

Agenda

Standards Committee



Date:

Tuesday, 10 March 2015 at 18:15

Venue:

Town Hall, St Annes, FY8 1LW

Committee members:

Councillor David Donaldson (Chairman)
Councillor Brenda Ackers (Vice-Chairman)
Councillors Keith Beckett ISO, David Chedd, Susan Fazackerley, Paul Hayhurst, Vivienne M Willder.

| Item | | Page |
|------|--|--------|
| 1 | Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided. | 1 |
| 2 | Confirmation of Minutes: To confirm the minutes of the previous meeting held on 20 January 2015 as a correct record, as attached. | 3 - 5 |
| 3 | Substitute Members: Details of any substitute members notified in accordance with council procedure rule 23(c). | 1 |
| 4 | Issues Raised with Monitoring Officer | 6 - 8 |
| 5 | Code of Conduct | 9 - 17 |

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

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Standards Committee

Minutes



| | |
|-----------------------------|---|
| Date: | Tuesday, 20 January 2015 |
| Venue: | Town Hall, St Annes |
| Committee members: | Councillor David Donaldson (Chairman) Councillors Brenda Ackers, Keith Beckett ^{ISO} , David Chedd, Sue Fazackerley, Paul Hayhurst, Vivienne Willder |
| Independent Persons: | Mr B Horrocks and Mr R Ellwood |
| Officers: | Mark Towers, Tracy Morrison, Katharine McDonnell |

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.

There were no declarations on this occasion.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the Standards Committee meeting held on 8 October 2014 as a correct record for signature by the Chairman.

3. Substitute members

There were no substitutions on this occasion.

4. Exclusion of the Public

The Chairman noted there were no members of the public in attendance and as such no need to formally move into private session.

5. Code of Conduct Investigation – Councillor Fiddler

Ms Morrison advised members that a formal investigation had been instigated following a complaint made against Councillor Dr Trevor Fiddler.

The investigation had been undertaken by Mr Mark Towers, Deputy Monitoring Officer. His report outlined the allegation, background, evidence gathered, and other considerations. Mr Towers attended to introduce his report and assist members of the committee. His finding was that **Councillor Fiddler had not breached the code of conduct as to members by not declaring any interest in meetings he had attended relating to shale gas extraction prior to the Council meeting of 28th July 2014.**

Members had before them a full copy of the Investigatory Officers report.

Following a discussion, taking into regards the findings of the investigatory officer, the view of the Monitoring Officer and Councillor Fiddler's response to the findings, as reported by the Monitoring Officer and the Independent Person, the Committee RESOLVED:

1. To note the investigation report, finding no breach of the Code of Conduct on the part of Councillor Trevor Fiddler, and that the matter was formally closed;
2. To note the advice provided to Councillor Fiddler regarding the nature of his interest in the matter going forward; and
3. That due to the circumstances surrounding the complaint, it was in the interest of all parties to release the full investigation report for publication.

6. Code of Conduct Investigation – Councillor Speak

Ms Morrison advised members that a formal investigation had been instigated following a complaint made against Councillor Heather Speak.

The investigation had been undertaken by Mr Mark Towers, Deputy Monitoring Officer. His report outlined the allegation, background, evidence gathered, and other considerations. Mr Towers attended to introduce his report and assist members of the committee. His finding was that Councillor Speak had not breached the code of conduct as to members in how she had declared any interest arising at meetings relating to shale gas extraction prior to the Council meeting of 28th July 2014.

Members had before them a full copy of the Investigatory Officers report.

Following a discussion, taking into regards the findings of the investigatory officer, the view of the Monitoring Officer and Councillor Speak's response to the findings, as reported by the Monitoring Officer and the Independent Person, the Committee RESOLVED:

1. To note the investigation report, finding no breach of the Code of Conduct on the part of Councillor Heather Speak, and that the matter was formally closed;
2. To note the advice provided to Councillor Speak regarding the nature of her interest in the matter going forward; and
3. That due to the circumstances surrounding the complaint, it was in the interest of all parties to release the full investigation report for publication.

7. Code of Conduct Investigation – Councillor Threlfall

Ms Morrison advised members that a formal investigation had been instigated following a complaint made against Councillor Thomas Threlfall.

