



Report of City Solicitor

Report to Standards and Conduct Committee

Date: 5th February 2021

Subject: Annual Report of the Monitoring Officer to the Standards and Conduct Committee

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open 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

1. Main issues

This annual report to the Standards and Conduct Committee summarises the work carried out by the Monitoring Officer and her staff to support the Committee throughout the year.

The report provides assurances in respect of work undertaken to:

- Ensure registers of interests and dispensations were correctly administered;
- Deal with any sensitive interests;
- Assess and respond to complaints;
- Support Parish and Town Councils.

2. Best Council Plan implications (see the [latest version of the Best Council Plan](#))

- The Council's ethical framework for elected members is a key component of the Council's Values of being open, honest and trusted and treating people fairly.
- 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.
- The Localism Act 2011 places a duty on the Council to promote and maintain high standards of conduct amongst Members and co-opted Members of the authority.

3. Resource implications

- The Monitoring Officer is satisfied that the authority continues to meet its statutory obligations for Standards and Conduct and confirms, by way of this report, that she has adequate resources to fulfil her statutory duties.

Recommendations

a) Members are asked to consider the matters set out in this report.

1. Purpose of this report

1.1 The purpose of this report is to present to the committee an annual report of the Monitoring Report. The matters reported on fall within the committee's terms of reference and supports the duty of the Authority to promote and maintain high standards of conducts by Members and co-opted Members of the Council.

2. Background information

2.1 The Monitoring Officer's responsibilities are referenced with the Monitoring Officer Protocol contained with the Council's Constitution – as related to Standards Matters these are as follows;

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

2.2 A report of in relation to these and related matters is made annually to the committee.

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 the 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.

3. Main issues

3.1 This report covers the period from the last report to the committee in March 2020 to date.

Training & Advice

3.2 As the local elections in May 2020 were cancelled due to the Coronavirus Pandemic, there has been no requirement for the Monitoring Officer to provide training for newly elected Members.

3.3 As part of prescribed training for councillors who are members of Plans Panels, briefings have been provided on the legal framework concerning the avoidance of bias and predetermination.

3.4 Advice and training has been provided to members on request on a 1:1 basis in relation to specific issues that have emerged during the year, including:

- Registration and declaration of interests;
- Bias and Predetermination;
- Conflicts of Interests;
- Social Media

Register of Interests

3.5 The Localism Act 2011 places a duty on the Monitoring Officer of a relevant authority to establish and maintain a register of interests of members and co-opted members of the authority.

3.6 The Monitoring Officer has supported members of the authority (and of Parish and Town Councils) in meeting their obligations to notify any disclosable pecuniary interest within 28 days of a change in the circumstance relating to such interests.

3.7 In addition, regular reminders have been issued to elected members to review their registers of interests. Whilst some reminders have been general in nature, others have provided focussed advice with reminders in the past year including: gifts and hospitality; the need to register spousal interests; interests arising from employment, office, trade, profession or vocation; dual hatted interests; interests relating to consideration of the budget; and the provisions for Sensitive Interests.

Sensitive Interests

3.8 Section 32 (2) of the Localism Act 2011 allows for interests which are considered to be sensitive to be withheld from a Member's Register of Interests. The decision as to whether to withhold such an interest from the public register is made by the Monitoring Officer. Permission to withhold an interest may only be granted in cases where disclosure of the details of an interest could lead to a member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation – it is particularly relevant that that threat or potential threat would be substantially contributed to as a result of those interests appearing on the members' public register.

3.9 In essence, a Member needs to clearly demonstrate that, either they or those connected to them have either suffered violence or intimidation or there is a reasonable ground for them to suppose that that may be the case if the interests are publicly available. The Member needs to provide supporting evidence for that reasonable belief and it is on the basis of that evidence that the Monitoring Officer agrees or not to the interest being withheld.

- 3.10 The actions taken by the Monitoring Officer in Leeds in relation to Sensitive Interests mirrors a recommendation recently made by the Committee on Standards in Public Life. The Committee, in their report 'Intimidation in Public Life – A review by the Committee on Standards in Public Life', recommend that all Monitoring Officers 'Should ensure members required to declare pecuniary interest are aware of the sensitive interest provisions of the Localism Act 2011.
- 3.11 Members attention is also drawn to the report from the Committee on Standards in Public Life (CSPL), into Local Government Standards arrangements (reported to the Committee previously) which made a recommendation to Government to clarify that a councillor does not need to register their home address on an authority's register of interests. No progress has been made by Government in relation to this.
- 3.12 The reasoning for each decision to withhold a Members' sensitive interest is reviewed by the Monitoring Officer annually. Thirty one (26 in 2019/20) permissions to withhold interests are in place (having been granted by the Monitoring Officer in respect of the 435 elected Leeds City Council and Parish and Town Council Members across the Leeds Metropolitan District, an increase of 5 on the previous year. Twenty four (20 in 2019/20) of these relate to Leeds City Councillors, a small increase from last year.

