



Leicester  
City Council

## **MEETING OF THE STANDARDS COMMITTEE**

**DATE: TUESDAY, 20 JUNE 2017**

**TIME: 5:30 pm**

**PLACE: Meeting Room G.01, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ**

### **Members of the Committee**

Councillor Byrne (Chair)

Councillor Shelton (Vice-Chair)

Councillor Moore

Councillor Rae Bhatia

One Unallocated Non-Grouped Place

Ms Fiona Barber (Independent Member)

Mr Mike Galvin (Independent Member)

Ms Jayne Kelly (Independent Member)

Ms Alison Lockley (Independent Member)

Mr Simon Smith (Independent Member)

### **Standing Invitees:**

Mr Michael Edwards (Independent Person)

Mr David Lindley (Independent Person)

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for the Monitoring Officer

**Officer contact: Graham Carey**  
Democratic Support, Leicester City Council  
City Hall, 115 Charles Street, Leicester, LE1 1FZ  
(Tel. 0116 454 6356)

## Information for members of the public

### Attending meetings and access to information

You have the right to attend formal meetings such as full Council, committee meetings & Scrutiny Commissions and see copies of agendas and minutes. On occasion however, meetings may, for reasons set out in law, need to consider some items in private.

Dates of meetings and copies of public agendas and minutes are available on the Council's website at [www.cabinet.leicester.gov.uk](http://www.cabinet.leicester.gov.uk), from the Council's Customer Service Centre or by contacting us using the details below.

### Making meetings accessible to all

Wheelchair access – Public meeting rooms at the City Hall are accessible to wheelchair users. Wheelchair access to City Hall is from the middle entrance door on Charles Street - press the plate on the right hand side of the door to open the door automatically.

Braille/audio tape/translation - If you require this please contact the Democratic Support Officer (production times will depend upon equipment/facility availability).

Induction loops - There are induction loop facilities in City Hall meeting rooms. Please speak to the Democratic Support Officer using the details below.

Filming and Recording the Meeting - The Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media. In accordance with government regulations and the Council's policy, persons and press attending any meeting of the Council open to the public (except Licensing Sub Committees and where the public have been formally excluded) are allowed to record and/or report all or part of that meeting. Details of the Council's policy are available at [www.leicester.gov.uk](http://www.leicester.gov.uk) or from Democratic Support.

If you intend to film or make an audio recording of a meeting you are asked to notify the relevant Democratic Support Officer in advance of the meeting to ensure that participants can be notified in advance and consideration given to practicalities such as allocating appropriate space in the public gallery etc.

The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:

- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

### Further information

If you have any queries about any of the above or the business to be discussed, please contact Graham Carey, **Democratic Support on (0116) 454 6356 or email [graham.carey@leicester.gov.uk](mailto:graham.carey@leicester.gov.uk)** or call in at City Hall, 115 Charles Street, Leicester, LE1 1FZ.

For Press Enquiries - please phone the **Communications Unit on 454 4151**

# **PUBLIC SESSION**

## **AGENDA**

### **FIRE / EMERGENCY EVACUATION**

If the emergency alarm sounds, you must evacuate the building immediately by the nearest available fire exit and proceed to the area outside the Ramada Encore Hotel on Charles Street as directed by Democratic Services staff. Further instructions will then be given.

#### **1. APOLOGIES FOR ABSENCE**

#### **2. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business to be discussed.

#### **3. TERMS OF REFERENCE**

**Appendix A  
(Pages 1 - 2)**

To note the attached Terms of Reference for the Committee and Standards Advisory Board.

#### **4. MEMBERSHIP OF THE COMMITTEE**

The Monitoring Officer to report that the current membership of the Committee is as follows:-

##### Councillors:

Chair: Councillor Byrne  
Vice Chair: Councillor Shelton  
Councillor Moore  
Councillor Rae Bhatia

##### Independent Members:

Ms Fiona Barber  
Mr Mike Galvin  
Ms Jayne Kelly  
Ms Alison Lockley  
Mr Simon Smith

##### Standing Invitees:

Mr Michael Edwards (Independent Person)  
Mr David Lindley (Independent Person)

## **5. DATES OF MEETINGS 2017-18**

The Monitoring Officer to report, that following the meeting of Council on 11 May 2017, the dates of Committee meetings for 2017-18 were reserved on the following dates:-

Wednesday 28 November 2017 5.30pm

Tuesday 13 March 2018 5.30pm

All meetings will be held at City Hall.

## **6. MINUTES OF PREVIOUS MEETING**

**Appendix B  
(Pages 3 - 6)**

The minutes of the meeting of the Standards Committee, held on 22 November 2017, are attached and Members are asked to confirm that they are correct.

