complainant. The Ombudsman expressed a wish that the Council would learn from this complaint to avoid problems recurring.

3.6 Standards matters

- 3.6.1 The Monitoring Officer has provided advice on the Code of Conduct to Members of the City Council and Members of Parish Councils. The Monitoring Officer has done so through correspondence, in meetings, and through the provision of guidance and briefing notes on specific issues. The Monitoring Officer has reported to the Standards and Conduct Committee on the number of complaints received regarding Leeds City Councillors and Parish and Town Councillors in Leeds and the outcome of those complaints at each Committee meeting.
- 3.6.2 There have been no matters referred to the Consideration Sub-Committee of the Standards and Conduct Committee during the 2012/13 municipal year, as all complaints have been resolved before or at Stage 1 of the complaints procedure.
- 3.6.3 The Monitoring Officer has arranged a programme of training for Members on the new standards regime. All 99 Leeds City Councillors, the Independent Person, and some Parish and Town Councillors have taken part in this training.
- 3.6.4 The Monitoring Officer is responsible for ensuring that Leeds City Councillors and voting Co-opted Members complete and maintain a register of interests and register any gifts or hospitality that they have received. The Monitoring Officer is also responsible for ensuring the Parish and Town Councillors in Leeds register their disclosable pecuniary interests and that these are published on the Leeds City Council website. The Monitoring Officer has delegated responsibility for these matters to Governance Services, but remains updated through regular reports on these matters. All Leeds City Councillors have registered their interests, but there are still two register entries outstanding from the Parish and Town Councillors.
- 3.6.5 The Monitoring Officer is also responsible for receiving any requests for dispensations from Leeds City Councillors and referring these requests to the Head of Paid Service. During the 2012/13 year all Leeds City Councillors applied for a dispensation in relation to the full Council meeting on 27th February 2013 to enable them to take part in the discussion and vote on the Council's budget. This dispensation was granted by the Head of Paid Service on 7th February 2013.

3.7 Constitution

- 3.7.1 The Monitoring Officer has kept the Constitution under continuous review and where necessary reports are taken to General Purposes Committee, Standards and Conduct Committee and full Council for approval in respect of proposed amendments to the Constitution. The Monitoring Officer has consulted with the Chief Finance Officer and the Head of Paid Service when required. The amendments to the Constitution made during this municipal year are highlighted within the Constitution control sheets which are available on the Council's website alongside the Constitution itself. The control sheets are also sent to all Members and Directors by email.

3.8 Members and Officer Responsibilities

3.8.1 The Protocol requires Members and Officers to report any suspected breaches of statutory duty or Council policies or procedures and other vices or constitutional concern to the Monitoring Officer as soon as practicable. The Monitoring Officer is satisfied that where matters have been raised, these have been concluded satisfactorily.

3.9 Advice

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

3.10 Amendments to the Monitoring Officer Protocol

3.10.1 An amended version of the Monitoring Officer Protocol is attached as Appendix 1 to this report. Slight amendments are proposed to reflect the following changes:

- That the Council no longer appoints a Deputy Lord Mayor.
- The Audit Commission has been abolished.
- That granting dispensations is now the responsibility of the Head of Paid Service rather than the Standards and Conduct Committee.
- That from April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO), rather than the Local Government Ombudsman.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 No consultation has been necessary on the contents of this report.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no equality and diversity or cohesion and integration issues arising from this report.

4.3 Council policies and City Priorities

4.3.1 Paragraph 5 of the Monitoring Officer Protocol requires that the Monitoring Officer reports annually to the Standards and Conduct Committee regarding whether the arrangements set out in the Protocol have been complied with. The functions of the Monitoring Officer contribute towards Principle 3 of the Council's Code of Corporate Governance by promoting and maintaining good conduct and behaviour.

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 annex to the Monitoring Officer Protocol attached as Appendix 1 summarises the Monitoring Officer's duties and the relevant legislation.