Dispensations

- 3.13 If a councillor wishes to apply for a dispensation to allow them to take part in a meeting considering a matter in which they have a disclosable pecuniary interest they must submit a written application to the Monitoring Officer.
- 3.14 Applications are then decided by the Head of Paid Service. However, in deciding whether to grant a dispensation the Head of Paid Service must have regard to s.33(2) Localism Act and, (as per arrangements established in Leeds), consult with the Chair of the Standards and Conduct Committee.
- 3.15 No alterations have been made to the Standards and Conduct Committee's conclusions regarding local prohibitions on councillor's involvement in decision making where they have a Disclosable Pecuniary Interest (DPI). Members will recall that the circumstances where a member of the public has rights to attend and make representations – for example, in relation to a personal planning application - the committee's view was that this limitation placed an unjust discrimination upon councillors.
- 3.16 In light of this, and recognising the committee's views on this matter, subject to certain constraints, and the receipt of an application, the Head of Paid Service will continue to set aside these restrictions by way of the granting of a dispensation to newly elected members.
- 3.17 The dispensation allows members (when they have a DPI) to make representations at a meeting where members of the public have the same entitlement – however those members must not otherwise be involved in the decision making of the decision making body.
- 3.18 The other active dispensation, granted to all Members, permits members to take part and vote in matters relating to:
- Any office held within Leeds City Council for which they receive a taxable income; and
 - Any office held outside Leeds City Council (to which they have been appointed by Leeds City Council) for which they receive a taxable income.

- 3.19 Members will recall from last year's report, following all out elections, both dispensations were granted until May 2022 reflecting the four year term of office to be served by one third of those councillors elected. A new dispensation was granted in the same terms for those Members elected in 2019 lasting until May 2023 reflecting their term of office.
- 3.20 It is proposed that subject to any legislative or policy change, and in consultation with the Chair of this Committee Head of Paid Service will be invited to grant dispensations in similar terms following each local election, for a period reflecting the term of office of successful candidates.

Complaint Handling

- 3.21 Leeds City Council has responsibility for making arrangements to receive and consider complaints against Leeds City Council members 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..
- 3.22 To date, all complaints this year have been resolved either before or at Stage 1 of the complaints procedure. There have been no formal findings of a failure by Leeds City Councillors or Parish and Town Councillors in Leeds to comply with the relevant Code of Conduct.
- 3.23 As part of their regular briefings (with the Deputy Monitoring Officers) the Chair and the Independent Person have been appraised with a summary of the (anonymised) complaints that have been received together with an outline of how those complaints have been assessed and concluded.
- 3.24 In order to be considered under the formal complaints process, complaints must be submitted in writing, must provide information to substantiate the claims made, and should outline what form of resolution the complainant is seeking.
- 3.25 Each complaint is assessed by either the Monitoring Officer (or one of her Deputies), in consultation with the Independent Person; it is the Monitoring Officer (or her nominated Deputy) that makes a decision as to whether it will be treated as a valid complaint or not. Where information is lacking, complainants are also offered the opportunity to provide further information to substantiate their complaint to enable an objective assessment to be undertaken.

Complaints relating to Leeds City Councillors.

- 3.26 Last year, at the time the Committee met, Members were advised that 12 complaints had been received in respect of Leeds City Council Members. At that time, three of those complaints remained to be assessed, two were subsequently assessed as invalid with the remaining complaint held over to the 2020/21 Municipal Year with assessment being completed in November. One additional complaint was received between the committee meeting in March and the end of May 2020, this was dismissed as the issues raised did not identify a failure under the Code (and also related to matters that took place over 12 months from the complaint being raised).
- 3.27 From June this year (to date) there have been **41** complaints made against Leeds City Councillors.

Leeds City Council Member Complaints Summary

Complaint Ref	Nature of Complaint	Outcome
1-32	Post to social media platform.	Political Group took steps to address concerns raised. In light of the steps taken no further action – complaint invalid under paragraphs 6(j) and 6(c) of the complaints procedure.
33	Member request for a planning application to be determined by a Plans Panel.	No further action - complaint invalid under Paragraph 6(l) of the complaints procedure.
34	Personal information being inadvertently revealed on-line.	The subject Member made a self-referral to the Information Commissioner and undertook further training. In light of steps taken - no further action - complaint invalid under Paragraph 6(j) of the complaints procedure.
35-37	Post to social media platform.	No further action - complaint invalid under Paragraph 6(l) of the complaints procedure.
38	Post to social media platform.	No further action - complaint invalid under Paragraph 6(l) of the complaints procedure.
39	Support provided to a constituent.	No further action - complaint invalid under Paragraph 6(l) of the complaints procedure.
40	Verbal exchange.	No further action - complaint invalid under Paragraph 6(c) of the complaints procedure.
41	Engagement with Parish Council.	No further action - complaint invalid under Paragraph 6(l) of the complaints procedure.

