



**Derby City Council**

# **Annual Report of the Standards Committee 2012/13**



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## **Foreword by the Chair**

In my first year as Chair of the Standards Committee there have been a lot of changes due to the introduction of the new Standards Regime.

In May and July 2012, Council agreed to new standards arrangements including a locally operated Code of Conduct, the establishment of a new Standards Committee and a streamlined procedure for handling complaints. These measures should ensure that high standards are promoted and maintained.

The number of complaints received (one) was less than the previous municipal year (four). Two complaints were also carried over from the previous municipal year.

The business of the committee has included:

- Consideration of the implementation of the new Standards Regime
- Consideration of the progress and outcomes of complaints
- Consideration of the Code of Conduct for Members and Co-opted Members
- Consideration of the procedure for considering complaints

Finally, I would like to thank all independent, co-opted and elected members of the Standards Committee. In addition, I would also like to thank the Council officers who support the work of the Standards Committee.

**Councillor Tittley** Chair of the Standards Committee 2012/13

July 2013

## **The Role of the Standards Committee**

The Standards Committee promotes and maintains the high standards of conduct among Derby City Council's 51 elected members and co-opted members.

The Standards Committee is responsible for the following activities:

- assisting the elected and co-opted members to observe the Members' Code of Conduct;
- advising on and monitoring the operation of the Members' Code of Conduct;
- determining complaints referred by the Monitoring Officer; and
- ensuring elected and co-opted members receive training and advice on matters relating to the Members' Code of Conduct.

## **Members of the Committee 2012/13**

Councillor Tittley – Chair

Councillor Jackson – Vice Chair

Councillor Barker

Councillor Shanker

Councillor Skelton

Alan Cameron – Independent Person

Peter McCrea – Independent Person

Peter Purnell – Co-opted Member

Philip Sunderland – Co-opted Member

At the beginning of July 2013, Peter McCrea stepped down as an Independent Person on the Standards Committee. Peter had been an independent member since 26 May 2010. The Chair wishes to thank Peter for his contribution to the Standards Committee and acknowledge the experience he brought to the role.

## **The Monitoring Officer and Officer Support**

Councils have a statutory duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of Council decision making. The Monitoring Officer effectively serves as the guardian of the Council's Constitution and the decision making process. The Monitoring Officer works closely with the Standards Committee to assist it in its role of promoting and maintaining high standards of conduct.

Derby City Council's Monitoring Officer for part of 2011/12 was the Director of Legal and Democratic Services, Stuart Leslie. Stuart retired in January 2012 and his post was filled by Janie Berry. Janie also took over as the Council's Monitoring Officer. Meetings of the Committee were serviced by the Council's Constitutional Services team.

## **Consideration of Complaints**

The Period from May 2012 to April 2013 saw fewer complaints received (one) by the Monitoring Officer than in the previous municipal year (four).

The complaint was made by an elected member about the conduct of another elected member in relation to comments made at a meeting of a regulatory committee. The Monitoring Officer, in consultation with an Independent Person, decided that the complaint did come within the remit of the Code of Conduct. The Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, approved a departure from the procedure for considering complaints (paragraph 19). The departure resulted in the subject member making a statement at a meeting of the regulatory committee.

Two complaints were carried over from the previous year as they had been referred to the Monitoring Officer for local investigation. In both cases an investigator had been appointed and the investigators reports concluded that there had been no breach of the Code of Conduct. In both cases, and under the new procedure, the Monitoring Officer, in consultation with an Independent Person, decided that no further action be taken.



## **Effects of the Localism Act on Standards in Derby**

The Localism Act 2011 made some fundamental changes to the Standards regime. In summary it:

- Abolished the Standards Board for England.
- Withdrew the requirement for Local Authorities to have a Standards Committee.
- Abolished the role of voting Independent Members and replaced it with a diminished role for non voting Independent Persons.
- Retained the obligation on Councils to have a Members' Code of Conduct but gave them more freedom to decide what was on it.
- Required authorities to promote and maintain high standards of conduct and have in place arrangements to investigate alleged breaches of the Code of Conduct.

At its meetings on 23 May & 18 July 2012, Council approved a new standards regime. This included:

- the adoption of a Member Code of Conduct;
- the establishment of a Standards Committee with five elected members, two Independent Persons and two co-opted independent members; and
- the adoption of a procedure for processing and considering complaints for breaches of the Code of Conduct.