## **7. STANDARDS ARRANGEMENTS - REVISIONS**

**Appendix C  
(Pages 7 - 16)**

The Monitoring Officer submits a report seeking the Committee's views on proposed changes to the 'Arrangements' for dealing with complaints against Members and co-opted Members under the Localism Act 2011 and a change to the Committee's Terms of Reference.

## **8. DISCUSSION PAPER - MEETINGS OF THE STANDARDS COMMITTEE**

**Appendix D  
(Pages 17 - 22)**

The Monitoring Officer submits a discussion paper seeking to generate discussion and develop proposals for the way in which the Standards Committee conducts its business. Currently, the Committee schedules three meetings per municipal year. Owing to the fact that the vast bulk of the work of adjudicating upon individual complaints is, since 2012, not undertaken at Committee level, it is prudent to reflect upon the meeting schedule.

## **9. COMPLAINT AGAINST COUNCILLORS - UPDATE**

**Appendix E  
(Pages 23 - 24)**

The Monitoring Officer submits a report giving feedback on complaints against Councillors reviewed and/or determined from 15 November 2016 – 06 June 2017 and updating the Committee on progress with outstanding complaints against Councillors. The Committee is recommended to receive and note the report.

## **MEMBERS OF THE PUBLIC TO NOTE**

This report is a public document but during its consideration, Members may wish to discuss some of the issues in more detail. Under the law, the Committee is entitled to consider certain items in private. In this event, the Committee will make the following resolution and the press and members of the public will be asked to leave the meeting when such items are discussed.

“that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to any individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 7c

The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

**10. PRIVATE SESSION**

MEMBERS OF THE PUBLIC TO NOTE

Under the law, the Committee is entitled to consider certain items in private. In this event, the Committee will make the following resolution and the press and members of the public will be asked to leave the meeting when such items are discussed.

“that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

HEARING PANEL RECOMMENDATIONS – COMPLAINT 2016-17

Paragraph 1

Information relating to any individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 7c

The deliberations of a standards committee or of a sub-committee of a

standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

**11. HEARING PANEL RECOMMENDATIONS -  
COMPLAINT 2016/11**

**Appendix F  
(Pages 25 - 44)**

The Monitoring Officer to submit a report seeking the acceptance of the Committee to the recommendations of the Hearing Panel following their determination of the complaint 2016/11 by Councillor Thomas against Councillor Porter.

**12. ANY OTHER URGENT BUSINESS**

## STANDARDS COMMITTEE

### TERMS OF REFERENCE

1. To oversee and promote the Council's arrangements to ensure and maintain probity and the highest standards of governance in the conduct of business by members (including co-opted members) and officers.
2. To oversee and advise Full Council and the City Mayor on matters relating to the Council's corporate governance and ethical framework.
3. To receive the Council's annual Corporate Governance Review Statement.
4. To oversee, promote, monitor observance and recommend necessary change to Members' and officers' Codes of Conduct and Political Conventions.
5. To oversee and ensure the provision of appropriate training to Members and officers to enable them to adhere at all times to the provisions of the Council's Political Conventions and governance arrangements.
6. To appoint a Standards Advisory Board (chaired by an Independent Member) to scrutinise, hear and determine appropriate allegations (as set out in the Authority's "*Arrangements for dealing with Standards Complaints*") that a Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct.
7. Save in exceptional circumstances, to accept the recommendations of the Standards Advisory Board who have determined that an Elected or Co-opted Member of the Council has failed to comply with the City Council's Code of Conduct for Members, including its recommendations as to the appropriate remedy or sanction for such breach.
8. To consider under Sections 1 and 2 of the Local Government and Housing Act 1989:-
  - (a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and,
  - (b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.
9. Temporary appointments of Independent Members may be made in accordance with the law and upon appropriate advice from the Monitoring Officer

10. The Standards Committee:

- Composition - The Standards Committee shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted non-voting members of the Standards Committee, and it shall be chaired by an Elected Councillor. The Councillor make-up of the Committee will, wherever possible, reflect the political balance of the Council
- Quorum – The quorum for a meeting of the Standards Committee shall be three Councillor Members
- Frequency of Meetings –The Standards Committee will meet as and when required.

11. The Standards Advisory Board:

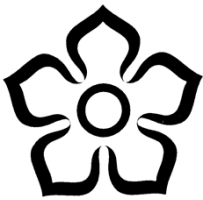
- Composition - The Standards Advisory Board shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted voting members of the Board, and it shall be chaired by an Independent Member.
- Quorum – The quorum for a meeting of the Board shall be three, with a majority or equal number of Independent Members (with the Independent Chair having the casting vote)
- Frequency of Meetings –The Standards Advisory Board will meet as and when required.

