



Report of the Assistant Chief Executive (Corporate Governance)

Member Management Committee

Date: 13th October 2009

Subject: Local Codes and Protocols

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to provide information to Member Management Committee regarding the local codes and protocols contained in Part 5 of the Council's Constitution. In particular to provide details of who is responsible for the following actions:
 - approving each local code and protocol;
 - making Members aware of any changes to the codes and protocols; and
 - training Members on the codes and protocols.
2. A list of all the documents contained within Part 5 of the Council's Constitution, along with information regarding who these documents apply to and who is responsible for approving them, can be found in the table in Appendix 1 to this report.
3. Paragraph 3 of this report concentrates on those local codes and protocols which have implications for the conduct of Members in general. However Members should be aware that there are several other codes and protocols within Part 5 of the Constitution, such as the Protocol for the Coordination of External Audit and Inspection Reports and the Code of Corporate Governance, which do not affect the conduct of Members.
4. Member Management Committee is asked to:
 - Note the information in this report;
 - Consider whether to make any recommendations regarding the arrangements for reviewing and amending the local codes and protocols;
 - Consider whether to request that all Members are emailed when amendments are made to the local codes and protocols; and
 - Provide feedback for the Standards Committee to consider at its meeting on 16th December 2009 when deciding whether the local codes and protocols should remain enforceable outside the process for dealing with potential breaches of the Members' Code of Conduct.

1.0 Purpose Of This Report

1.1 The purpose of this report is to provide information to Member Management Committee regarding the local codes and protocols contained in Part 5 of the Council's Constitution. In particular to provide details of who is responsible for the following actions:

- approving each local code and protocol;
- making Members aware of any changes to the codes and protocols; and
- training Members on the codes and protocols.

2.0 Background Information

2.1 In May 2009 Member Management Committee asked the Assistant Chief Executive (Corporate Governance) to provide details regarding the local codes and protocols in Part 5 of the Council's Constitution.

2.2 Members are reminded that in addition to the consultation and review arrangements for each individual code or protocol set out in this report, the whole Constitution, including Part 5, is reviewed on an annual basis prior to the Annual Meeting.

2.3 Any amendments to documents which require approval by a Council Committee will appear on the agenda and be referenced in the minutes. Similarly, any officer decision to amend these documents would be recorded in a delegated decision notice. These decisions and the amended Constitution documents would be published on the Council's intranet and internet sites, and updated versions would be distributed to those who hold paper copies of the Constitution.

3.0 Main Issues

3.1 A list of all the documents contained within Part 5 of the Council's Constitution, along with information regarding who these documents apply to and who is responsible for approving them, can be found in the table in Appendix 1 to this report.

Code and Protocols amended by Full Council

3.2 Full Council is responsible for approving and amending the Members' Code of Conduct, which is recommended by the Standards Committee. The Code comes from the Model Code of Conduct (Members of Local Authorities) Order 2007 and all the paragraphs in the current Code are compulsory for District, Borough, County or City Councils, and some paragraphs are optional for Parish or Town Councils.

3.3 Following the Code's adoption in May 2007, Members were consulted on whether any further paragraphs should be added to the Code of Conduct. This took place in December 2007 and the results were reported to the Standards Committee in April 2008. All Members were consulted through the Group Whips, with support from Group Office Managers where this was requested by the Group Whips. The Chief Democratic Services Officer and Monitoring Officer were also consulted on this issue. The three responses from individual Members were duly considered by the Standards Committee on 14th April 2008 and no amendments were made to the Code of Conduct as a result. The Standards Committee plans to carry out a similar exercise following the adoption of the revised Code of Conduct.

- 3.4 In December 2008, Members were provided with the opportunity to respond to the consultation document from Communities and Local Government prior to the new Code being published (the response to the consultation is expected to be published by Communities and Local Government by September 2009 and the revised Code of Conduct is expected to be released shortly thereafter), both as part of the Standards Committee response and either as part of their political group's response or as individuals. The consultation document was emailed to all Councillors and voting co-opted members and responses were presented to the Standards Committee for consideration and possible inclusion in their response.
- 3.5 The Monitoring Officer, in conjunction with the Standards Committee, is responsible for making Members aware of any changes to the Code of Conduct and for training Members on the Code of Conduct (as outlined in paragraph 2.2.5(i) of the Monitoring Officer Protocol). Training on the Code is arranged through Member Development when the Code changes, and through the Induction Programme which is provided in May and June each year following an election. Members are also able to seek advice on the Code on an ad hoc basis from officers within Legal Services and Governance Services. All Members and co-opted Members are also kept up to date on Code issues through receiving 'Governance Matters' and Standards for England Bulletins.

