

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 20th July 2012

Subject: New standards and conduct regime

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

Summary of main issues

1. This report sets out the new standards and conduct arrangements adopted by full Council and proposes terms of reference for the new sub-committee of the Standards and Conduct Committee.
2. At the Annual Meeting, full Council approved the new Members' Code of Conduct, the terms of reference for the Standards and Conduct Committee, and the procedure for handling complaints under the new Code of Conduct.
3. On 11th July, full Council appointed the Independent Person and reconfirmed the decisions made at the Annual Meeting.
4. The proposed terms of reference for the Consideration Sub-Committee are attached as Appendix 4.

Recommendations

5. The Standards and Conduct Committee is asked to:
 - note the new standards and conduct arrangements adopted by full Council;
 - approve the terms of reference for the new sub-committee; and
 - agree the proposed substitute arrangements as set out in the report.

1 Purpose of this report

- 1.1 This report sets out the new standards and conduct arrangements adopted by full Council and proposes terms of reference for the new sub-committee of the Standards and Conduct Committee.

2 Background information

- 2.1 On 1st July 2012 Chapter 7 of the Localism Act 2011 came into force. This abolished the previous standards board regime, including the model code of conduct and the Standards Committee (and its Sub-Committees).
- 2.2 Under the Act the Council now has a duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In particular, the Council must adopt a code of conduct for members.
- 2.3 The Council must make arrangements under which allegations of a breach of this code of conduct can be investigated and decided. This includes appointing an Independent Person to advise on allegations of misconduct before they are decided by the authority.
- 2.4 The Localism Act also introduced new arrangements for Members to register and declare their disclosable pecuniary interests, and made failure to comply with these arrangements a criminal offence.

3 Main issues

- 3.1 At the Annual Meeting on 21st May 2012 full Council decided to:
- Adopt the new Members' Code of Conduct (Appendix 1);
 - Adopt the procedure for handling complaints of misconduct (Appendix 2); and
 - Appoint the Standards and Conduct Committee (the Terms of Reference are attached as Appendix 3).
- 3.2 Following the publication of the relevant commencement order, it was decided that full Council needed to reconfirm its decision to adopt the Code and the procedure for handling complaints. This was to avoid any doubt about whether the Council had any powers to adopt these documents before the commencement order was published. The adoption of the documents was reconfirmed by full Council on 11th July 2012.
- 3.3 The Members' Code of Conduct was also amended before it was adopted by full Council on 11th July 2012 to insert the definition of a disclosable pecuniary interest.

Appointment of the Independent Person

- 3.4 As part of the arrangements for investigating and deciding complaints the Council had to appoint at least one Independent Person. The role of the Independent

Person is described in Annex 1 to the procedure for handling complaints (Appendix 2).

- 3.5 In summary, the Independent Person will be asked to provide a view on any allegation being considered by the Sub-Committee of the Standards and Conduct Committee, and may be asked for a view by a subject Member at any point.
- 3.6 Full Council have decided to appoint Mr Gordon Tollefson as the Independent Person. Mr Tollefson was previously the Independent Chair of the Standards Committee.
- 3.7 Mr Tollefson's contact details will be provided to each subject Member as soon as they are notified of the complaint, and will also be available in the Council Yearbook.

Appointment of the Sub-Committee

- 3.8 The procedure for handling complaints allows each subject Member to know the details of the complaint made against them when the complaint is received by the Monitoring Officer. If the Monitoring Officer considers that the complaint is valid then it will be referred to the subject Member and the Group Whip for them to consider and attempt to resolve within 28 days. The subject Member may also contact the Independent Person for advice during this period.
- 3.9 The Monitoring Officer, in consultation with the Chair of the Standards and Conduct Committee, will decide whether the matter has been appropriately addressed by the subject Member and/or Group Whip. Only if the matter remains unresolved will it be dealt with by the Sub-Committee of the Standards and Conduct Committee.
- 3.10 As set out in paragraph 21 of the procedure, the Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.
- 3.11 If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Sub-Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.
- 3.12 At the Annual Meeting, full Council appointed both Councillor Paul Cook (Morley Town Council) and Councillor Mrs Pat Walker (Pool-in-Wharfedale Parish Council) to the Committee in this capacity. Both are former Parish Members of the Standards Committee.
- 3.13 It is proposed that no membership is set for the Sub-Committee, and the membership for each Sub-Committee meeting will be based on availability and compliance with the rules set out above.

- 3.14 The proposed terms of reference for the Sub-Committee are set out at Appendix 4 to this report. The powers of the Sub-Committee differ depending on whether the complaint relates to a Leeds City Councillor or a Parish or Town Councillor. This is because it will be up to the Parish or Town Council to decide whether to impose a sanction on the subject Member, and therefore the Sub-Committee can only reach a finding about whether there has been a breach.
- 3.15 The Sub-Committee also has no authority to deal with complaints about a failure to comply with the rules regarding disclosable pecuniary interests, as such matters are dealt with by the Police as potential criminal offences.

Substitute arrangements

- 3.16 The Standards and Conduct Committee may also wish to consider what substitute arrangements should be put in place. When this issue was discussed by the Member Working Group it was considered appropriate that any substitutes should be drawn from a defined pool of Members who have received training on the new Members' Code of Conduct.
- 3.17 The Standards and Conduct Committee are therefore asked to agree that the Group Whips should be approached to nominate a list of substitute Members who have received training on the new Members' Code of Conduct. These substitutes would be available for meetings of the Standards and Conduct Committee and meetings of the relevant sub-committee.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Group Whips were consulted on the Code of Conduct, the Procedure for handling complaints and the terms of reference of the Standards and Conduct Committee, before they were presented to the General Purposes Committee and full Council for approval.
- 4.1.2 All Members are now being offered training on the new standards regime through Member Development, and all Members have received briefing notes on the requirements for them to register and declare their disclosable pecuniary interests.

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 work of the Standards and Conduct Committee and its Sub-Committee will contribute to promoting and maintaining high standards of conduct by Members, and principle 3 of the Code of Corporate Governance which relates to good conduct and behaviour.

4.4 Resources and value for money

- 4.4.1 There are cost implications in operating this new standards regime, but costs have reduced due to the reduction in Special Responsibility Allowances and investigations.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Standards and Conduct Committee has responsibility for promoting and maintaining high standards of conduct within Leeds City Council, and for making arrangements to consider and determine written allegations that a member has failed to comply with the code of conduct.

4.6 Risk Management

- 4.6.1 There are risks associated with Members not being aware of the changes to the standards regime and potentially breaching the code of conduct as a result. These risks are being mitigated by the briefing notes that have been circulated to Members on the new requirements.

5 Conclusions

- 5.1 The proposed terms of reference for the Sub-Committee are set out at Appendix 4 to this report. The powers of the Sub-Committee differ depending on whether the complaint relates to a Leeds City Councillor or a Parish or Town Councillor. This is because it will be up to the Parish or Town Council to decide whether to impose a sanction on the subject Member, and therefore the Sub-Committee can only reach a finding about whether there has been a breach.
- 5.2 The Sub-Committee also has no authority to deal with complaints about a failure to comply with the rules regarding disclosable pecuniary interests, as such matters are dealt with by the Police as potential criminal offences.

6 Recommendations

- 6.1 The Standards and Conduct Committee is asked to:
- note the new standards and conduct arrangements adopted by full Council;
 - approve the terms of reference for the new sub-committee; and
 - agree the proposed substitute arrangements as set out in the report.

7 Background documents¹

- 7.1 Chapter 7 of the Localism Act 2011

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.