12. The role of the Independent Person (IP) – the Independent Person is not a member of either the Standards Committee or the Standards Advisory Board. He/she remains completely neutral to the political and scrutiny process, and works closely with the City Barrister on individual complaints at the initial decision and review phases. He/she does remain a standing invitee to meetings of the Committee and the Board, and will also attend Board meetings to offer advice on the progression of individual complaints, which may or may not be adopted by the Board

**Matters Reserved to the Committee:**

1. All matters of significance in respect of policy, governance or training are reserved to the Committee.
2. All matters within the Terms of Reference of the Standards Committee which are not reserved to Full Council or this Committee, either by legislation, regulation or local determination, are delegated to the City Barrister and Head of Standards.





Leicester  
City Council

Minutes of the Meeting of the  
STANDARDS COMMITTEE

Held: TUESDAY, 22 NOVEMBER 2016 at 5:30 pm

P R E S E N T :

Councillor Senior (Chair)  
Councillor Shelton (Vice Chair)

Councillor Sood

Also present:

Ms Fiona Barber	Independent Member
Mr Mike Galvin	Independent Member
Ms Jayne Kelly	Independent Member
Ms Alison Lockley	Independent Member
Mr Simon Smith	Independent Member
Mr Mick Edwards	Independent Person
Mr David Lindley	Independent Person

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**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Palmer (Deputy City Mayor).

**2. DECLARATIONS OF INTEREST**

Members were asked to declare any interests they might have in the business to be discussed. No such declarations were made.

**3. TERMS OF REFERENCE**

The Terms of Reference for the Committee and Standards Advisory Board were noted.

**4. MEMBERSHIP OF THE COMMITTEE**

The current membership of the Committee was noted as follows:-

Councillors:

Chair: Councillor Senior  
Vice Chair: Councillor Shelton  
Councillor Palmer  
Councillor Sood

Independent Members:

Ms Fiona Barber  
Mr Mike Galvin  
Ms Jayne Kelly  
Ms Alison Lockley  
Mr Simon Smith

Standing Invitees:

Mr Michael Edwards (Independent Person)  
Mr David Lindley (Independent Person)

**5. DATES OF MEETINGS**

The Monitoring Officer reported that the Annual Meeting of Council on 19 May 2016 had agreed that the date of the next Committee meeting would be Tuesday 21 March 2017.

**6. MINUTES OF PREVIOUS MEETING**

RESOLVED:

That the minutes of the meeting of the Standards Committee, held on 14 October 2015 be confirmed as a correct record.

**7. ANNUAL REPORT 2016-2017**

The Monitoring Officer submitted the Draft Annual Report of the Standards Committee July 2015 - June 2016 which provided an analysis of cases referred.

Members were asked to note the report and make any amendments prior to it being submitted to the Council.

The Monitoring Officer commented that the report followed the format of previous reports. He stated that none of the complaints received during the period of the report had been referred for an independent investigation. It was noted that nine of the thirteen complaints were not treated as valid complaints for the reasons stated in the report.

Following a question from a member of the Committee, the Monitoring Officer commented that none of the complaints received had given rise to any

organisational learning issues that needed to be brought to the attention of members or officers.

Mr Lindley, Independent Person, referred to the time taken to deal with the complaints and commented how speedily complaints were now being considered under the current arrangements compared to the previous standards' regime.

The Chair asked that where an offer of reparation was made, then this should be recorded in the report.

RESOLVED:

That the report be received and noted and that the Monitoring Officer include commentary in the report in instances where an offer of reparation is offered and subsequently made.

## **8. COMPLAINT AGAINST COUNCILLORS - UPDATE**

The Monitoring Officer submitted a report giving feedback on complaints against Councillors reviewed and/or determined from 18 June 2016 to 14 November 2016 and updating the Committee on progress with outstanding complaints against Councillors.

RESOLVED:

That the report be noted.

## **9. WORK PROGRAMME**

Members were asked to consider items which they would wish to see on the Work Programme for the Committee.

It was suggested that the Committee could receive a report where organisational learning issues had been identified in dealing with complaints and what action had been taken afterwards.

The Monitoring Officer offered to review the process for submitting the Annual Corporate Governance Statement to the Audit and Risk Committee to see it whether it should be considered by the Committee .

The Committee had previously considered an overview of complaints received across the Council and members asked that this be considered in the future.

The Monitoring Officer also commented that a number of minor amendments had been made to the Code of Conduct and the revised Code would be submitted to the March meeting of the Committee.

RESOLVED:

That the items discussed above be added to the Committee's Work Programme.

#### **10. FUTURE MEETINGS OF THE COMMITTEE**

The Chair invited Members to discuss arrangements for future meetings of the Committee. The Chair commented that whilst she was satisfied that arrangements were in place to promote and maintain standards of behaviour by Elected Members, she was conscious that a number of meetings of the Committee had been cancelled due to lack of business to be considered. These meetings had been since the standards regime was changed in 2012, which had changed the workload of the Committee.

