

# Agenda

## Internal Affairs Scrutiny Committee

Date:	Tuesday, 5 September 2023 at 6:30 pm
Venue:	Reception Room, Town Hall, St Annes, FY8 1LW
Committee members:	<p>Councillor Susan Fazackerley MBE (Chairman)          Councillor John Kirkham (Vice-Chairman)</p> <p>Councillors Damian Buckley, Kelly Farrington, Joanne Gardner, Cheryl Little, Ed Nash, Sandra Pitman, Richard Redcliffe, Andrew Redfearn, Bill Taylor, Viv Willder.</p>

	<b>PROCEDURAL ITEMS:</b>	<b>PAGE</b>
<b>1</b>	<b>Declarations of Interest:</b> 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.	<b>1</b>
<b>2</b>	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 23(c).	<b>1</b>
<b>3</b>	<b>Confirmation of Minutes:</b> To confirm the minutes, as previously circulated, of the meeting held on <a href="#">20 June 2023</a> as a correct record.	
	<b>SCRUTINY ITEMS:</b>	
<b>4</b>	<b>Draft Environmental Health and Housing Enforcement Policy</b>	<b>3-14</b>
<b>5</b>	<b>Update on Section 106 Monies currently held by Fylde Council</b>	<b>15-23</b>
<b>6</b>	<b>Annual Review Letter 2022/23 - Local Government and Social Care Ombudsman</b>	<b>24-33</b>
<b>7</b>	<b>Internal Affairs Scrutiny Committee Workplan 2023/24</b>	<b>34-37</b>

Contact: Democracy - Telephone: (01253) 658504 – Email: [democracy@fylde.gov.uk](mailto:democracy@fylde.gov.uk)

The code of conduct for members can be found in the council's constitution at  
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

**© Fylde Council copyright 2023**

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context.

The material must be acknowledged as Fylde Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at [www.fylde.gov.uk](http://www.fylde.gov.uk)

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to [listening@fylde.gov.uk](mailto:listening@fylde.gov.uk).

## SCRUTINY ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	INTERNAL AFFAIRS SCRUTINY COMMITTEE	5 SEPTEMBER 2023	4
<b>DRAFT ENVIRONMENTAL HEALTH &amp; HOUSING ENFORCEMENT POLICY</b>			

### PUBLIC ITEM

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

#### PURPOSE OF THIS REPORT

1. To present the Draft Environmental Health and Housing Enforcement Policy to the Internal Affairs Scrutiny Committee; and
2. To request that the Internal Affairs Scrutiny Committee recommend approval of the Policy to the Executive Committee.

Due to changes in the structure and management structure within Fylde Council, the Environmental Health and Housing services are now under a single Head of Service. Both of these services have enforcement and regulatory functions, and they are of a common theme, public health. It is of the opinion of the Head of Environmental Health & Housing Services that the service shall benefit from one single 'Enforcement Policy'.

#### SOURCE OF REFERRAL

A new Enforcement Policy has been written and will supersede the existing Housing Services Enforcement Policy.

#### FURTHER INFORMATION

[Regulators' Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) - guidance on exercising regulatory functions

#### SUGGESTED RECOMMENDATIONS

It is requested that committee:

Recommends approval of the Draft Environmental and Housing Enforcement Policy to the Executive Committee.

### REPORT

1. The **Legislative and Regulatory Reform Act 2006** imposes a duty on anyone exercising a specified regulatory function to have regard to the principles of good regulation. The principles provide that regulation should be carried out in a way that is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.