## THE MEMBERS' CODE OF CONDUCT

**Adopted 18 July 2012**

*Under The Localism Act 2011 the Council must promote and maintain high standards of conduct by its members and adopt a Code of Conduct.*

### Part 1 General provisions

#### **Introduction and interpretation**

**1.—**(1) This Code applies to **you** as a member of Derby City Council.

(2) You should read this Code together with the general principles at page 2 (prescribed in Section 28 of the Localism Act).

(3) You must comply with the provisions of this Code.

(4) In this Code—

“interest” means a pecuniary or other interest required to be notified under this Code

“meeting” means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (b) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member.

“partner” means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners

“pecuniary interest” a disclosable pecuniary interest under [relevant Regulations] and this Code.

“Register of Interests” means the Council’s register of members’ interests maintained under section 29(1) of the Localism Act 2011

“Sensitive Interest” means an interest whose disclosure to the public could lead to you, or a person connected with you, being subjected to violence or intimidation.

## **Scope**

**2.—**(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you act in your official capacity as a member of your authority. That is when you:

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **General obligations**

**3.—**(1) You must treat others with respect.

(2) You must not—

- (a) do anything which may cause your authority to breach any equality laws
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be—
  - (i) a complainant,
  - (ii) a witness, or

- (iii) Involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

**4. You must not—**

- 1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (ii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is—
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- 2) prevent another person from gaining access to information to which that person is entitled by law.

**5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

**6. You—**

- (1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (2) must, when using or authorising the use by others of the resources of your authority—

- (i) act in accordance with your authority's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

must have regard to any applicable Code of Recommended Practice on Local Authority Publicity made under the Local Government Act 1986<sup>1</sup>.

**7.—**(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

- (a) your authority's chief finance officer; or
- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

<sup>1</sup> A copy of the Code of Recommended Practice on Local Authority Publicity can be found at <http://www.communities.gov.uk/publications/localgovernment/publicitycode2011>

## **Part 2**

### **Pecuniary Interests**

You must disclose the pecuniary interests listed below. There can be a criminal penalty if you do not.

#### **8. Notification of Pecuniary Interests**

A pecuniary interest is an interest of yourself or your Partner within the following descriptions:

<b>Subject</b>	<b>Prescribed description</b>
Employment , office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

#### Securities

Any beneficial interest in securities of a body where-

- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either-
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### **9. Non-participation where you have a pecuniary interest**

- (1) Where you have a pecuniary interest in any business of your authority you must disclose the interest and withdraw from the room or chamber where a meeting considering the business is being held unless
  - a) you have obtained a dispensation from the authority's Monitoring Officer or Standards Committee;
  - b) it is a meeting at which the public can speak in which case you may address the meeting but must then immediately withdraw.
- (2) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- (3) Where an executive member may discharge a function alone and becomes aware of a pecuniary interest in a matter being dealt with or to be dealt with by them, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

### **10. Dispensations**

- (1) The Council may grant you a dispensation, but only in specified circumstances, to enable you to participate and vote on a matter in which you have a pecuniary interest.

- (2) Applications for dispensation must be made in writing to the Monitoring Officer before the meeting at which the matter is to be discussed.

## **11. Offences**

- (1) It is a criminal offence to
- (a) Fail to notify the Monitoring Officer of any pecuniary interest within 28 days of election
  - (b) Fail to disclose a pecuniary interest at a meeting if it is not on the register
  - (c) Fail to notify the Monitoring Officer within 28 days of a pecuniary interest that is not on the register that you have disclosed to a meeting
  - (d) Participate in any discussion or vote on a matter in which you have a pecuniary interest
  - (e) As an executive member discharging a function acting alone, and having a pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
  - (f) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a pecuniary interest or in disclosing such interest to a meeting
- (2) The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale<sup>2</sup> and disqualification from being a councillor for up to 5 years.

## **12. Notification of Gifts and Hospitality**

- (1) You must, within 28 days of receipt notify the Monitoring Officer of any gifts and hospitality you have received with an estimated value of offers over £100
- (2) You must disclose the receipt of that gift or hospitality and its nature and extent where it is relevant to the matter under consideration unless it was registered more than 3 years before

## **14. Interests arising in relation to overview and scrutiny committees**

- (1) In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

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<sup>2</sup> Currently £5000.