The Chair suggested that the time was appropriate to review the way in which the Committee met and operated and suggested that the Monitoring Officer submit a report to the next meeting of the Committee. The Chair also questioned whether the Committee required a permanent Chair with an allowance or whether a member of the Committee could be appointed Chair at each meeting.

The Monitoring Officer commented that it would be advisable to have at least one scheduled meeting per year and other meetings arranged on an ad hoc basis. He would review the arrangements in the light of legislative changes and report back to the next meeting.

RESOLVED:

That the Monitoring Officer submit a report on future arrangements for meetings of the Committee.

#### **11. ANY OTHER URGENT BUSINESS**

There were no items of business to be considered.

#### **12. CLOSE OF MEETING**

The Chair declared the meeting closed at 6.13pm.



Leicester  
City Council

**WARDS AFFECTED**  
All Wards

# APPENDIX C

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

Standards Committee  
Full Council

20<sup>th</sup> June 2017  
TBC

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### **Standards 'Arrangements' - revisions**

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## **Report of the Monitoring Officer**

### **1. PURPOSE OF REPORT**

- 1.1 To seek the approval Full Council to the revised "Arrangements" for dealing with complaints against Members and co-opted Members under the Localism Act 2011, which are found in Part 5 of the Constitution
- 1.2 To seek approval to change the wording in the Standards Committee Terms of Reference (found in Part 3 of the Constitution) such that references to "Standards Advisory Board" or "Board" shall read "subcommittee"

### **2. SUMMARY**

The Council adopted a new Code of Conduct (and associated 'Arrangements') on 1<sup>st</sup> July 2012 pursuant to changes in the law. These were reviewed by Full Council on 19<sup>th</sup> September 2013 and minor modifications were made. They were further reviewed and amended by Full Council on 14<sup>th</sup> November 2014. This report reflects upon the intervening years and seeks approval for further changes.

### **3. RECOMMENDATIONS (OR OPTIONS)**

That the Standards Committee receives the report and comments upon the proposed changes

That Full Council accepts the changes to the Arrangements.

#### 4. REPORT

4.1 The proposed amended Arrangements are attached as Appendix A.

There are two substantive proposed changes to the Arrangements:

- i) Section D4 (d) – adds a reason for rejection of a complaint where it discloses no breach or potential breach of the Code of Conduct. Previously such complaints had to be re-classified as “trivial”. Such a classification can be inappropriate, for example where someone makes a seemingly grave complaint but where it is plainly unsupported by any evidence or plainly contradicted by other evidence. In these circumstances it is more appropriate for the complaint to be rejected in the new terms set out.
  
- ii) Section D4 (h) – adds a power for the Monitoring Officer and Independent Person to conclude that a complaint needs to be progressed to Standards Advisory Board level without the need to commission an independent investigation. This scenario may arise where there is clear, objective evidence already available of the very incident which gave rise to an allegation and where therefore it is wholly unnecessary to incur the delay and expense of a formal investigation. Equally it could apply to a scenario where a non-trivial breach is alleged and the Subject Member admits the breach of the Code. In these cases the Monitoring Officer will collate those available materials, afford an opportunity to the Subject Member to comment, and pass the “pack” onto the Standards Advisory Board. They will decide whether (i) no further action is required or (ii) a hearing panel should be convened. It is noted that although a broad discretion already exists in the “Arrangements” to tailor procedure to suit the circumstances of a particular case, the current wording around “investigations” implies that all more serious allegations will be formally investigated. The new provision makes it clear that in appropriate cases the investigation can comprise the collation of existing materials together with any explanation offered by the subject Member. It is submitted that in those rare cases where it is appropriate to utilise this provision, it represents an entirely proportionate use of resources without compromising the fairness of the proceedings at all.

There are numerous minor changes to the text as follows:

- iii) Modifying the references to “Investigation” to align with the change cited at point ii) above
  
- iv) Separating-out the wording in relation to Hearing Panels to make it clearer that this is a separate stage of proceedings
  
- v) Clarifying that the determinations of Hearing Panels must be endorsed by the main Committee.

vi) Replacing the wording in the Standards Committee Terms of Reference whereby “Standards Advisory Board” or “Board” shall read “subcommittee”. The current wording fails to distinguish between the two types of subcommittee that operate under the main Committee and whose task it is to scrutinise and ultimately hear individual cases. These are the Standards Advisory Board and the Hearing Panel. The proposal at iv) above makes this distinction clearer, and this should also be reflected in the Terms of Reference.

## 5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

### 5.1. Financial Implications

None

### 5.2 Legal Implications

The report is concerned throughout with legal implications. The changes are required as a result of experience and reflection upon the operation of the Code and the Arrangements since they were last amended in 2014.