Codes and Protocols approved by Standards Committee

- 3.6 The Codes and Protocols which under the Constitution are the responsibility of the Standards Committee to approve, are subject to an annual review and are scheduled in advance on the Standards Committee work programme. These include:
- Protocol on Member/Officer Relations;
 - Protocol for Member/Education Leeds Relations;
 - Code of Practice for the Determination of Planning Matters; and
 - Code of Practice for the Determination of Licensing Matters.
- 3.7 The Standards Committee is also responsible for the Standards Committee Media Protocol and the Monitoring Officer Protocol but as these protocols have no implications for the conduct of Members in general, they are not covered in this report.

Protocol on Member/Officer Relations

- 3.8 According to paragraph 25 of the Protocol, the Monitoring Officer is required to report to the Standards Committee annually on any required amendments to the Protocol. The last review of the Protocol on Member/Officer Relations took place in February 2008. Since then the Standards Committee have been anticipating the release of the new Model Code of Conduct for Members which will require the Protocol being rewritten.
- 3.9 The Standards Committee consulted both Members and Officers on the proposed amendments to the Protocol in the following ways:
- In accordance with the Standards Committee's resolution of 25th November 2005 consultation with officers took place through the following fora:-
 - Corporate Governance Board
 - Human Resources Leadership Group
 - Corporate Joint Consultative Committee

- Proposed amendments were highlighted in Governance Matters, which is received by all Councillors, Co-opted Members, Directors, Chief Officers, Heads of Service, and all staff within Democratic Services and Legal, Licensing and Registration. The draft was also published as a downloadable document on the same intranet page.
- Again in accordance with the resolution of the Standards Committee of 25th November 2005, consultation with Members took place through the Group Whips, with support from Group Office Managers where this was requested by the Group Whips.

3.10 The amended version of the document was published on the Council's intranet and internet site, as part of the Constitution, in accordance with paragraph 26.2 of the Protocol itself. The terms of the Protocol are an extension of the provisions of the Members' Code of Conduct and therefore training on the Members' Code of Conduct makes appropriate reference to the Member/Officer Protocol, both in group training sessions and in the e-learning package offered to Members. New Members are also provided with a short booklet on the Local Codes and Protocols within their induction pack which alerts them to the Protocol's existence. Members and officers were also made aware of the changes through a front page news item in Governance Matters published in April 2008.

Protocol on Member/Education Leeds Relations

3.11 According to paragraph 22 of the Protocol, the Monitoring Officer is required to report annually to the Standards Committee on any required amendments to the Protocol. The last review of the Protocol took place in April 2007, and again since then the Standards Committee have been anticipating the release of the new Members' Code of Conduct which may require much of the Protocol to be rewritten.

3.12 The consultation process used by the Standards Committee was as follows:

- In accordance with the Standards Committee's resolution of 25th November 2005 consultation with Members took place through the Group Whips, with support from Group Office Managers where this was requested by the Group Whips; and
- Formal consultation with Education Leeds took place at the discretion of the Chief Executive of Education Leeds. This included the Board of Education Leeds in addition to appropriate staff consultation.

3.13 The amended version of the document was published on the Council's intranet and internet site, as part of the Constitution, in accordance with paragraph 23.2 of the Protocol itself. The terms of the Protocol are an extension of the provisions of the Members' Code of Conduct and therefore training on the Members' Code of Conduct makes appropriate reference to the Protocol for Member/Education Leeds Relations, both in group training sessions and in the e-learning package offered to Members. New Members are also provided with a short booklet on the Local Codes and Protocols within their induction pack which alerts them to the Protocol's existence.

