

# Agenda

## Standards Committee

Date:	Thursday, 3 April 2014 at 6:00pm
Venue:	Town Hall, St Annes
Committee members:	Councillor David Donaldson (Chairman) Councillor Brenda Ackers (Vice-Chairman)  Councillors Keith Beckett ISO, David Chedd, Simon Cox, Paul Hayhurst, Vivienne M Willder

Item		Page
1	<b>Declarations of Interest:</b> Any member needing advice on Declarations of Interest should contact the Monitoring Officer before the meeting.	1
2	<b>Confirmation of Minutes:</b> To confirm the minutes of the previous meeting held on 9 October 2013 as a correct record as attached.	3 - 5
3	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 23(c).	1
4	<b>Code of Conduct in Relation to Town and Parish Councillors</b>	6 - 19
5	<b>Protocol Relating to Independent Persons</b>	20 - 24
6	<b>Issues Raised with the Monitoring Officer</b>	25 - 27

Contact: Katharine McDonnell – Telephone (01253) 658423 – Email: [katharine.mcdonnell@fylde.gov.uk](mailto:katharine.mcdonnell@fylde.gov.uk)

The code of conduct for members can be found in the council's constitution at [www.fylde.gov.uk/council-and-democracy/constitution](http://www.fylde.gov.uk/council-and-democracy/constitution)

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## Standards Committee



<b>Date:</b>	Thursday, 9 October 2013
<b>Venue:</b>	Town Hall, St Annes
<b>Committee members:</b>	Councillor David Donaldson (Chairman) Councillors Keith Beckett, David Chedd, Vivienne M Willder
<b>Other Councillors or Independent Persons:</b>	Mr A Mozley
<b>Officers:</b>	Tracy Morrison, Mark Towers, Annie Womack
<b>Other Attendees:</b>	

### 1. Declarations of interest

Members were reminded that any disclosable pecuniary interests should be declared as required by the Localism Act 2011 and any personal or prejudicial interests should be declared as required by the Council's Code of Conduct for Members.

### 2. Confirmation of minutes

RESOLVED: To approve the minutes of the Standards Committee meeting held on 6 November 2012 as a correct record for signature by the Chairman.

### 3. Substitute members

The following substitutions were reported under Council procedure rule 25:

### 4. Local Statistics – Issues Raised with the Monitoring Officer

Tracy Morrison, the council's Monitoring Officer introduced this report. Ms Morrison explained that she was responsible for making an initial assessment of complaints and deciding whether to investigate them. The new Standards framework placed an emphasis on working with individuals to bring about mutually acceptable solutions, and to work towards ensuring that perceived breaches do not re-occur. Where it appeared that there may be a breach, to refer those matters for investigation.

The report listed the nature of allegations made since the previous meeting of the Standards Committee, both for Borough and Parish Councils. Ms Morrison described to members where the complaints relating to the parishes had originated. She also said that two complaints had been received relating to the parishes which concerned governance issues; since those matters were outside of the Code of Conduct she had

been unable to proceed formally in her capacity as Monitoring Officer, but had offered advice on governance to the Chairman of the Parish Council.

Following discussion it was RESOLVED:

- 1 To note the report

#### **5. Summary of the Investigation Closure Report (Case Reference 01/13)**

Ms Morrison advised members that this item was for information only, and had been submitted to report her decision on an investigation into a complaint against Councillor Sandra Pitman, where she had decided that there had not been a failure to comply with the Code of Conduct.

A separate summary report was to be made available to the public, and a private and confidential report would be presented to the committee.

It was RESOLVED:

- 1 To note the report

#### **6. Exclusion of the Public**

Members of the committee were invited to consider passing a resolution to exclude the public from the meeting in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, on the grounds that the business to be discussed was exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act (information relating to any individual; and information which is likely to reveal the identity of an individual).

It was RESOLVED to exclude the public.

#### **7. Investigation Closure Report (Case Reference 01/13)**

Ms Morrison advised members that a formal investigation had been instigated into a complaint made against Councillor Sandra Pitman. The investigation had been undertaken by Mr Mark Towers, Deputy Monitoring Officer and his report outlining the allegation, background, evidence gathered, other considerations, and finding was attached for members' information. As part of the process, Mr Mozley, one of the Independent Persons appointed as advisors to the committee, had acted as counsel to Ms Pitman.