- 3.28 Complaints 1-32 related to the same issue complained of (by 32 different individuals) which had the same Subject Member. Complaints 35-37 also related to the same issue complained of by 3 different individuals, again about the same issue and Subject Member. The most notable element though is the increase in complaints, which again have demonstrated an increase from the last reporting period.
- 3.29 However, whilst the number of total complaints has increased, this has largely been due to the number of multiple individuals raising concerns about the same issue/councillor. When the number of incidents of complaint are considered, **eight** separate issues have generated a complaint when compared to ten reported last year. Social Media continues to be a primary source of complaints.

3.30 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 a failure a criminal offence. Paragraph 6 (k) of the complaints procedure references this stating that complaints which relate to an alleged failure to comply with the rules regarding ‘Disclosable Pecuniary Interests’ are invalid –this clause is further referenced by way of footnote stating that “Such complaints will be redirected to the West Yorkshire Police, subject to the complainant’s agreement. No formal complaints of this nature have been received this year that have required referral to the Police.

Complaints relating to Parish and Town Councillors in Leeds

3.31 Last year at the time of this Annual report, the Monitoring Officer reported having received seven complaints relating to Parish or Town Councillors in the Leeds area. No further complaints were received between the committee meeting and the end of the Municipal year.

3.32 At the time of this report, in the 2020/21 Municipal Year, the Monitoring Officer has received **six** complaints relating to Parish or Town Councillors in the Leeds area. These are summarised in the table below.

Parish and Town Council Member Complaints Summary

Complaint Ref	Nature of Complaint	Outcome
a	Registration of a Disclosable Pecuniary Interest	Local Authority has no jurisdiction in relation to complaints relating to Disclosable Pecuniary Interests - invalid under paragraph 6(k) – complainant directed to the relevant contact at West Yorkshire Police.
b	Repayment of expenses and management of council business.	Invalid under paragraph 6 (j) and paragraph 6(l) of the complaints procedure
c	Management of Council business and breakdown in relationships between councillors and others.	Complaint not substantiated - invalid under paragraph 6 (l) of the complaints procedure
d	Verbal exchange	No further action - complaint not substantiated and closed due to lack of further engagement from the complainant.
e	Management of Council Business	No further action – complaint invalid under Paragraph 6 (a) of the complaints procedure.
f	Management of Council Business – various complaints involving multiple Members of the Parish Council	No further action – complaint invalid under paragraph 6 (f), (h) and 6 (l) of the complaints procedure

Complaint Ref	Nature of Complaint	Outcome
g	Involvement in matters relating to Parish Council Vacancies	No further action – complaint invalid under paragraph 6 (l) of the complaints procedure

3.33 Analysis shows that complaint (a) fell out of the jurisdiction of Monitoring Officer and Standards and Conduct Committee and that complaints (a) and (b) were submitted by the same individual. Complaints (e) and (f) are separate complaints but relate to Members of the same Parish Council.

3.34 In addition to the formal complaints received, assessed and reported on above - in the year to date **14** informal contacts (General Inquiries) were made through the councillorconduct@leeds.gov.uk email address. The contacts made were responded to by providing a complaint form and details of the Code of Complaints process but then did not result in a formal complaint being made.

Monitoring Officer Observations and Recommendations on the Operation of the Complaints Process

3.35 Members will recall that last year an additional step was included at Stage 1 of the Complaints Procedure whereby the provisional outcome of Assessment is shared with the Independent Person for his view in advance of that Assessment being concluded and communicated to the Complainant and Subject Member.

3.36 That process has worked extremely well during the last year and as added further rigour and independence to the complaint process. The Monitoring Officer would like to place on record her thanks to Mr Tollefson for his diligence and expertise in undertaking this role.

3.37 As mentioned, the Complaints Procedure requires the Monitoring Officer, at Stage 1, to assess complaints to determine whether they are valid or invalid. In seeking to establish the circumstances and reach an assessment conclusion, the Monitoring Officer routinely accesses readily obtainable information; this includes requesting observations and recollections from the Member who is the subject of the complaint.

3.38 Currently Paragraph 7 of the Complaints Procedure sits at odds with this necessary engagement with Members in that it stipulates the following:

“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.”

3.39 For the purposes of transparency, openness and clarity, the Monitoring Officer recommends that an amendment is made to Paragraph 7 of the Complaints Procedure, to remove the second sentence of that paragraph to make clear that the comments of Members will be routinely sought as part of the assessment process.