## 6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References Within the Report
Equal Opportunities	<b>NO</b>	
Policy	<b>YES</b>	
Sustainable and Environmental	<b>NO</b>	
Crime and Disorder	<b>YES</b>	
Human Rights Act	<b>NO</b>	
Elderly/People on Low Income	<b>NO</b>	
Corporate Parenting	<b>NO</b>	

## 7. BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

## 8. CONSULTATIONS - Standards Committee meeting 21<sup>st</sup> March 2017

## 9. REPORT AUTHOR - Kamal Adatia, Monitoring Officer, Tel 0116 454 1401





**ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS AT  
LEICESTER CITY COUNCIL UNDER THE LOCALISM ACT 2011**

**A. CONTEXT**

These “Arrangements” set out how you may make a complaint that an Elected or co-opted Member of this Authority has failed to comply with the Authority’s Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “Arrangements” under which allegations that a member or co-opted member of the Authority or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member against whom an allegation has been made

**B. THE CODE OF CONDUCT**

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from Reception at the Civic Offices. <https://www.leicester.gov.uk/contact-us/comments-compliments-and-complaints/complaints-about-councillors>

**C. PRINCIPLES UNDERLYING THE SCHEME**

The following principles should underpin Leicester City Council’s Arrangements:

- a. There should be simplicity to the scheme so that it is easily understood and transparent
- b. There should be flexibility at every stage of the process for informal resolution and / or robust decisions to be taken about “no further action”.
- c. There should be Member involvement at key stages in the process.
- d. There should be the involvement of Independent Members (IM) and the Independent Person (IP) at key stages of the process.
- e. The Monitoring Officer should have greater powers to deal with complaints relating to the Code of Conduct.

- f. All Members and co-opted Members shall cooperate with the application of these Arrangements, recognising that failure to do so can result in the incurring of wasted costs and reputational damage to the Council.
- g. Rights for complainants to seek a “review” of a decisions at various stages should be limited, consistent with the reduced scope and severity of allowable outcomes that can be imposed under the new regime
- h. At any stage in the process where it is clear that a matter should be referred to the police this should be done and the local investigation should be suspended.

## **D. THE PROCESS**

### **1. Who may complain?**

Complaints must be about Elected Members (to include the Elected Mayor) or co-opted Members and can be made by members of the public, Elected Members or officers of the Council. Where the Monitoring Officer lodges a complaint, it shall be made to the Standards Committee via the Deputy Monitoring Officer

### **2. To whom must a complaint be made?**

Complaints must be made to the Monitoring Officer by writing to:

The Monitoring Officer  
Legal Services Division  
Leicester City Council  
~~115 Charles Street~~  
Leicester  
LE1 ~~1FZ6UB~~

Or e-mail: [monitoring-officer@leicester.gov.uk](mailto:monitoring-officer@leicester.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the system in respect of complaints of member misconduct on behalf of the Standards Committee

In order to ensure that all of the correct information is available to process the complaint they should preferably be submitted on the model complaint form, which can be downloaded from the authority’s website and is available on request from Reception at the Civic Offices.

The complainant should provide their name and a contact address or e-mail address, so that the Monitoring Officer can acknowledge receipt of the complaint and keep them informed of its progress. If the complainant wishes to keep their name and address confidential this

should be discussed with the Monitoring Officer. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

Complaints should be lodged promptly, and normally within 3 months of the alleged breach occurring unless there are good reasons for the Monitoring Officer or Independent Person to accept a complaint lodged outside of this period.

### **3. How to complain?**

Complaints must be made in writing either by letter, e-mail or on-line. Anonymous complaints will not be accepted because of the difficulties they cause with investigation. Appropriate safeguards for employees of the Council wishing to make a standards complaint will be afforded in parallel to those that might apply under the whistle blowing policy. Safeguards will also be in place, at the discretion of the Monitoring Officer, to protect confidential or sensitive information about a complainant, the disclosure of which may cause, or be likely to cause, "serious harm"

The complainant should be encouraged (either through questions on the standard complaint form or through subsequent discussion for clarification) what remedy is sought. This will help to identify informal methods of resolution at the earliest stages.

### **4. What will happen to the complaint?**

The complaint will be acknowledged with the complainant within 5 working days

The complaint will also be notified (by sending a copy of the full complaint) to the subject Member within 5 further working days, save where there are exceptional or legal reasons for the Monitoring Officer agreeing with the complainant that there are elements of it, or the entirety of it, that must be kept confidential at this initial stage

Within 15 further working days the following actions will be taken by the Monitoring Officer, after consultation with the Independent Person:

- a. Revert to the complainant to seek further clarification.
- b. Refer the matter for further fact finding by Monitoring Officer (where further information is needed before deciding what route to follow).
- c. Reject the complaint on the grounds that it is not related to the Code of Conduct, or may be covered by another process
- d. **Reject the complaint on the grounds that it discloses no breach or potential breach of the Code of Conduct**
- e. Reject the complaint on the basis that it is (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious (see Appendix 1 attached for definition).
- f. Recommend informal resolution where (i) Code engaged and not breached, but where some gesture of reparation would still be in the interests of fairness; or (ii) Code engaged but low-level breach only has occurred, such as not to warrant formal investigation
- g. Refer the matter for immediate further investigation.