4.6 Risk Management

4.6.1 There are no significant risks associated with this report.

5 Conclusions

5.1 The Monitoring Officer has complied with her legal duties throughout the year, and has no issues to report.

6 Recommendations

6.1 The Standards and Conduct Committee is asked to consider the assurances and performance information provided in this report, and to approve the proposed amendments to the Protocol (attached as Appendix 1 to this report).

7 Background documents²

7.1 None.

² 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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MONITORING OFFICER PROTOCOL

1.0 INTRODUCTION TO STATUTORY RESPONSIBILITIES

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

2.0 WORKING ARRANGEMENTS

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
- 2.2.1 Resources
- (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions;
 - (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
 - (c) have control of a budget sufficient to enable him/her to seek Counsel's opinion on any matter concerning his/her functions;

Monitoring Officer Protocol

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

2.2.2 Access to information/meetings

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

2.2.3 Relationships

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

Monitoring Officer Protocol

(LGO) and the Independent Housing Ombudsman (IHO)-(including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);

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

2.2.4 Ombudsman Complaints

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

2.2.5 Standards Matters

- (a) refer relevant matters to the Standards and Conduct Committee in accordance with the 'Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct within the area of Leeds Metropolitan District Council';
- (b) make arrangements for, prepare reports for, and advise meetings of the Consideration Sub-Committee of the Standards and Conduct Committee;
- (c) give informal advice to Members in relation to informal resolution of a complaint;
- (d) ~~subject to the approval of the Standards and Conduct Committee~~, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues;
- (e) establish, maintain¹ and publish² the statutory register of Members' interests³;

¹ The arrangements for maintaining and updating the register will be reported to the Standards and Conduct Committee annually as part of the report required under paragraph 5.0 of this Protocol.

² Published on the Council's website www.leeds.gov.uk.

³ In relation to Leeds City Councillors, voting co-opted Members of Leeds City Council, and Members of Parish and Town Councils in the Leeds area.

- (f) to receive written requests for dispensations from Members and Co-opted Members of Leeds City Council, and to refer such requests to the ~~Standards and Conduct Committee~~ Head of Paid Service;

2.2.6 Constitution

- (a) review and monitor the Constitution in accordance with the arrangements set out in Article 15.1 of the Constitution and consult with the Section 151 Officer and Head of Paid Service before taking any report to the relevant Committee to approve amendments to the Constitution.

3.0 MEMBER AND OFFICER RESPONSIBILITIES

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

4.0 ADVICE

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

5.0 MONITORING THE PROTOCOL

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

6.0 SANCTIONS FOR BREACH OF PROTOCOL

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

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish, maintain and publish registers of Members' interests ⁴ .	Section 29 Localism Act 2011
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Proper officer for the receipt of dispensations.	Section 33 Localism Act 2011
9	Proper Officer for access to information	Constitution - Article 12, and DETR guidance.
10	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
11	Advise on vires issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance

⁴ In relation to Leeds City Council and Parish and Town Councils in the Leeds area.

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Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 5th April 2013

Subject: Annual Report of the Standards and Conduct Committee

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 present the Committee with an annual report for approval. It is intended that the annual report be referred to full Council for consideration, particularly as the Authority has a duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council.

2. The annual report summarises the work carried out by the Committee throughout the year, in particular the work to embed and improve the Council's new standards arrangements.

Recommendations

3. The Standards and Conduct Committee is asked to comment on this annual report and note the intention to refer the report to full Council.

1 Purpose of this report

- 1.1 The purpose of this report is to present the Committee with an annual report for approval.

2 Background information

- 2.1 It has been proposed by the Chair that the Committee produce an annual report outlining the work carried out by the Committee throughout the year, and that this be referred to full Council to help demonstrate the ways in which the Authority has fulfilled its statutory duty to promote and maintain high standards of conduct.

3 Main issues

- 3.1 The Standards and Conduct Committee has the following terms of reference:

- To promote and maintain high standards of conduct by members and co-opted members of the authority.
- To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- To consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the Leeds area has failed to comply with the parish council's code of conduct.
- Following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations on the form of action.
- To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of employees of the authority.