2. Under Section 23 of the Act, the Minister issued **The Regulators' Code** which came into effect in 2014, [Regulators' Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). It gives guidance on exercising regulatory functions. It provides a set of principles for Regulators to consider:
  - Regulators should carry out their activities in a way that supports those they regulate to comply and grow
  - Regulators should provide simple and straight forward ways to engage with those they regulate and hear their views
  - Regulators should base their regulatory activities on risk
  - Regulators should share information about compliance and risk
  - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
  - Regulators should ensure that their approach to their regulatory activities is transparent – this includes an expectation that Regulators have an enforcement policy explaining how they respond to non-compliance.
3. Fylde Council is a regulatory body, and as such is under a duty to have regard to the Code in exercising regulatory powers, setting standards or giving general advice.
4. The Council is required by the Regulator's Code to publish their Enforcement Policy explaining how they respond to non-compliance. It is recognised as an important document for regulators in meeting their responsibility under the statutory principles of good regulation, set out in Section 21 of The Legislative and Regulatory Reform Act 2006, to be accountable and transparent about their activities.
5. If adopted, the Enforcement Policy will apply to all our Housing and Enforcement regulatory functions. It will set out standards and guidance for all officers involved in regulatory enforcement work at Fylde Council within the Housing and Environmental Services, and all stakeholders regulated by Fylde Council on the approach that will be adopted in the event of non-compliance. It intends to be reasonably comprehensive but cannot cover every situation which this department may have to deal with. Officers shall have regard to the Policy alongside all legal framework and guidance and each service area will have specific legislation, guidance, Codes of Practice which will guide appropriate enforcement decisions.
6. Fylde Council acknowledges the involvement in allowing and even encouraging economic progress and takes into consideration the costs, effectiveness and perceptions of fairness when considering any enforcement action and as such, the Environmental and Housing Services departments aim to carry out their regulatory and enforcement duties without imposing unnecessary burdens on businesses or individuals. Enforcement action will usually be graduated. Any individuals/businesses that deliberately or persistently flout the law will usually be subject to enforcement action.
7. Failure to comply with enforcement action could result in an escalation of enforcement action. For instance failing to comply with a legal notice could result in legal proceedings being instigated. Escalated enforcement action will be taken where the continuing non-conformance is detrimental and there is a high risk of continuing non-conformance. Prosecution will only be considered where the relevant evidential and public interest tests have been met, and will always be reviewed by the relevant Head of Service.
8. The Environmental and Housing Services departments aim to:
  - protect the public and the environment
  - promote the health, safety and welfare of all our residents and visitors
  - enhance the quality of life for all residents and visitors and
  - allow compliant businesses to flourish
9. Environmental and Housing Services deals with a myriad of legislation and enforcement options in the following regulatory areas:
  - Licensing
  - Housing
  - Food Control
  - Health and Safety Enforcement

- Environmental Protection (air quality, contaminated land, environmental nuisance, Public Health Act funerals, flytipping, Local Air Pollution Prevention and Control (LAPPC))
- Antisocial Behaviour
- Animal welfare
- Waste and litter enforcement
- Public Health
- Housing standards in private rented homes
- Housing standards in houses in multiple occupation (HMO's)
- Public Space Protection Orders (active orders within Fylde include ban on open fires in certain areas e.g. barbeques, dog control, restrictions on alcohol).

10. The policy will be published online at the Fylde Council Website. Any complaints about enforcement action or the actions of our officers can be made through the Councils corporate complaint procedure <https://new.fylde.gov.uk/complaints/> although anyone wishing to complain or discuss the enforcement action being considered will be encouraged to discuss this with the Investigating Officer, their Line Manager or the Environmental Health Services Manager in the first instance.

**FURTHER REPORTING AND MONITORING AGAINST THE ENFORCEMENT POLICY**

11. It is not sensible to have enforcement targets or quotas, as enforcement in the Environmental Health and Housing service should always be based on public health risk and prosecutions should be based on public interest. Introducing targets or quotas could put officers under pressure to take unnecessary enforcement action, which may be unfair on a business. However, members should be aware and have the right to be aware of the enforcement action taken by the service. It is recommended that a simple report with statistics and breakdowns of type of enforcement action be brought to committee each year, for members to peruse.

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
Environmental Health & Housing Enforcement Policy	31/07/2023	To be published on website if adopted

LEAD AUTHOR	CONTACT DETAILS	DATE
IAN WILLIAMSON	<a href="mailto:IAN.WILLIAMSON@FYLDE.GOV.UK">IAN.WILLIAMSON@FYLDE.GOV.UK</a>	31/07/2023

**Attached documents:**

Appendix 1 – Draft Environmental Health and Housing Enforcement Policy



# Enforcement Policy

Environmental and Housing  
Services

## **1. Introduction**

This policy aims to set out the approach by Fylde Council in dealing with non-compliance and a commitment to good enforcement practice, informed by the principles of good regulation.