- h. Refer the matter straight to the Standards Advisory Board where there is (i) clear evidence of a breach of the Code and (ii) it would be disproportionate and unnecessary to commission an investigation under g. above and (iii) informal resolution is not appropriate
- i. In exceptional cases, refer the matter to the Standards Committee or subcommittee thereof for a decision on a. to h. above on the grounds that the Monitoring Officer feels it would be inappropriate to make the decision himself/herself.

The complainant and the subject Member will receive a letter after expiry of the 5 days indicating which of the above outcomes is to be pursued.

By law the Subject Member has the right to consult with the Independent Person during the course of a complaint. Appendix 2 describes how this right is to be exercised.

**Matters referred for fact finding** - The Monitoring Officer will undertake this fact finding exercise by inviting the Member to attend for a discussion within 10 working days, or submitting information in writing. After obtaining the subject Member’s factual account the Monitoring Officer will engage with the Independent Person (IP) to decide on next steps. The next steps will comprise either of outcomes c. to i. above.

**Informal resolution** - may incorporate acceptance by the subject Member that their behaviour was unacceptable and the offer of apology to the complainant, or other remedial action at the discretion of the Monitoring Officer (e.g. an offer of training). The outcome of ‘informal resolution’ does not require approval of the complainant or the subject Member (though the complainant may exercise a right to seek a “review” as per above).

Non-compliance with “informal” outcomes will be dealt with in accordance with Appendix 3 attached.

**Review of a complaint** - The complainant may seek a “review” of a decision only under outcomes c. to f. Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person. The Monitoring Officer will notify the Subject Member of the request for a “review” and the reasons given for it by the complainant. It will be a matter for the Monitoring Officer and the Independent Person if they wish to invite any comment or representations from the Subject Member at this point.

*In the case of all outcomes up to and including referral for ~~formal~~ investigation, the Monitoring Officer will report outcomes to the Standards Committee by updating report at each meeting*

**~~Formal~~ investigation** - should the matter warrant detailed investigation, the Monitoring Officer will appoint an investigating officer. The ~~i~~nvestigator will conduct a thorough review within three months. Upon receipt of the ~~i~~nvestigator’s report by the Monitoring Officer (or

by operation of the Monitoring Officer's own report under route h above) the matter will be referred for further decision to the Standards Committee (acting through its Standards Advisory Board), this time with the mandatory requirement to consult the Independent Person, who may determine:

- no further action
- referral for hearing

The option of 'no further action' may only flow from an investigator's own conclusion that no breach has occurred. If the Investigator (or Monitoring Officer) finds breaches, then the Board cannot decide, without a hearing, that no breach has occurred and no further action needs to be taken.

The option of 'informal resolution' is not available once a matter has been referred for ~~formal~~ Investigation (and the Investigator or Monitoring Officer finds breaches). Equally, where the Board refer a matter for hearing in order to establish if breaches have occurred (for example after disagreeing with an Investigator who concludes there have been no breaches) informal resolution will not, at that point, be a viable outcome because the matter has ceased to be dealt with 'informally'.

### Hearing Panel

If the matter is referred for hearing then a Hearing Panel will be convened to hear the evidence, make findings of fact and determine appropriate outcomes. The Hearing Panel (like the Standards Advisory Board) is a sub-committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Hearing Panel and his/her views are sought and taken into consideration before the Hearing Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of misconduct.

The Hearing Panel is an advisory committee and can only make recommendations to the main Standards Committee in individual cases that it has adjudicated upon. As its findings are advisory, they must be referred to the main Standards Committee for endorsement. This is achieved by way of written report.

The complainant and the subject member would be written to and given reasons for any decision following a formal investigation/hearing, and no rights of review shall be afforded, save the right to challenge the process by way of Judicial Review or referral to the Local Government Ombudsman if appropriate.

A Standards Advisory Board or a Hearing Panel may make a recommendation to the Standards Committee that an Investigative Report be made public, whether the Report concludes that breaches of the Code of Conduct have been established or not.