- 3.2 The Committee has met four times during the 2012/13 municipal year, and these meetings have particularly concentrated on efforts to embed and improve the Council's new standards arrangements.

Reviewing the local codes and protocols

- 3.3 The Standards and Conduct Committee has reviewed the following local codes and protocols during the year to ensure they are fit for purpose and consistent with the provisions of the new Members' Code of Conduct:

- The Protocol for Member/Officer Relations
- The Code of Practice for Determining Planning Matters

- The Code of Practice for Determining Licensing Matters
- The Monitoring Officer Protocol

3.4 This review process has led to the Codes and Protocols being shortened and simplified, and in the case of the Codes of Practice for Planning and Licensing Matters, responsibility for updating these codes has been transferred to the relevant Committees (Plans Panels and Licensing Committee), with the emphasis on ensuring sound decision making rather than placing additional conduct burdens on Members of those Committees.

Role of the Chair in applications for dispensations

3.5 If a Member wishes to apply for a dispensation to allow them to take part in a meeting with a disclosable pecuniary interest they must submit a written application to the Monitoring Officer. Applications are then decided by the Head of Paid Service. However, in deciding whether to grant a dispensation the Head of Paid Service must consult with the Chair of the Standards and Conduct Committee.

3.6 Prior to the meeting of full Council on 27th February 2013 all Members applied for a dispensation to allow them to take part in the decision to approve the Council's budget. The Chair of the Standards and Conduct Committee was consulted on this matter by the Monitoring Officer on 6th February 2013 on behalf of the Head of Paid Service before he made the decision to approve the application on 7th February 2013.

3.7 No other dispensations have been applied for or granted during 2012/13.

Reviewing the Members' Code of Conduct and the arrangements for dealing with complaints

3.8 Leeds City Council adopted a revised Members' Code of Conduct consistent with the requirements of the Localism Act 2011 at the Annual Council Meeting in May 2012 to come into force on 1st July 2012. This meant that, unlike some other peer authorities, there was no period where there was not a Code of Conduct in force.

3.9 When the new Code of Conduct and complaints process were first drafted Members' commented that it would be sensible to review their operation during the first year. At its January meeting the Committee concluded this review process, and made a series of recommendations for amendment to General Purposes Committee.

3.10 The Committee considered feedback from Leeds City Councillors which had been received through training sessions, other Codes of Conduct adopted by the Core Cities, and also considered feedback from officers on the complaints process. The amendments to the Members' Code of Conduct that were agreed simplified the provisions about declarations of interests and also allowed Members who have a disclosable pecuniary interest in an item, but who are not part of the decision making body, to remain in the room to observe the discussion and vote on the matter.

Complaint handling

- 3.11 Leeds City Council has a responsibility for making arrangements to receive and consider complaints against Leeds City Councillors and Parish and Town Councillors in Leeds. At Stage 2 of the complaints procedure the Chair of the Standards and Conduct Committee must be consulted by the Monitoring Officer in deciding whether the matters raised by the complainant have been appropriately addressed by the subject Member. If a complaint was to reach Stage 3 of the complaints procedure the Consideration Sub-Committee of the Standards and Conduct Committee would need to meet to consider the complaint and decide whether the Code of Conduct had been breached and what action to recommend.
- 3.12 The Standards and Conduct Committee have received regular updates on the number of complaints received under the Members' Code of Conduct and how these have been resolved. The number and types of complaints received during the 2012/13 municipal year are listed below. So far, all complaints have been resolved either before or at Stage 1 of the complaints procedure meaning that there have been no findings of a failure by Leeds City Councillors or Parish and Town Councillors in Leeds to comply with the relevant Code of Conduct.

