

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 11th January 2013

Subject: Review of the standards and conduct arrangements

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

Summary of main issues

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

Recommendations

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

1 Purpose of this report

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

1.2 This report particularly outlines:

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

2 Background information

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

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

3 Main issues

Number of complaints received regarding Councillors in Leeds

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

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

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

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

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

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

Arrangements for updating the Members' Register of Interests

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

The Members' Code of Conduct

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

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

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

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

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

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

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

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

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

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

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

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

4 Corporate Considerations

4.1 Consultation and Engagement

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

4.2 Equality and Diversity / Cohesion and Integration

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

4.3 Council policies and City Priorities

- 4.3.1 Principle 3 of the Code of Corporate Governance states that the Council will establish and keep under review a Member Code of Conduct. Reviewing the local standards arrangements therefore contributes towards this principle.

4.4 Resources and value for money

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

4.5 Legal Implications, Access to Information and Call In

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

4.6 Risk Management

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

5 Conclusions

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

6 Recommendations

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

7 Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.