Where there is a formal investigation, the Monitoring Officer must report her decision on the investigation to the Standards Committee. After considering Mr Tower's report, Ms Morrison determined to close the matter and concurs with the view of the investigatory officer that Councillor Sandra Pitman did not breach to Code of Conduct. However, it was the view of the committee that there was a need for further training on the Code of Conduct with respect to Bryning with Warton Parish Council.

Following the discussion it was RESOLVED:

1. To note the decision of the Monitoring Officer.

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# REPORT



REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	STANDARDS	3 April 2014

## CODE OF CONDUCT IN RELATION TO TOWN AND PARISH COUNCILLORS

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

In the Code of Conduct for Members, where any business of this authority affects the financial position of a body exercising public functions, a Councillor who is a member of such a body may have a personal and prejudicial interest in that business. The Council's Procedure Rules also requires the members concerned to leave the room during the discussion and voting thereon.

At the Council meeting held on 27<sup>th</sup> January, dispensations were granted to those members who were also members of Town and Parish Councils to allow them to participate in the item relating to the Council Tax Reduction Scheme (CTRS) in so far as the allocation to Town and Parish Councils was concerned.

The report also made reference to a report being brought forward to the Standards Committee seeking an amendment to the Code of Conduct seeking a view on whether the code should be amended to exclude membership of a town or parish council from those interests that could trigger a requirement to declare a personal and prejudicial interest and leave the room.

### RECOMMENDATION

To deliberate an amendment to the Code of Conduct (amended version attached) to allow members who are members of another local authority to be excluded from provisions relating to personal interests applying in terms of membership of a public body

### SUMMARY OF PREVIOUS DECISIONS

A previous dispensation was approved at the Council meeting held on 28 January 2013 and 27 January for the allocation of the grant to Town and Parish Councils for 2013/14 to enable those members who were also members of a Town and Parish Council to participate.

### REPORT

1. Code of Conduct

The Code of Conduct is attached with suggested amendments shown in Part 3 – Personal Interests.

<b>IMPLICATIONS</b>	
Finance	None arising directly from this report.
Legal	None arising directly from this report.
Community Safety	None arising directly from this report.
Human Rights and Equalities	None arising directly from this report.
Sustainability and Environmental Impact	None arising directly from this report.
Health & Safety and Risk Management	None arising directly from this report.

<b>REPORT AUTHOR</b>	<b>TEL</b>	<b>DATE</b>	<b>DOC ID</b>
Tracy Morrison	01253 658521	14 February 2014	

<b>LIST OF BACKGROUND PAPERS</b>		
<b>Name of document</b>	<b>Date</b>	<b>Where available for inspection</b>
Code of Conduct		<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>

Attached documents

Appendix 1 – Code of Conduct for Members

# **Code of Conduct for Members**

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## THE CODE OF CONDUCT FOR MEMBERS - effective from 1<sup>st</sup> July 2012

### Preamble - The Ten General Principles of Public Life

**Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Personal judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

**Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

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## Part 1 - General provisions

### Introduction and interpretation

1. — (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the ten principles of public life.
- (3) It is your responsibility to comply with the provisions of this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest, may result in a criminal conviction and a fine of up to £5,000 and/ or disqualification from office for a period of up to 5 years.
- (4) In this Code —
- "meeting" means any meeting of —
- (a) the authority;
  - (b) the executive of the authority;
  - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"local authority" has the same meaning as in the Local Government Act 1972, but does not include Fylde Borough Council

"member" includes a co-opted member and an appointed member.

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### Scope

2. — (1) Subject to sub-paragraphs (2) and 3, you must comply with this Code whenever 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,
- and references to your official capacity are construed accordingly.
- (2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) 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

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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 the Equality Act 2010 (or subsequent legislation).
  - (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 —
  - (a) 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;
    - (iii) 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
  - (b) 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 —

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- (a) 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
- (b) 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
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. — (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by —
- (a) the Council's chief finance officer; or
  - (b) the Council'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.

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## **Part 2 - Disclosable Pecuniary Interests**

This part explains the statutory requirements of the Localism Act 2011 (Sections 29- 34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

### **8. Notification of disclosable pecuniary interests**

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. A 'disclosable pecuniary interest' is an interest of yourself or your partner (which 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) of the following descriptions:

- (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
- (b) Details of 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 you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Details of 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 under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

8.1 For the purposes of the foregoing:

"relevant authority" means the Council;  
"relevant period" means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest, and "relevant person" means you or your spouse or partner as defined above.