Complaints relating to Leeds City Councillors

- 3.13 Acting under delegated powers from the Monitoring Officer, the Deputy Monitoring Officer has received eight complaints about Leeds City Councillors since 1st July 2012. Six of these complaints were submitted by members of the public, and two were submitted by representatives of a Parish Council. There are no trends in terms of the subject Members specified in complaints, although not all individual subject Members or groups of subject Members were clearly identified by the complainant.
- 3.14 In order to be considered under the formal complaints process complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. When a complaint does not meet these criteria and does not reveal a potential breach of the Members' Code of Conduct it is treated as a 'general enquiry'. This means that the Deputy Monitoring Officer responds to the complainant in writing explaining why the matters complained of do not constitute a potential breach of the Members' Code of Conduct.
- 3.15 When a written complaint is submitted which provides the relevant information, the Deputy Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not. Three complaints were treated as formal complaints and assessed against the criteria set out in the complaints procedure. All three were rejected because they either related to a Members' personal or private life, or did not otherwise relate to the Members' Code of Conduct.
- 3.16 As Members will recall complaints alleging a failure to register a disclosable pecuniary interest are matters for consideration by the West Yorkshire Police as the Localism Act 2011 has made such failures a criminal offence. One such complaint has been considered by the West Yorkshire Police who concluded that

no breach of the rules had occurred and passed the complaint to Leeds City Council to consider under its own complaints procedure. No potential breach of the Members' Code of Conduct was established and no further action was necessary.

3.17 The complaints submitted about Leeds City Councillors related to the following matters:

Behaviour alleged	Type of complaint	Outcome & reason	Source of complaint	Number of complaints
Not assisting or responding to constituents	General enquiry	The complaint was rejected as it did not relate to the Code of Conduct	Member of the public	3
	General enquiry	The complaint was rejected as the subject Member was not identified and it did not relate to the Code of Conduct.	Member of the public	
	Formal complaint	The complaint was rejected as it did not relate to the Code of Conduct.	Member of the public	
Being involved in an issue with a conflict of interest / exerting pressure on Council officers	General enquiry	The complaint was rejected as the complaint did not reveal a possible conflict of interest.	Parish Council	2
	Formal complaint	The complaint was rejected as there was no information to suggest that the involvement was inappropriate or contrary to the Code of Conduct.	Parish Council	
Accessing confidential information held by Leeds City Council for personal reasons	General enquiry	The complaint was rejected as there was no information to substantiate the allegation made, and it did not relate to the Code of Conduct.	Member of the public	1
Failure to register a disclosable pecuniary interest	Formal complaint	The complaint was rejected as the interest had already been included on the Members' register entry.	Member of the public	1
Displaying bias towards a planning applicant	General enquiry	The complaint was rejected as the subject Member(s) were not identified and it did not relate to the Code of Conduct.	Member of the public	1
Total:				8

Complaints relating to Parish and Town Councillors in Leeds

3.18 The Deputy Monitoring Officer has received six complaints against Parish or Town Councillors in the Leeds area since 1st July 2012. Four of the complaints were submitted by members of the public, one by another Parish Councillor, and one by

a local Head teacher. These complaints have involved five different Parish and Town Councils, and all the subject Members have been different.

3.19 Two of the complaints were treated as formal complaints and assessed against the criteria set out in the complaints procedure. One of the complaints was rejected because it related to the Members' personal or private life, and the other was rejected because it did not relate to the Members' Code of Conduct.

3.20 The complaints submitted about Parish and Town Councillors in Leeds related to the following matters:

Behaviour alleged	Type of complaint	Outcome & reason	Source of complaint	Number of complaints
The Councillor had allegedly been reported to the Police in relation to an alleged theft	General enquiry	The complaint was rejected as it related to the Member's private life, did not contain any information to substantiate the allegation, and did not relate to the Code of Conduct.	Member of the public	1
Deliberately withholding information from other Council Members	General enquiry	The complaint was rejected as it did not relate to the Code of Conduct.	Parish Councillor	1
Failure to declare an interest in a meeting	Formal complaint	The complaint was rejected as the complaint did not reveal a possible conflict of interest.	Member of the public	1
Using an inappropriate method of raising concerns	General enquiry	The complaint was rejected as the subject Member was not acting in an official capacity and it did not relate to the Code of Conduct.	Member of the public (local head teacher)	1
Threatening behaviour	Formal complaint	The complaint was rejected as it related to a Member's private life, the subject Member was not clearly identified, there was no information to substantiate the allegations made, and it did not relate to the Code of Conduct.	Member of the public	1
Failure to pay for work completed in their capacity as a local business owner	General enquiry	The complaint was rejected as it related to a Member's private life and did not relate to the Code of Conduct.	Member of the public	1
Total:				6