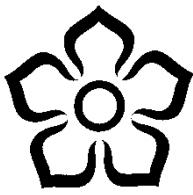
## **5. Outcomes**

The Hearing Panel may make recommendations to the Standards Committee for:

- a. Censure or reprimand the Member by letter
- b. Press release of findings
- c. Report findings to Council for information (with or without a subsequent motion of censure being proposed by Council)
- d. Recommendation to Group (or Full Council in the case of ungrouped Members) of removal from Committees/subcommittees of Council
- e. Recommendation to Elected Mayor that the Member be removed from The Executive, or from particular portfolio responsibilities
- f. Recommendation that the Member be removed from outside bodies to which they have been appointed by the Council
- g. Withdrawal of facilities provided to the Member by the Council
- h. Excluding the Member from the Council's offices or other premises (with the exception of accessing meetings of Council, Committees and subcommittees)
- i. Instructing the Monitoring Officer to arrange training for the Member

## **6. Revision of these arrangements**

The Council may by resolution agree to amend these arrangements at any time, and delegates to the Monitoring Officer and/or Chair of the Standards Committee the right to depart from these arrangements where he/she considers it is necessary to do so in order to secure effective and fair consideration of any matter



WARDS AFFECTED  
All

Leicester  
City Council

# APPENDIX D

## FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

20<sup>th</sup> June 2017

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### DISCUSSION PAPER – MEETINGS OF THE STANDARDS COMMITTEE

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#### Report of the Monitoring Officer

#### 1. PURPOSE OF REPORT

- 1.1. This paper seeks to generate discussion and develop proposals for the way in which the Standards Committee conducts its business. Currently, the Committee schedules three meetings per municipal year. Owing to the fact that the vast bulk of the work of adjudicating upon individual complaints is, since 2012, not undertaken at Committee level, it is prudent to reflect upon the meeting schedule.

#### 2. RECOMMENDATIONS

- 2.1. For Standards Committee to note the report and make any recommendations.

#### 3. REPORT

##### The past

- 3.1.1. The law concerning the ethical behaviour of Elected Members was substantially revised from 1<sup>st</sup> July 2012 as a result of the implementation of changes brought about by the Localism Act 2011. Prior to 2012 there existed one “Model” Code of Conduct throughout England. Complaints about misconduct had to be presented to, assessed by and adjudicated upon by a Council’s statutorily appointed Standards Committee. This Committee had to comprise “Independent” as well as “Elected Members” and had to be chaired by one of the “Independent” Members. The nature of this regime meant that in the course of any given year there would be dozens of Committee hearings (comprising Assessment Panels; Review Panels and Standards Committee hearings for the more serious allegations which had been independently investigated). Appeals lay to the Adjudication Panel for England.

## **The present**

- 3.1.2. The changes brought about with effect from 1<sup>st</sup> July 2012 abolished the Model Code of Conduct; abolished Standards Committees and abolished the Adjudication Panel for England. The only statutory requirements were that (i) Each Local Authority set up a mechanism by which “interests” could be registered (and published); (ii) each Local Authority devised a Local Code of Conduct and (iii) each Local Authority established arrangements by which allegations could be investigated and decided, with a requirement that at least one Independent Person be appointed to provide views on decisions on cases so investigated.
- 3.1.3. Like many Local Authorities, Leicester City Council chose to retain a Standards Committee (and the appointment of Independent Members thereto). However the ‘Code’ and the ‘Arrangements’ that have been in place since 1<sup>st</sup> July 2012 radically alter the way in which allegations are received and assessed. Over 90% of allegations are now decided by the Monitoring Officer in conjunction with one of the two statutory Independent Persons. The Standards Committee only plays a role in misconduct allegations (aside from receiving an anonymized update/log of complaints at each meeting) where a complaint is so serious that it has been independently investigated. At that stage a subcommittee (called a Standards Advisory Board) will consider the investigation and decide if the matter discloses a breach of the Code and (ii) if so a further subcommittee will sit (as a Hearing Panel) and decide upon that complaint. It is only after a case reaches the stage of a Hearing Panel that the main Standards Committee will be asked to endorse its findings in respect of a specific complaint. In the nearly five years of the regime to date, we have convened 5 Standards Advisory Boards and one Hearing Panel (out of approximately 50 complaints received over that timeframe).
- 3.1.4. The change of direction described above has not arisen unexpectedly. The Scheme was devised from its inception in 2012 to radically shift work away from the time consuming and expensive Committee system to a speedier system which also had informal resolution as one of its driving principles. The current Standards Committee was therefore designed on the understanding that the vast bulk of its work would be unrelated to actual complaints. Its Terms of Reference are attached hereto as Appendix A. Aside from its occasional role therefore in adjudicating upon complaints referred to it, the Committee largely oversees at policy level the various Codes that govern Elected Member behaviour, with the important caveat that it has jurisdiction to consider any matter that deals with probity and standards in Elected Member and Officer conduct.
- 3.1.5. In recent years the types of matters that have been discussed by the Standards Committee have included:
- The Annual Report into complaints
  - Revisions to the ‘Code’ and ‘Arrangements’



- The role of Elected Members in the Council’s Procurement activity
- The effectiveness of the Council’s Corporate Complaints system
- The Corporate Compensation Policy
- Guidance on the use of social media for Councillors
- Good Practice Guidance for Members in Planning Decisions
- Review of the Political Conventions
- The scheme for dealing with misconduct allegations against the Council’s statutory officers

### **The future**

3.1.6. The question arises whether the Committee, acknowledging the work that it does, needs to schedule regular meetings at all. Since 2012 there have been 21 diarised meetings of the (main) Standards Committee and 11 of these have been cancelled due to there being insufficient work to justify a meeting. All cancellations were at the request of the Monitoring Officer.