The investigation had been undertaken by Mr Mark Towers, Deputy Monitoring Officer. His report outlined the allegation, background, evidence gathered, and other considerations. Mr Towers attended to introduce his report and assist members of the committee. His finding was that Councillor Threlfall had not breached the code of conduct as to members by not declaring any interest in meetings he had attended relating to shale gas extraction prior to the Council meeting of 28th July 2014.

Members had before them a full copy of the Investigatory Officers report.

Following a discussion, taking into regards the findings of the investigatory officer, the view of the Monitoring Officer and Councillor Threlfall's response to the findings, as reported by the Monitoring Officer and the Independent Person, the Committee RESOLVED:

1. To note the investigation report, finding no breach of the Code of Conduct on the part of Councillor Thomas Threlfall, and that the matter was formally closed;
2. To note the advice provided to Councillor Threlfall regarding the nature of his interest in the matter going forward; and

3. That due to the circumstances surrounding the complaint, it was in the interest of all parties to release the full investigation report for publication.

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REPORT



| REPORT OF | MEETING | DATE | ITEM |
|--------------------|---------------------|---------------|------|
| MONITORING OFFICER | STANDARDS COMMITTEE | 10 MARCH 2015 | 4 |

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

1. To note the report of the Monitoring Officer.

CABINET PORTFOLIO

This item falls within the following cabinet portfolio:

Finance and Resources - Councillor Karen Buckley

CORPORATE PRIORITIES

| | | | |
|--|--|--|---|
| To Promote the Enhancement of The Natural & Built Environment (Place) | | To Encourage Cohesive Communities (People) | |
| To Promote a Thriving Economy (Prosperity) | | To Meet Expectations of our Customers (Performance) | √ |

SUMMARY OF PREVIOUS DECISIONS

Local statistics report (to end September 2014) presented to Committee on 8 October 2014.

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.

| BOROUGH MATTERS | |
|---------------------------------------|---|
| Failure to treat others with respect | 0 |
| Bringing the authority into disrepute | 0 |
| Interests | 3 |

| PARISH MATTERS | |
|---------------------------------------|---|
| Failure to treat others with respect | 1 |
| Bringing the authority into disrepute | 1 |
| Interests | 0 |

| IMPLICATIONS | |
|---|--|
| Finance | No financial implications arising directly from this report. |
| 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 |

| LEAD AUTHOR | TEL | DATE | DOC ID |
|--------------------|--------------|------------------|---------------|
| Tracy Morrison | 01253 658521 | 25 February 2015 | |

| LIST OF BACKGROUND PAPERS | | |
|----------------------------------|-------------|---------------------------------------|
| Name of document | Date | Where available for inspection |
| none | | |

Attached documents

None

REPORT



| REPORT OF | MEETING | DATE | ITEM |
|--------------------|---------------------|---------------|------|
| MONITORING OFFICER | STANDARDS COMMITTEE | 10 MARCH 2015 | 5 |

CODE OF CONDUCT

PUBLIC ITEM

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

SUMMARY

Members have previously resolved to establish a joint working group with Blackpool Council elected members to review the Code of Conduct. Members are reminded that Blackpool and Fylde Councils have had identical Codes of Conduct since the introduction of the Localism Act 2011 (the Act). As both Councils are subject to all out elections in May 2015 and the existing Code has been in place for some time at both Councils respectively, it was felt timely to conduct a review.

Prior to the Localism Act, Councils had to adopt a prescribed national Code of Conduct, but this was amended by the Act. The Act specified mandatory aspects of the Code, in relation to disclosable pecuniary interests, and other aspects such as personal and prejudicial interests, together with other general provisions, were left to local choice as to precisely what should be added, if anything.

Six councillors, three from both Fylde and Blackpool Councils, together with the three independent persons, and officers, have reviewed the Code at a joint workshop. Following this, amendments were made to the Code in light of discussions at the workshop, and the Code has been re-presented to members together with the Independent Persons.

As a consequence, a revised Code is now presented to the Standards Committee for consideration with a view to this being incorporated within the draft Constitution due to be presented to the Council on 30 March 2015.