3.14 Member Management Committee may wish to note that as part of the next review of the Protocol for Member/Education Leeds Relations, the Standards Committee will consider whether to combine it with the Protocol for Member/Officer Relations, as well as incorporate additional guidance for Members dealing with employees of other wholly owned companies of the Council and other outside bodies.

Code of Practice for the Determination of Licensing Matters

- 3.15 As outlined in Appendix 1 this Code applies to Members of the Licensing Committee, its Sub-Committees, and Members of the Licensing and Regulatory Panel. This Code was last reviewed by the Standards Committee in April 2009. This Code also contains an addendum called the Protocol for Licensing Site Visits which was approved by the Licensing Committee on 3rd June 2008.
- 3.16 According to paragraph 17 of the Code, the Assistant Chief Executive (Corporate Governance) is required to report annually to the Standards Committee regarding whether the arrangements set out in the Code have been complied with and including any proposals for amendment in the light of issues that have arisen during the year.
- 3.17 Prior to the revised Code being presented to the Standards Committee for approval it was first presented to the Licensing Committee for comments. These comments were reported to the Standards Committee to consider when approving the revised version.
- 3.18 Members of the Licensing Committee, its Sub-Committees and the Licensing and Regulatory Panel are obliged to attend two training sessions every year: a licensing update session to receive guidance in relation to the regulations and procedures; and a governance and conduct sessions for training on declaration of personal and prejudicial interests. Training for these Members makes appropriate reference to the provisions of the Code of Practice. Members of the Licensing Committee also received a report on 2nd June 2009 outlining their terms of reference agreed at the Annual Meeting and drawing their attention to the Code of Practice and Protocol for site visits.

Code of Practice for the Determination of Planning Matters

- 3.19 As outlined in Appendix 1, this Code applies to Members of the Plans Panels. This Code was last reviewed by the Standards Committee in October 2008, and is due to be reviewed again on 16th December 2009 in light of the revised guidance note on good planning practice for Councillors and officers dealing with planning matters called "Probity in Planning" by the Local Government Association.
- 3.20 According to paragraph 18 of the Code, the Chief Planning Officer is required to report annually to the Standards Committee regarding whether the arrangements set out in the Code have been complied with and including any proposals for amendment in the light of issues that have arisen during the year.
- 3.21 In this report Members of the Standards Committee were advised that a joint Member officer working group had been considering the Code of Practice and had decided to develop a Members Site Visit Protocol to make more visible the advice contained in the Code of Practice in relation to site visits. It was reported that this Protocol would not appear within the Constitution but would be approved by the Joint Plans Panel, alongside a draft Protocol for Pre-Application Presentations at Plans Panel and an amended Protocol for Public Speaking at Plans Panel (which is contained in the Constitution). However there were no amendments proposed to the provisions of the Code of Practice itself.
- 3.22 Members of the Plans Panels are obliged to attend two training sessions every year: a planning update session to receive guidance in relation to the regulations and

procedures; and a governance and conduct sessions for training on declaration of personal and prejudicial interests. Training for these Members makes appropriate reference to the provisions of the Code of Practice.

- 3.23 In addition, when the Code of Practice was previously reviewed by the Standards Committee in July 2007, amendments were made to the Code of Practice in relation to attendance at site visits and compulsory training. After these amendments were made a report was presented to the Joint Plans Panel highlighting the changes for Members' information and proposing a leaflet be drawn up for Members' reference.

Other Codes and Protocols affecting Members

- 3.24 The other codes and protocols within Part 5 of the Constitution may contain guidance for the conduct of Members, for example the Protocol for Public Speaking at Plans Panels, although these codes and protocols are not enforceable in their own right.