3.1.7. The cancellation of main Committee meetings risks creating a misconception amongst the public that the Council are not dealing with “complaints” or are otherwise not dealing with matters that affect ethical behaviour within the Council. It is submitted that this is not the case. Firstly, in addition to the 10 successful meetings of the main Committee there have been multiple meetings of the Standards Advisory Board and/or Hearing Panel, but these are not pertinent to the present debate because these can only be convened on a needs-led basis and there is no suggestion that this should not continue to be the case. Secondly, the list at 3.1.5. demonstrates that the Committee does undertake valuable work concerning standards and behaviour within the Council more generally. Thirdly, the Council also has an active Audit & Risk Committee (which meets six times per year) whose Terms of Reference (attached as Appendix B) overlap insofar as it also has a mandate to scrutinise probity and ethical standards in the way in which Elected Members and Officers conduct the business of the Council.

3.1.8. Options for the future could include:

- a) Abolishing the Standards Committee

Disadvantages - the Council needs responsible body to “own” the Code and the Arrangements, and a body to deal with the more serious allegations, and a body to deal with other important ethical policies

- b) Have a “virtual” Committee that deal with work by e-mail

Disadvantages – this model provides no public transparency

- c) Convening the Committee on an ad hoc basis

Disadvantages – we know we have some standards items such as the Annual Report

- d) Having one scheduled meeting per year (in the autumn) and arrange others on a needs-led basis

3.1.9. The recommendation of the Monitoring Officer is that for the Municipal Year 2017/18 the Committee trials model d) above.

#### **4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

##### **4.1. Financial Implications**

The convening of meetings on a needs-led basis will inevitably lead to a saving of resources of officer time.

The Independent Members and Independent Persons appointed to the Standards regime receive a fixed allowance per annum.

##### **4.2. Legal Implications**

The legal implications are dealt with in the body of the report (3.1.2).

##### **4.3. Climate Change Implications**

None

#### **5. OTHER IMPLICATIONS**

<b>OTHER IMPLICATIONS</b>	<b>YES/ NO</b>	<b>Paragraph/References Within the Report</b>
Equal Opportunities		
Policy		
Sustainable and Environmental		
Crime and Disorder		
Human Rights Act		

Elderly/People on Low Income		
Corporate Parenting		
Health Inequalities Impact		

**6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

**7. REPORT AUTHOR**

7.1. Kamal Adatia, City Barrister and Head of Standards.



**COMPLAINTS 15/11/16 – 06/06/17**

Reference	Subject Member	Complainant	Nature of complaint	Route	Outcome	Turnaround time (days)
2016/17	Cllr. A	Councillor	That the subject Member made offensive remarks at a Council meeting and had mislead in relation to their “interests”	Deputy MO and IP	Complaint rejected – no breach of the Code found.	79 (Due to significant delays in complainant councillor pursuing complaint)
2016/19	Cllr. B	Councillor	That subject Member failed to act with honesty and objectively in a Council meeting	MO and IP. Review with different IP	Complaint rejected on grounds that it did not breach the Code of Conduct. Review requested and outcome was to support original outcome.	39 days
2017/1	Cllr. C	Public	That subject member breached the code in his conduct towards an organisation and this was the latest in a pattern of misconduct regarding this organisation.	MO and IP	Complaint rejected as does not disclose a breach or potential breach of the code	31
2017/2	Cllr. D	Public	Subject member failed to represent constituent’s views during a road traffic consultation	MO and IP	Recommended informal resolution where (i) code engaged and not breached, but where some gesture of reparation would still be in the interests of fairness. Subject member sent letter of apology to complainant.	21

2017/3	Cllr. E	Public	Subject member used their position to influence a building control matter and came to the complainant's place of work.	MO and IP	Recommended informal resolution where (i) code engaged and not breached, but where some gesture of reparation would still be in the interests of fairness. Subject member sent letter of apology to complainant.	16
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- A further complaint 2017/04 was received in May and the Monitoring Officer concluded that there was no jurisdiction to consider the complaint. The Councillor was acting as a private individual and not conducting the "business of the Authority". Councillors are not liable to be complained about merely because people object to the way they behave. They must be exercising their role as Councillors in order to be subject to the Code of Conduct.

# APPENDIX F

By virtue of paragraph(s) 1, 2, 7a, 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

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of the Local Government Act 1972.

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