The Environmental and Housing Services departments aim to:

- protect the public and the environment
- promote the health, safety and welfare of all our residents and visitors
- enhance the quality of life for all residents and visitors and
- allow compliant businesses to flourish

Much of this work is achieved through education and advice. However where this fails to motivate individuals and business to improve then enforcement powers exist to ensure regulatory compliance.

We endeavour to adopt a graduated approach to enforcement action, and it will be taken in a fair, proportionate and consistent manner. All enforcement action will be considered with regards to this policy, in combination with current legislation, guidance and relevant Codes of Practice. We aim to carry out our regulatory functions without imposing unnecessary burdens on businesses.

## **2. Scope**

This Enforcement Policy sets out standards and guidance for all officers involved in regulatory enforcement work at Fylde Council, and all stakeholders regulated by Fylde Council on the approach that will be adopted in the event of non-compliance.

Enforcement includes any civil or criminal action taken by enforcement officers aimed at ensuring individuals or businesses comply with the law.

The department deals with a myriad of legislation and enforcement options in the following regulatory areas:

- Licensing
- Housing
- Food Control
- Health and Safety Enforcement
- Environmental Protection (air quality, contaminated land, environmental nuisance, Public Health Act funerals, flytipping, Local Air Pollution Prevention and Control (LAPPC)
- Antisocial Behaviour
- Animal welfare
- Waste and litter enforcement
- Public Health
- Public Space Protection Orders (active orders within Fylde include ban on open fires in certain areas e.g. barbeques, dog control, restrictions on alcohol).

This policy intends to be reasonably comprehensive but cannot cover every situation which this department may have to deal with.

### **3. Legislative framework**

In producing this enforcement policy we have had regard to various relevant pieces of legislation and guidance including:

***The Legislative and Regulatory Reform Act 2006*** which requires regulators to carry out their regulatory activities in a way which is proportionate, accountable, consistent, transparent and targeted.

***The Regulators Code*** which came into effect on 6 April 2014 and provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. It provides a set of principles for Regulators to consider:

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow
2. Regulators should provide simple and straight forward ways to engage with those they regulate and hear their views
3. Regulators should base their regulatory activities on risk
4. Regulators should share information about compliance and risk
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
6. Regulators should ensure that their approach to their regulatory activities is transparent – this includes an expectation that Regulators have an enforcement policy explaining how they respond to non-compliance.

The provisions within ***The Human Rights Act 1998*** are considered in this policy and all associated enforcement decisions. Due regard is given to the right to a fair trial and the right to respect for private and family life.

Where there is a need for the Council to share enforcement information with other agencies we will follow the provisions of the ***Data Protection Act 2018***.

When deciding whether to prosecute the Council has regard to the provisions of ***The Code for Crown Prosecutors*** which sets out two tests that must be satisfied, commonly referred to as the 'Evidential test' and 'The Public Interest test'.

***The Regulatory Enforcement and Sanctions Act 2008*** established the Primary Authority scheme and we will comply with the requirements of this Act and associated guidance when we are considering taking enforcement action against any business or organisation that has a Primary Authority agreement.

Investigations will be carried out in accordance with the following legislation and associated guidance, in so far as they relate to the Council:

***The Police and Criminal Evidence Act 1984***  
***The Criminal Procedure and Investigations Act 1996***  
***The Regulation of Investigatory Powers Act 2000***  
***The Criminal Justice and Police Act 2001***  
***The Human Rights Act 1998***  
***Attorney Generals Guidelines***  
***The Protection of Freedoms Act 2012***

### **4. General Approach**

The Environmental and Housing Services departments aim to carry out their regulatory and enforcement duties without imposing unnecessary burdens on businesses or individuals.



We will endeavour to carry out our activities in an open and transparent way.

We shall have regard to all legal framework and guidance including that mentioned above. Each service area will have specific legislation, guidance, Codes of Practice which will guide appropriate enforcement decisions.

All regulatory work will be carried out by appropriately authorised officers who have received appropriate training, qualifications and/or supervision and have been trained in this policy to ensure it is applied consistently.

