

**Report of the City Solicitor**

**Report to full Council**

**Date: 17<sup>th</sup> 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 full Council with an annual report prepared by the Standards and Conduct Committee. The Committee agreed to refer this annual report 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. Full Council is asked to note this annual report of the Standards and Conduct Committee.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to present full Council with an annual report prepared by the Standards and Conduct Committee. The Committee agreed to refer this annual report 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 Background information**

- 2.1 The Standards and Conduct Committee agreed to 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 27<sup>th</sup> 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 6<sup>th</sup> February 2013 on behalf of the Head of Paid Service before he made the decision to approve the application on 7<sup>th</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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:

<b>Behaviour alleged</b>	<b>Type of complaint</b>	<b>Outcome &amp; reason</b>	<b>Source of complaint</b>	<b>Number of complaints</b>
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
<b>Total:</b>				<b>8</b>

### 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:

<b>Behaviour alleged</b>	<b>Type of complaint</b>	<b>Outcome &amp; reason</b>	<b>Source of complaint</b>	<b>Number of complaints</b>
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
<b>Total:</b>				<b>6</b>

### **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 27<sup>th</sup> 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 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 19<sup>th</sup> 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 1<sup>st</sup> 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 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 Full Council is asked to note this annual report of the Standards and Conduct Committee.

### **7 Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> 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.