RECOMMENDATION

1. To consider the draft Code of Conduct with a view to approving it for incorporation into the draft Constitution due to be considered by the Council at its meeting on 30 March 2015.

CABINET PORTFOLIO

This item falls within the following cabinet portfolio:

Finance and Resources - Councillor Karen Buckley

| CORPORATE PRIORITIES | | | |
|--|--|--|---|
| To Promote the Enhancement of The Natural & Built Environment (Place) | | To Encourage Cohesive Communities (People) | |
| To Promote a Thriving Economy (Prosperity) | | To Meet Expectations of our Customers (Performance) | √ |

SUMMARY OF PREVIOUS DECISIONS

Council, 30 July 2012: resolution below:

To adopt the revised Code of Conduct as the Council's Code of Conduct for the purposes of section 27 (2) of the Localism Act 2011

Standards Committee, 8 October 2014: resolution below:

1. To form a joint working group with Blackpool Council members to review the Code of Conduct for Members and the arrangements for dealing with complaints of member misconduct.
2. To nominate Councillor Donaldson, Councillor Ackers and Councillor Chedd to represent Fylde Council on the joint working group.

REPORT

1. Members have previously resolved to establish a joint working group with Blackpool Council to review the Code of Conduct. Members are reminded that Blackpool and Fylde Councils have had identical Codes of Conduct since the introduction of the Localism Act 2011. As both Councils are subject to all out elections in May 2015 and the existing Code has been in place for some time at both Councils respectively, it was felt timely to conduct a review.
2. Prior to the Localism Act, Councils had to adopt a prescribed national Code of Conduct, but this was amended by the Act. The Act specified mandatory aspects of the Code, in relation to disclosable pecuniary interests, and other aspects such as personal and prejudicial interests, together with other general provisions, were left to local choice as to precisely what should be added, if anything
3. Six councillors, three from both Fylde and Blackpool Councils, together with the three independent persons, and officers, have reviewed the Code at a joint workshop. Following this, amendments were made to the Code in light of discussions at the workshop, and the Code has been re-presented to members together with the Independent Persons.
4. As a consequence, a revised Code is now presented to the Standards Committee for consideration with a view to this being incorporated within the draft Constitution due to be presented to the Council on 30 March 2015.
5. At the workshop to review the Code, the following key issues emerged:
 - *That the fabric of the intent of the current code should be kept, i.e. to include a part on personal and prejudicial interests, and other general matters, in addition to the statutory disclosable pecuniary interest aspects and the Code should not be diluted*
 - *That the layout should be simplified and the language be in clearer English where possible*

- *That personal interests relating to the declaration of gifts and hospitality should be removed as a declaration of interest requirement at meetings (although there would still be a requirement for members to register the receipt of gifts and hospitality). It was felt unreasonable to expect members to have recall regarding what gifts and hospitality were offered up to three years after the event*
- *That Fylde's Code should permit any members who are double or triple hatted to participate in wider debates about Borough matters and the current restrictions should be removed*
- *That in Fylde's Code any reference to Executive members should be removed*

6. All these changes have been incorporated, together with other minor changes; the proposed revised Code is now presented to members for their consideration.

| IMPLICATIONS | |
|---|--|
| Finance | No financial implications arising directly from this report. |
| Legal | The Council has a duty to have a Code of Conduct in place expressing Disclosable Pecuniary Interests. The Council is also able to introduce local choice elements within the Code. |
| 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 |

| LEAD AUTHOR | TEL | DATE | DOC ID |
|----------------|--------------|------------------|--------|
| Tracy Morrison | 01253 658521 | 25 February 2015 | |

| LIST OF BACKGROUND PAPERS | | |
|---------------------------|------|--------------------------------|
| Name of document | Date | Where available for inspection |
| None | | |

Attached documents

1. Draft Code of Conduct

| | |
|--|---|
| Fylde Council Code of Conduct for Members | |
| Effective from 20 May 2015 | Approved by Council on 30 March 2015 |

1. Principles

1.1 These principles underpin the Code of Conduct. Although they do not form part of the Code, it is expected that you will act with:

- Selflessness
- Honesty and integrity
- Objectivity
- Accountability
- Openness
- Respect for others
- Commitment to uphold the law
- Leadership