Authorised officers will be responsible for carrying out initial complaint investigations, inspections etc in the first instance. Any issues will be escalated to the Principal Officer/Manager.

Access to premises is normally achieved by informal means with the consent of the operator but where this fails the relevant legislation will usually provide a power of entry. Sometimes prior notice would be counterproductive or impractical in which case a visit will be made without prior notice. In some circumstances failing to allow entry to a premises is an offence of obstruction, and sometimes an application can be made to Magistrates Court for a warrant to enter premises.

Officers will always provide their name and contact information in relation to a regulatory or enforcement matter. Officers will be helpful, courteous and professional in their conduct.

We will usually provide the opportunity to enter dialogue to discuss advice given, actions required, or decisions taken in relation to non-compliance, and we can provide access to translators if required.

We will work with businesses and individuals to assist them in complying with their legal duties as we believe that most businesses wish to comply with the law but may need help in doing so.

We shall provide advice and guidance, including where necessary links to external sources.

All enforcement decisions will be made objectively to ensure that our decisions are not influenced by the gender, ethnicity, religious or political beliefs, disability or sexual preferences of any alleged offender(s).

Fylde Council supports national enforcement campaigns such as the Food Standards Agency's National Food Hygiene Rating Scheme to allow consumers to make informed choices.

We shall put procedures in place to ensure this policy is adhered to and review it on a regular basis, or when change is necessary.

We shall use a risk assessment approach to concentrate resources on to our higher risk areas and premises.

Fylde Council acknowledges their involvement in allowing and even encouraging economic progress and take into consideration the costs, effectiveness and perceptions of fairness when considering any enforcement action.

We will work with partner agencies to deliver multiagency solutions and will share the necessary intelligence to facilitate this.

We will provide clear application forms and explanatory notes where necessary.

We shall ensure efficient and effective compliance with the requirements of the Environmental Permitting (England & Wales) Regulations 2010. We will issue clear environmental permits based on the Secretary of State's guidance, and local circumstances, within the specified timescales where possible. Where the local authority is satisfied that there is an imminent risk of serious pollution of the environment a suspension notice may be served.

The departments will undertake their responsibilities with regards to antisocial behaviour with due regard for safeguarding issues and will have regard to the Community Trigger principles within the Anti-social Behaviour Crime and Policing Act 2014.

## **5. Enforcement Approach**

The general principle will always hinge around negotiation, advice, guidance, education, and support, to achieve maximum benefit from minimum resource input, whilst avoiding unnecessary regulatory burdens.

We will have regard to Primary Authority agreements and take this into consideration where necessary.

Enforcement action will always be proportionate to the scale, seriousness, and intentionality of the offence.

Enforcement action will follow statutory guidance. Officers will also comply with the requirements of the particular legislation under which they are acting. Most of this legislation provides officers with powers of entry at all reasonable times with the associated offence of obstruction if entry is refused.

Enforcement action will usually be graduated. Any individuals/businesses that deliberately or persistently flout the law will usually be subject to enforcement action..

The risk assessment approach and relevant guidance within each service area will guide the need for appropriate enforcement action.

We will ensure consistency whilst recognising individual circumstances which may modify what action should be taken in each case.

Where incidents of non-compliance are revealed voluntarily with a willingness to resolve the issue, the Council will usually provide support and endeavour to avoid formal enforcement action. Enforcement action would not normally be instigated for innocent mistakes.

In certain circumstances, where an offence is thought to have been committed, communications may need to be undertaken in accordance with the requirements of the Police and Criminal Evidence Act (PACE) and its associated Codes. Any alleged offender will usually be invited to a tape recorded interview under caution at these offices to discuss the offence, and they have the right to legal representation at the interview.

The investigating officers will endeavour to keep the alleged offenders up to date with the investigation, and certainly when a decision has been made to instigate legal proceedings.

All staff will demonstrate commitment to equality in exercising their duties and in their professional relationships with regulated persons to ensure fair and effective enforcement.

Prosecution will only be considered where the relevant evidential and public interest tests have been met.

Any relevant complaint and appeal procedures will be brought to the attention of any person who has enforcement action taken against them.

Failure to comply with enforcement action could result in an escalation of enforcement action. For instance failing to comply with a legal notice could result in legal proceedings being instigated.