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## 9. Non participation in case of disclosable pecuniary interest

- (a) If you are present at a meeting of the Council, Cabinet, or any committee, subcommittee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
- (i) You may not participate in any discussion of the matter at the meeting.
  - (ii) You may not participate in any vote taken on the matter at the meeting.
  - (iii) If the interest is not registered, you must disclose the interest to the meeting.
  - (iv) 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.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

- (b) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, 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

The Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## 11. Offences

It is a criminal offence to:

- ◆ Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- ◆ Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Register
- ◆ Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- ◆ Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- ◆ As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- ◆ Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## 12. Notification of changes

Whilst not a requirement of the statute, the Council under this Code of Conduct requires you to notify the Monitoring Officer within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

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## Part 3 - Personal Interests

### 13. Notification of Personal Interests

In addition to the foregoing, you must, within 28 days of this Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, for inclusion in the register of interests:

- (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (b) Details of any body (other than a local authority) exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (c) Details of any gift or hospitality with an estimated value of at least £25 that you have received in connection with your role as a member of the Council, and details of the donor;
- (d) Details of any local authority of which you are a member

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You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

### 14. Disclosure of Personal Interests

- 14.1 Subject to sub-paragraphs 14.2 to 14.5, where you have an interest described in paragraph 13 above or in paragraph 14.2 below in any business of your authority and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 14.2 You have an interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association.
- 14.3 Where you have an interest in any business of the authority of the type mentioned in paragraph 13(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 14.4 Where you have an interest by virtue of paragraph 13 but, by virtue of paragraph 17, sensitive information relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.

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14.5 Where you have an interest in any business of your authority by virtue of paragraph 13 or 14.2, and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

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## 15. Non participation in case of Personal (and Prejudicial) ~~other~~ interests

15.1 Where you have an interest in any business of your authority by virtue of paragraph 13 (a) to (c) or 14.2 AND the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest AND where that business:

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- (a) affects your financial position or the financial position of a person or body through whom the interest arises ;or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises, you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

**Note:** In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

15.2 Where you have an interest in any business of your authority to which paragraph 15(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

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15.3 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 15.1 that relates to the functions of your authority in respect of —

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) an allowance, payment or indemnity given to members;
- (iii) any ceremonial honour given to members; and
- (iv) setting council tax or a precept under the Local Government Finance Act 1992.

15.4 Where, as an executive member, you may discharge a function alone, and you become aware of an interest under paragraph 15(1) in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

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## **Part 4 - Registration of Members' Interests**

### **16. Register of interests**

16.1 Any interests notified to the Monitoring Officer will be included in the register of interests.

16.2 A copy of the register will be available for public inspection and will be published on the Council's website.

### **17. Sensitive interests**

Where you consider that disclosure of the details of an interest (disclosable pecuniary interest or 'other' interest) could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are 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.

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# REPORT



REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	STANDARDS	3 April 2014

## PROTOCOL RELATING TO INDEPENDENT PERSONS

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The role of the 'Independent Person' is a key feature of the standards framework for all local authorities under the Localism Act 2011, in terms of how authorities deal with allegations of member misconduct.

Fylde and Blackpool Councils have agreed shared arrangements in relation to the standards framework and have appointed a shared pool of independent persons.

Monitoring Officers from each of the respective Councils, together the three Independent Persons, considered that it would be useful to have a protocol established relating to the role of the Independent Person.

### RECOMMENDATION

To consider the attached draft Protocol relating to the role of the Independent Person.

### SUMMARY OF PREVIOUS DECISIONS

No previous decisions relating to a protocol to define the role of the Independent Person.

## REPORT

### 1. Protocol relating to the Independent Person

The Monitoring Officers of Fylde and Blackpool Councils, together with the three Independent Persons jointly appointed by the two councils, have developed a Protocol in relation to the role of the Independent Person. A draft of this document is attached for consideration.

The Protocol seeks to establish the role of the Independent Person in assisting in the consideration of written allegations of member misconduct, circumstances regarding the referral of complaints for investigation, arrangements between the subject member and the Independent Person, what happens following an investigation, the relationship of the Independent Person with the Standards Committee and other general matters concerning the role.

IMPLICATIONS	
Finance	None arising directly from this report.
Legal	None arising directly from this report.
Community Safety	None arising directly from this report.
Human Rights and Equalities	None arising directly from this report.
Sustainability and Environmental Impact	None arising directly from this report.
Health & Safety and Risk Management	None arising directly from this report.