(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,  
(2) You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

**Part 3**  
**Registration of Members' Interests**

**14. Registering your interests**

- (1) You must notify the Monitoring Officer of any interest you have within 28 days of:
- (a) becoming a member
  - (b) disclosing an interest in any matter being considered at a meeting (if that interest is not already on the Register of Interests)
  - (c) (if you are an executive member) becoming aware of an interest in any matter to be dealt with, or being dealt with
- (2) Any interests notified to the Monitoring Officer will be included in the register of interests.
- (3) A copy of the register will be available for public inspection and will be published on the authority's website.

**Sensitive interests**

- 15.—**(1) Where you consider that you have a sensitive interest, and the Monitoring Officer agrees:
- (a) if the interest is entered on the Register of Interests, any copy of the Register of Interests made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld
  - (b) if the interest is not entered on the Register of Interests, at any relevant meeting you must disclose the fact that you have a disclosable interest, but not the nature of the interest
- (2) You should, within 28 days of becoming aware of any change of circumstances which means that your interest is no longer sensitive, notify the Monitoring Officer.

## **PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT**

1. Monitoring Officer (MO) acknowledges receipt of the complaint within 5 workings days of receipt.
2. MO informs the subject member of
  - (a) the complaint, giving a summary of it and the name of the complainant
  - (b) his right to consult, through the MO, one of the Independent Persons (IP) appointed by the Council.
3. MO, in consultation with a IP (other than one consulted by the subject member under para 2(b)), decides, within 20 working days of receipt of the complaint, that;
  - (a) The complaint does not come within the remit of the Code of Conduct.
  - (b) The complaint is not sufficiently serious to warrant an investigation
  - (c) It is not in the public interest to investigate the complaint
  - (d) He should seek to resolve the complaint without the need for an investigation (e.g. by an apology or training by the subject member).
  - (e) The Complaint should not be investigated because it is vexatious, malicious, obsessive or partisan.
  - (f) The Complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident.
  - (g) An investigation should take place
4. Before coming to his/her decision under para 3 the MO may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.
5. If the MO decides that the complaint should be investigated, or his/her attempts to resolve the complaint without an investigation do not succeed, then he will carry out an investigation or appoint an investigator to carry out an investigation on his behalf.

6. The investigator appointed under para 5 by the MO maybe;
  - (a) A senior officer of the Council
  - (b) A senior officer of another Council
  - (c) An external investigator with relevant experience.
7. A report into an investigation shall include the investigator's findings on whether the Code has been breached.
8. Before finalising his/her report the Investigator shall send a copy of it to both the complainant and subject member and give them at least 5 working days to comment on it.
9. If the investigator's final report finds there has not been a breach of the Code the MO can, in consultation with the IP, decide to;
  - (a) Take no action
  - (b) Refer the report for a hearing before the Standards Committee
10. If the investigator's report finds there has been a breach of the Code then the MO must refer the matter for a hearing before the Standards Committee
11. When the matter has been referred to a hearing before the Standards Committee by the MO, it will;
  - (a) Allow the investigator to present his report and call witnesses, including the complainant
  - (b) Allow the subject member to make representations and call witnesses
  - (c) Decide if the subject member has breached the Code of Conduct
  - (d) Decide what sanction should be imposed if they decide the Code has been breached.
12. The sanctions the Standards Committee can impose if they find a breach of the Code are one or more of the following;
  - (a) Censuring the member
  - (b) Reporting its findings to Council for information;

- (c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - (d) Recommending to Council that the member be replaced as Executive Leader of the authority;
  - (e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - (f) Recommending the Monitoring Officer to arrange training for the member;
  - (g) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority
13. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards Committee will consult and take into account the views of the IP who will attend such hearings.
14. Following any final decision by the MO or the Standards Committee at whatever stage the MO shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
15. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be published in a prominent position on the Council's website
16. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website in a prominent position if the subject member wishes it to be.
17. Any decision of the MO or Standards Committee shall be final and binding.
18. The MO will every 6 months take a report to the Standards Committee giving;

- (a) The number of complaints received and brief details
  - (b) How they are progressing
  - (c) What decisions have been made
  - (d) What action has, where appropriate, been taken
19. The MO has delegated power, in consultation with the IP and the Chair of the Standards Committee, to approve a departure from these arrangements when he/she considers it is expedient to do so to secure the effective and fair consideration of any matter.
20. In all cases where the MO is unable to perform his role his/her deputy will do so.

## Contacts

For further information about the role of the Standards Committee or standards issues in general, please contact any of the following:

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and Monitoring Officer  
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More details on Council's Standards Framework and how to submit a complaint are also available on the Council's website: [www.derby.gov.uk](http://www.derby.gov.uk)