2. Application

2.1 This Code applies to you whenever you:

- are acting in your capacity as a member or when you claim to act or give the impression you are acting in your capacity as a member
- act as a representative of your authority on another body

NOTE: this code also applies to the Council's Independent Persons

3. Sanctions

3.1 Failure to comply with the provisions of this Code may result in a sanction being imposed:

- either by the Council (if it relates to the Code itself or a personal / personal prejudicial interest)
- through criminal proceedings (if it relates to a Disclosable Pecuniary Interest which 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. General obligations of the Code

You must:

4.1 Treat others with respect.

4.2 When using or authorising the use by others of the authority's resources, do so in accordance with the authority's requirements and ensure that resources are not used improperly (including for political purposes).

4.3 Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- 4.4 Have regard, when reaching decisions, to advice provided to you by the authority's Chief Finance Officer or Monitoring Officer when they are acting in accordance with their statutory duties.
- 4.5 Give reasons for all decisions in accordance with any statutory requirements and any additional requirements of the authority.
- 4.6 Not do anything which may cause your authority to breach the Equality Act 2010 (or subsequent legislation)
- 4.7 Not bully any person.
- 4.8 Not intimidate or attempt to intimidate any person who is or is likely to be:
- a complainant
 - a witness
 - involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with the code of conduct.
- 4.9 Not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- 4.10 Not disclose confidential information except where:
- you have the consent of a person authorised to give it
 - you are required by law to do so
 - 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
 - the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the authority
- 4.11 Not prevent another person from gaining access to information to which they are entitled by law.
- 4.12 Not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 4.13 Not use or attempt to use your position as a member improperly to gain for yourself or any other person, an advantage or disadvantage.

5. **Disclosable Pecuniary Interests (DPI)**

- 5.1 This part explains the statutory requirements of the Localism Act 2011 (Sections 29- 34) in relation to disclosable pecuniary interests (DPIs). These are enforced by criminal sanction.
- 5.2 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 descriptions set out at Appendix 1.
- 5.3 You must:
- (i) Notify the Monitoring Officer in writing within 28 days of becoming a member, or within 28 days of any change or becoming aware of any existence of a DPI.

- (ii) Make a verbal declaration (at the beginning or as soon as you become aware of your interest) of the existence and nature of any DPI at any meeting at which you are present where an item of business which affects or relates to the subject matter of the interest is under consideration.
- (iii) Comply with the statutory requirements to withdraw from participating in respect of any matter in which you have a DPI and comply with the Council's Procedure Rules by leaving the room.

6. Dispensations

- 6.1 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.

7. Offences

- 7.1 It is a criminal offence to:

- fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election, or becoming aware of a disclosable pecuniary interest
- 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
- 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.

- 7.2 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.

8. Personal Interests

- 8.1 You have a **personal interest** where:

- (i) 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
- (ii) 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

- (iii) You are a member of any body (other than another 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.

8.2 You must:

- (i) Notify the Monitoring Officer in writing within 28 days of becoming a member, or within 28 days of any change or becoming aware of any existence of a personal interest set out in paragraph 8.1 (ii) and (iii) above.
- (ii) Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any personal interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.

9. Prejudicial interests

9.1 Your personal interests would become **prejudicial** in the following instances:

- (i) Where 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:
 - (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.

9.2 You must:

- (i) Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any prejudicial interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.
- (ii) Comply with the Council's Procedure Rules by withdrawing from any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

9.3 Where you have a prejudicial interest 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.

10. General dispensations

- 10.1 You may attend a meeting and vote on a matter where you have an interest that relates to the functions of the authority relating to:
- (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
 - (iv) setting council tax or a precept under the Local Government Finance Act 1992
 - (v) another local authority

11. Registering interests, gifts and hospitality

- 11.1 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the Council's website.
- 11.2 You must also register 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.

12. Sensitive interests

- 12.1 Where you consider that disclosure of the details of a personal or prejudicial interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

Appendix 1 – Categories of Disclosable Pecuniary Interests (DPIs)

| Subject | Prescribed description |
|---|--|
| Employment, office, trade, profession or vocation | 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 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. |
| 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 your 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 your 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 (j) 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. |