REPORT AUTHOR	TEL	DATE	DOC ID
Tracy Morrison	01253 658521	24 March 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Draft Protocol relating to the Independent Person		<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>

Attached Documents

Appendix 1 – Draft Protocol relating to the Independent Person

## Draft protocol relating to the Independent Person

### 1. Background to the role

- 1.1 The role of the Independent Person is a key feature of the standards framework for all local authorities under the Localism Act 2011, in terms of how authorities deal with allegations of member (councillor and co-opted member) misconduct.
- 1.2 Blackpool Council and Fylde Borough Council have agreed shared arrangements in relation to the standards framework and have appointed a shared pool of three Independent Persons, with a lead for each respective authority.
- 1.3 This Protocol sets out to identify a shared understanding of the relationships between the Independent Persons and the two authorities in terms of handling complaints of member misconduct and the wider promotion of standards.

### 2. Considering written allegations

- 2.1 Under the powers of the Localism Act, the Council's Monitoring Officer will receive allegations of misconduct, initially assess the matter and decide upon the appropriate course of action to be taken.
- 2.2 The Monitoring Officer may, if he/she considers appropriate, seek the view of an Independent Person at this stage on any action to be taken. A written record may be obtained if the Monitoring Officer feels it appropriate and with the consent of the Independent Person.
- 2.3 When deciding on how to progress with a complaint, the Monitoring Officer will firstly consider if there is a potential breach of the Code of Conduct.

Further questions to be considered by the Monitoring Officer and Independent Person include:

- a. Was the member/co-optee acting in their official capacity at the time of the alleged misconduct?
- b. Can the complaint be considered as being of a very minor/trivial nature, repetitious, politically motivated, vexatious or malicious?
- c. Has there been a delay in making the complaint – is this relevant?
- d. Is there public interest in the matter?
- e. Is there sufficient information to enable a decision to be made? If not, what information is required?

### **3. Referring complaints for investigation**

- 3.1 If the Monitoring Officer considers that an investigation is required, he/she must seek the views of an Independent Person. The Monitoring Officer will produce an Investigation Referral Notice which will include these views.
- 3.2 The Independent Person will receive a copy of the Investigation Referral Notice (in addition to the Investigating Officer, subject member and the Independent Person consulted by the subject member).
- 3.3 Where the views differ as to what course of action should be taken, the Monitoring Officer will record the reasons for following a particular course of action, although the Investigation Referral Notice will be clear that it is the Monitoring Officer that ultimately decides.

### **4. Arrangements between the subject member and the Independent Person**

- 4.1 The member who is the subject of the complaint may seek the views of an alternative Independent Person and should do so via the Monitoring Officer who will arrange for them to consult.
- 4.2 It should be remembered that the role of the Independent Person is to give advice but not to the extent where they express a view on the merits of the complaint.
- 4.3 The Independent Person may provide a brief record of their views to the Monitoring Officer (with a copy to the subject member).
- 4.4 Direct contact with the subject member without the Monitoring Officer's knowledge is not permitted and the Monitoring Officer should be notified immediately by the Independent Person if direct contact is attempted by the subject member, any of the parties or other persons.

### **5. Following the investigation**

- 5.1 At the end of the investigation, the Monitoring Officer will produce a Decision Notice on any action to be taken. The Decision Notice will include the report and findings from the Investigating Officer and the written views of the Independent Person(s) as appropriate.
- 5.2 The Independent Person(s) will receive a copy of the Decision Notice and investigation report in addition to the subject member.
- 5.3 Where the investigation finds evidence of a failure to comply with the Code of Conduct, and the Monitoring Officer wishes to seek informal resolution, the Independent Person will be consulted and may be invited to take part in conciliation (see paragraph 7.3).

- 5.4 If a hearing is to take place, the Standards Committee will take into account the written views of the Independent Person(s) and may ask them to attend. The Independent Person(s) will be provided with a copy of the outcome of the Standards Committee's determination.

## **6. Relationship with the Standards Committee**

- 6.1 All Independent Persons will receive agendas and minutes of meetings of the Standards Committees for both Councils.
- 6.2 Although they are not part of the formal business and have no formal voting rights, Independent Persons may be invited to speak at Standards Committee meetings. They may also be invited to observe confidential matters on the advice of the Monitoring Officer and with the agreement of the Chairman.