3.40 The Monitoring Officer also recommends that further consideration be given to the criteria used at Assessment listed at Paragraph 6 of the procedure.

3.41 The Council needs to efficiently and effectively filter out those complaints that are trivial or which have little or no impact on the public. It also needs to avoid engaging or carrying out investigations that are disproportionate to any outcome that can be achieved or sanction imposed

- 3.42 It is important that the focus of the complaints process is on matters that are serious, such as corruption, bullying and misuse of power in public office. In that respect complaints must demonstrate that they have substance and raise a matter of public interest.
- 3.43 Should Members be agreeable, the amendments, set out as tracked changes at Appendix 1, will be recommended to General Purposes Committee for consideration with a view to the amendments being referred to Full Council for agreement.

Supporting Members of Parish and Town Councils

- 3.44 Parish and Town Councils have responsibilities under the Localism Act 2011 for making their own standards arrangements. These responsibilities include:
- promoting and maintaining high standards of conduct by their 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.
- 3.45 Under the previous standards and conduct legislation many of these responsibilities were carried out by the Standards Committee on behalf of Parish and Town Councils.
- 3.46 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.
- 3.47 As set out earlier, Leeds City Council also has responsibility for receiving and considering complaints made against parish and town councillors.
- 3.48 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 subcommittee meeting.
- 3.49 A parish member is not entitled to vote at the meeting, but would be entitled to speak at the discretion of the Chair. One parish member remains co-opted to the committee - Councillor Debbie Potter (from Shadwell Parish Council). Co-opted parish members are also invited to attend Standards and Conduct Committee meetings to observe the proceedings.
- 3.50 The Standards and Conduct Committee are asked to consider whether a further member be sought to form a pool of parish and town council members that the authority can call upon as needed.

Independent Person

- 3.51 The Standards and Conduct Committee has supported the Independent Person (Mr Tollefson) 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.
- 3.52 Following the amendment to the Procedure Rules, Mr Tollefson is now routinely consulted on draft complaint assessments. He also has regular briefing meetings with one of the Deputy Monitoring Officers and during the year has provided support to Members to help resolve issues. By way of this report, the Committee are invited to extend their thanks to Mr Tollefson for his continued service as Independent Person this year.

Progressing the Recommendations from the Committee on Standards in Public Life.

- 3.53 Since the publication of the report, the Ministry of Housing Communities and Local Government (MGCLG) has been engaging with a small number of local authority Monitoring Officers (Leeds included) to formulate the steps necessary to implement the Committee on Standards in Public Life (CSPL) recommendations. However, given continued constraints on Parliamentary time little progress has been made by MHCLG in responding to the CSPL recommendations.
- 3.54 In response to one recommendation, however, the Local Government Association has concluded a consultation exercise and approved a draft Members' Code of Conduct, the content of which is the subject of a separate report on today's agenda.
- 3.55 The CSPL secretariat also sought an update from each local authority in August 2020 on progress on recommendations that were specifically targeted at local authorities; the response from Leeds is attached at Appendix 2.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 In relation to complaints against Councillors, in all cases referred to in this report the Complainant was contacted and an explanation provided as to the outcome of their complaint. The Independent Person is consulted in advance of all Assessments being completed and the Subject Member is also informed of the complaint and the response to the Complainant.

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 the Best Council Plan

- 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 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

Climate Emergency

4.3.3 There are no specific implications arising from this report.

4.4 Resources, procurement and value for money

4.4.1 There are no resource implications arising from this report the Monitoring Officer advises that she is satisfied with both the capacity and resilience of resources available.

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 As introduced last year, an explicit instruction is included in correspondence with Members who are the subject of a complaint to remind them not to share the details of complaints/complainants as this is unlikely to be in accordance with Members responsibilities as data controllers under data protection legislation.

4.5.3 There are no implications for access to information. As a Council function the report is not eligible for Call In.

4.6 Risk management

4.6.1 The arrangements described within this report provide assurance that the authority, parish and town councils, individual councillors and the Monitoring Officer are complying with the requirements set out in the Localism Act 2011. The work undertaken by the Monitoring Officer and her staff, and by this committee, ensures that these arrangements remain up to date and fit for purpose and that the risk of breaching the statutory requirements is minimised.

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.

4.6.3 In managing risks to Members' personal safety, the Monitoring Officer has, on application from Members, granted permissions on requests for Members' Personal addresses to be withheld from the Public Register of Interests.

5. Conclusions

5.1 The Monitoring Officer is satisfied that the authority continues to meet its statutory obligations for Standards and Conduct and confirms, by way of this report, that she has adequate resources to fulfil her statutory duties.

6. Recommendations

6.1 Members are asked to consider the matters set out in this report.

7. Background documents⁴

7.1 There are no background documents associated with this report.

⁴ 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.