Independent Person

3.21 The Standards and Conduct Committee have supported the Independent Person in his role by inviting him to attend meetings of the Committee as an observer, and ensuring that he has undertaken training on the Members' Code of Conduct.

The Independent Person also has quarterly briefing meetings with the Deputy Monitoring Officer.

- 3.22 At their meeting in January the Committee also considered the future role of the Independent Person. The current Independent Person was initially appointed for a period of up to one year, but the Committee considered that in order to retain the understanding and expertise gained by the Independent Person during this first year, and because Leeds City Councillors supported the current postholder, his appointment should be extended. On 27th February 2013 full Council agreed to extend the current Independent Person's term of office for a further four years.

Supporting Members of Leeds City Council

- 3.23 The Standards and Conduct Committee have received regular updates on the number of Members who have received training on the new standards arrangements.
- 3.24 A mixture of seminars, smaller group sessions and one to one training sessions were provided between June and December 2012. Overall 13 sessions were provided for Members, and all 99 Leeds City Councillors and the Independent Person attended.
- 3.25 All elected Members and voting co-opted Members of Leeds City Council have also completed their register of disclosable pecuniary interests which are published on the Council's website.

Supporting Members of Parish and Town Councils

- 3.26 Parish and Town Councils now have greater responsibility under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:
- promoting and maintaining high standards of conduct by its own Members;
 - formally adopting a Code of Conduct that is consistent with the requirements of the Localism Act and publicising that adoption;
 - completing a register of disclosable pecuniary interests and ensuring that information about this register is available on the Parish or Town Council's own website (if it has one);
 - putting in place arrangements for Members to apply for and be granted a dispensation; and
 - ensuring that arrangements are in place for the Parish or Town Council to consider any complaints referred to it by Leeds City Council and to decide on any appropriate action against the subject Member.
- 3.27 Under the previous regime many of these responsibilities were carried out by the Standards Committee on behalf of Parish and Town Councils. In order to assist the Parish and Town Councils in preparing for this change two briefing sessions

were held in late April 2012 for Parish and Town Council Clerks to discuss the new arrangements and how they could prepare. A reference document has also been prepared by the Deputy Monitoring Officer which sets out the roles and responsibilities of the Parish and Town Councils and Leeds City Council in relation to standards which is due to be circulated shortly.