## **7. Other matters**

- 7.1 Independent Persons will agree to adhere to the Code of Conduct for Members.
- 7.2 Where an Independent Person is unable to act because of a conflict of interest or because they are otherwise unavailable, their role will be carried out by an alternative Independent Person.
- 7.3 Independent Persons may be requested by the Monitoring Officer or Standards Committee to attend or assist in training or in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
- 7.4 Independent Persons shall not make any comments to the media or other persons on any matters. Any requests for comments shall be referred to in the first instance to the Monitoring Officer and the Independent Person should notify the Monitoring Officer immediately, if any such requests are made.
- 7.5 Independent Persons have right to raise any concerns about standards/member conduct issues or implementation of the process with the respective authority's Monitoring Officer, Deputy Monitoring Officer or Chief Executive.
- 7.6 The Council, through the Standards Committee and its Monitoring Officer, is responsible for assisting the Council to meet its duty to promote and maintain high standards. Independent Persons have a key role in this and will be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.



# REPORT



REPORT OF	MEETING	DATE
MONITORING OFFICER	STANDARDS COMMITTEE	3 April 2014

## ISSUES RAISED WITH THE MONITORING OFFICER

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The Monitoring Officer has been appointed as Proper Officer to receive allegations of failure to comply with the Code of Conduct regarding councillors, town and parish councillors and co-opted members. The Monitoring Officer has delegated authority, after consultation with the 'Independent Person', to determine whether an allegation of members' misconduct requires investigation and arrange such an investigation.

The Monitoring Officer should seek resolution of complaints without formal investigation wherever practicable and she has the discretion to refer matters to the Standards Committee where she feels it is inappropriate for her to take a decision on a referral for investigation. She should also periodically prepare reports for the Standards Committee on the discharge of this function.

In order to keep the Standards Committee informed as to the number and general nature of matters brought to her attention; reports on the discharge of the function of Monitoring Officer are brought on a periodic basis.

It is a point of clarification that there are a number of stages in dealing with reported matters. Some matters are brought to the attention of the Monitoring Officer without merit. In instances where a breach may have been considered to arise, and in line with agreed procedures, wherever possible the Monitoring Officer should seek the resolution of complaints without the need for formal investigation. Periodic reports to the Standards Committee show all the matters which have been brought to the attention of the Monitoring Officer for review in order that members of the Standards Committee have an appreciation of all matters arising.

### RECOMMENDATION

To note the report of the Monitoring Officer.

### SUMMARY OF PREVIOUS DECISIONS

Local statistics report.

## REPORT

1. The Monitoring Officer has been appointed as Proper Officer to receive allegations of failure to comply with the Code of Conduct regarding councillors, town and parish councillors and co-opted members. The Monitoring Officer has delegated authority, after consultation with the 'Independent Person', to determine whether an allegation of members' misconduct requires investigation and arrange such an investigation.
2. The Monitoring Officer should seek resolution of complaints without formal investigation wherever practicable and she has the discretion to refer matters to the Standards Committee where she feels it is inappropriate for her to take a decision on a referral for investigation. She should also periodically prepare reports for the Standards Committee on the discharge of this function.
3. In order to keep the Standards Committee informed as to the number and general nature of matters brought to her attention; reports on the discharge of the function of Monitoring Officer are brought on a periodic basis.
4. The table below shows the nature of the allegations made in the complaints since the previous meeting of the Standards Committee. Complainants do not need to specify a relevant part of the code where they believe a breach has occurred (and indeed some of these complaints relate to differing codes dependant on when the complaint originates). For the purpose of the table below, the Monitoring Officer has made a judgement and grouped them accordingly. The matters are further broken down into Borough or Parish matters.
5. In one matter guidance was provided and as a consequence, the matter was closed.

<b><i>Borough matters</i></b>	
Failure to treat others with respect	0
Bringing the authority into disrepute	0
Interests	1

<b>Parish matters</b>	
Failure to treat others with respect	0
Bringing the authority into disrepute	0
Interests	1

<b>IMPLICATIONS</b>	
Finance	No matters arising
Legal	No matters arising
Community Safety	No matters arising
Human Rights and Equalities	No matters arising
Sustainability and Environmental Impact	No matters arising
Health & Safety and Risk Management	No matters arising

<b>REPORT AUTHOR</b>	<b>TEL</b>	<b>DATE</b>	<b>DOC ID</b>
Tracy Morrison	01253 658521	24 March 2015	

<b>LIST OF BACKGROUND PAPERS</b>		
<b>Name of document</b>	<b>Date</b>	<b>Where available for inspection</b>