Enforcement of the local codes and protocols

- 3.25 Potential breaches of the Members' Code of Conduct may be referred to the Assessment Sub-Committee of the Standards Committee for consideration. The process for dealing with such complaints is set out in the Local Government Act 2000 (as amended), the Standards Committee (England) Regulations 2008, and statutory guidance issued by Standards for England.
- 3.26 At the current time the following codes and protocols all contain a section which explains how breaches of these codes will be dealt with:
- Protocol on Member/Officer Relations;
 - Protocol on Member/Education Leeds Relations;
 - Code of Practice for the Determination of Licensing Matters; and
 - Code of Practice for the Determination of Planning Matters.
- 3.27 This states that breaches of these codes and protocols which would also be breaches of the Members' Code of Conduct will be dealt with through the process outlined above, and any other breaches may be referred to the Assistant Chief Executive (Corporate Governance) for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the political group. The process for dealing with such complaints is outlined within the Standards Committee Procedure Rules (in Part 4 of the Constitution).
- 3.28 However, Member Management Committee should note that a report is being presented to the Standards Committee on 16th December 2009 which will propose that the local codes and protocols are no longer enforceable outside of the process for dealing with potential breaches of the Members' Code of Conduct. The local codes and protocols would therefore be understood as an aid to the interpretation of the Members' Code of Conduct. They would set the provisions of the Members' Code of Conduct into the context of Leeds City Council and provide helpful guidance for Members in understanding the expectations on them, the general public in explaining the way that Leeds City Council expects Members and officers to conduct its business, and to the Standards Committee in its role in the enforcement of the Members' Code of Conduct.

3.29 Member Management Committee is asked to consider whether to recommend to the Standards Committee that the local codes and protocols are amended so that they are no longer enforceable outside the process for dealing with potential breaches of the Members' Code of Conduct. Any such recommendation will be presented to the Standards Committee on 16th December 2009.

4.0 Implications For Council Policy And Governance

4.1 In order for Members to be able to comply with the local codes and protocols it is essential that Members are made aware of their provisions and understand when they apply to Members' behaviour. Any breaches of the local codes and protocols which are also breaches of the Members' Code of Conduct may be referred to the Assessment Sub-Committee of the Standards Committee to consider.

4.2 Subject to any decision by Standards Committee on 16th December 2009, which may change the status of the local codes and protocols, other potential breaches would currently be dealt with through the local complaints system. The process for dealing with local complaints is outlined in the Standards Committee Procedure Rules (within Part 4 of the Constitution).

5.0 Legal And Resource Implications

5.1 There are no legal or resource implications to this report.

6.0 Conclusions

6.1 The purpose of this report is to provide information to Member Management Committee regarding the local codes and protocols contained in Part 5 of the Council's Constitution. In particular to provide details of who is responsible for the following actions:

- approving each local code and protocol;
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- training Members on the codes and protocols.

6.2 A list of all the documents contained within Part 5 of the Council's Constitution, along with information regarding who these documents apply to and who is responsible for approving them, can be found in the table in Appendix 1 to this report.

6.3 Paragraph 3 of this report concentrates on those local codes and protocols which have implications for the conduct of Members in general. However Members should be aware that there are several other codes and protocols within Part 5 of the Constitution, such the Protocol for the Coordination of External Inspection Reports and the Code of Corporate Governance, which do not affect the conduct of Members.

6.4 Members are offered training and guidance on the provisions of most of the codes and protocols, particularly as they broadly reflect the provisions of the Members' Code of Conduct. However, Member Management Committee may wish to recommend that all Members are notified by email when any of these codes and protocols are updated.

7.0 Recommendations

7.1 Member Management Committee is asked to:

- Note the information in this report;
- Consider whether to make any recommendations regarding the arrangements for reviewing and amending the local codes and protocols; and
- Consider whether to request that all Members are emailed when amendments are made to the local codes and protocols; and
- Provide feedback for the Standards Committee to consider at its meeting on 16th December 2009 when deciding whether the local codes and protocols should remain enforceable outside the process for dealing with potential breaches of the Members' Code of Conduct.

Background Documents

- Local Government Act 2000
- Standards Committee (England) Regulations 2008
- Local Codes and Protocols (contained within Part 5 of the Council's Constitution)
- Standards Committee Procedure Rules (contained within Part 4 of the Council's Constitution)
- Governance Matters Newsletter (past issues available at: http://www.leeds.gov.uk/Council_and_democracy/Councillors_democracy_and_elections/Council_documents/Governance_Matters_Newsletter.aspx)
- Standards for England Bulletin (past issues available at: <http://www.standardsforengland.gov.uk/Publications/TheBulletin/>)
- Minutes of Standards Committee, 25th November 2005