- 3.28 The Deputy Monitoring Officer has provided all Parish and Town Councils in Leeds with the Members' Code of Conduct adopted by Leeds City Council and encouraged them to adopt the same Code. They have also been informed of any guidance released by the Department for Communities and Local Government, and any amendments to the Code of Conduct. The number of Parish and Town Councils who have adopted a Code of Conduct has been monitored, and where a Code has not yet been adopted further support and guidance has been provided. To date all but two Parish and Town Councils have formally adopted a Code of Conduct.
- 3.29 Leeds City Council also has a responsibility to collate the registers of interest completed by Parish and Town Councillors in Leeds and to publish these on the Council's website. To date all but two register entries have been completed and published. The Deputy Monitoring Officer has provided written guidance for Members on how to complete the document and has advised Parish and Town Council Clerks where necessary.
- 3.30 The Standards and Conduct Committee have received regular updates on this situation and have provided officers with advice and guidance on how to best to support Parish and Town Councils in complying with their statutory responsibilities.
- 3.31 Leeds City Council also has responsibility for receiving and considering complaints made against Parish and Town Councillors. Under Stage 3 of the complaints procedure the Standards and Conduct Committee have made specific arrangements for complaints against Parish and Town Councillors. Although such complaints would still be decided by the Consideration Sub-Committee, a co-opted Parish Member would also be invited to attend the Sub-Committee meeting. The Parish Member would not be entitled to vote at the meeting, but would be entitled to speak at the discretion of the Chair. The co-opted Parish Member is also invited to attend all Standards and Conduct Committee meetings to observe the proceedings.
- 3.32 On 19th October 2012 the Committee requested that officers should offer any remaining places at training sessions on the Members' Code of Conduct provided to Leeds City Councillors to Parish and Town Councillors and Clerks, free of charge. As a result three of the group seminars were opened up to Parish and Town Councils and 17 out of a current total of 319 Members attended.
- 3.33 Officers also attempted to arrange at least one group training session for all Parish and Town Councillors in Leeds, which would be applicable to them regardless of whether they had adopted the Leeds City Council Code of Conduct. A separate session was also offered to Parish and Town Council Clerks. However, the take up for these sessions was very low with only three Councillors

confirming their attendance. Due to poor weather conditions the session was cancelled, and given the lack of interest it has not been rescheduled.

- 3.34 Instead all Parish and Town Councils were sent the training materials via email for distribution to their Members, and Members were encouraged to contact the Deputy Monitoring Officer if they had any queries about the Code of Conduct. No further requests for training have been submitted.

Advising on the Employee Code of Conduct and arrangements for planning officers to declare interests

- 3.35 The Standards and Conduct Committee recommended that the Employee Code of Conduct should be redrafted to more closely reflect the principles in the new Members' Code of Conduct. The Committee considered the redrafted Employee Code of Conduct in October 2012, and the new Code of Conduct was approved on 1st March 2013.
- 3.36 The Committee also requested a report 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. The Committee received the report in January 2013 and were satisfied with the robust assurance that it provided in terms of the measures used in mitigating the risk of officer conflict of interest and in declaring interests.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 In reviewing the local codes and protocols and the Members' Code of Conduct the Committee have considered comments and feedback from the relevant Committees and from other Leeds City Councillors.
- 4.1.2 In relation to complaints against Councillors, in all cases mentioned in this report the complainant has been contacted and an explanation has been provided as to why the complaint is not being progressed. The subject Member has also been informed of the complaint and the response to the complainant, for information only.

4.2 Equality and Diversity / Cohesion and Integration

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

4.3 Council policies and City Priorities

- 4.3.1 Principle 3 of the Code of Corporate Governance states that the Council will put in place a Code of Conduct and keep it under review.
- 4.3.2 According to the Localism Act 2011 the Council has a duty to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority. This report outlines how the Standards and Conduct Committee has carried out this duty on behalf of the Council.

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 Standards and Conduct Committee's terms of reference are taken from the Chapter 7 of the Localism Act 2011.

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

4.6 Risk Management

4.6.1 Without the work undertaken by the Committee to update the local codes and protocols and to review the Code of Conduct and complaint process, there is a risk that the local standards arrangements could become out of date and no longer fit for purpose.

4.6.2 In relation to complaints against Councillors the Monitoring Officer has considered the information above and does not consider that there are any adverse trends in the types of complaints received, and as no potential breaches of the Members' Code of Conduct have been revealed, there are no issues to address through training.

5 Conclusions

5.1 It has been proposed by the Chair that the Committee should produce an annual report outlining the work carried out by the Committee throughout the year, and that this be referred to full Council to help demonstrate the ways in which the Authority has fulfilled its statutory duty to promote and maintain high standards of conduct.

5.2 The Committee has met four times during the 2012/13 municipal year, and these meetings have particularly concentrated on efforts to embed and improve the Council's new standards arrangements.

6 Recommendations

6.1 The Standards and Conduct Committee is asked to comment on this annual report and note the intention to refer the report to full Council.

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.