Escalated enforcement action will be taken where the continuing non conformance is detrimental and there is a high risk of continuing non-conformance.

Where prosecution is being considered, all cases will be reviewed by the relevant Head of Service.

We also reserve the right to take enforcement action in some cases after compliance has been achieved if it is in the public interest to do so.

Media attention will be sought where appropriate for successful prosecutions to emphasise the need to comply with the law, to deter illegal behaviour, and to instil confidence in the public that we are using enforcement tools where appropriate to protect the public.

## 6. Enforcement Options

Our primary function is to achieve regulatory compliance to protect the public, compliant businesses and the environment. We recognise that prevention is better than cure and work with all our businesses to help them comply with the law. But where it becomes necessary to take enforcement action we will do so.

The available enforcement options include those mentioned below. This is not an exhaustive list and it will change as legislation changes.

Sometimes several enforcement options could be taken at the same time. Failure to comply with enforcement action could result in an escalation of enforcement action. For instance failing to comply with a legal notice could result in legal proceedings being instigated.

<b>Enforcement Options Available</b>	
No action	In certain circumstances no action may be considered appropriate such as when an offender is elderly, frail or suffering from mental or physical ill health.
Advice/informal action	For minor breaches we may offer verbal advice/refer to guidance documents. This will always be the preferred course of action where individuals have a good record of compliance and/or appear eager to comply.
Warning letter	<p>A written warning that a recurrence or continuation of an infringement will result in legal action.</p> <p>In some instances a deadline may be set which would be reasonable and take into account the seriousness of the contravention.</p> <p>We shall be clear about what is a legal requirement and what is advice on good practice.</p> <p>Letter shall be laid out in a clear and concise way, it shall detail what work is required, why it is required, and a time frame in which the works should be completed.</p> <p>The letter should be sent as soon as possible after the intervention.</p>
Statutory legal enforcement notices	<p>Certain legislation allows notices to be served requiring specific actions or the ceasing of certain activities. Some notices may require activities to cease immediately (particularly in relation to health, safety, environmental damage or nuisance).</p> <p>In other circumstances the time allowed will be reasonable, taking into</p>

	<p>account the seriousness of the contravention, the implications of the non-compliance and the appeal period for that notice.</p> <p>In some circumstances we have the power to close businesses or carry out work in default, where reasonable costs are recoverable from the offender.</p> <p>Some notices have a requirement to have emergency action confirmed by a Magistrates Court.</p> <p>Any appeal provision will be provided with the notices at the time of service</p>
Simple caution	<p>In appropriate circumstances and where prosecution would be justified a Simple Caution may be administered. The following criteria must be satisfied:</p> <p>The person liable admits the offence  A prosecution could be taken  There are mitigating circumstances suggesting a Simple Caution is the more appropriate course of action  The offender must be over 18 years of age</p> <p>It is an admission of guilt but not a criminal conviction</p>
Prosecution	<p>The institution of legal proceedings against an individual or company in respect of a criminal charge at Magistrates or Crown Court. The Council may seek to prosecute in respect of serious or recurrent breaches or where other enforcement actions have failed to secure compliance.</p> <p>When deciding whether to prosecute we shall have regard to the provisions of the Code for Crown Prosecutors – (1) prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction and (2) whether prosecution is in the public interest.</p> <p>A successful prosecution will result in a criminal conviction and the court may impose a range of sentences.</p>
Licence review	<p>The Council issues a number of licences which include conditions requiring the licence holder to take steps to ensure the business is appropriately run. Breaches of these conditions may lead to a review of the licence which may lead to its revocation or amendment.</p> <p>Where any licensed premises breaches the licensing objectives of the Licensing Act 2003 then one of the ‘responsible authorities’ may apply to review the licence.</p> <p>Hackney carriage and private hire drivers licences may be revoked suspended, or refused a renewal.</p>
Proceeds of Crime Act applications	<p>The Local Authority, or in co-operation with the police may make application under the Proceeds of Crime Act 2002 to restrain and/or confiscate the assets of an offender. The purpose of any such proceedings is to recover the financial benefit that the offender has obtained from his criminal conduct. Proceedings are conducted according to the civil standard of proof.</p>

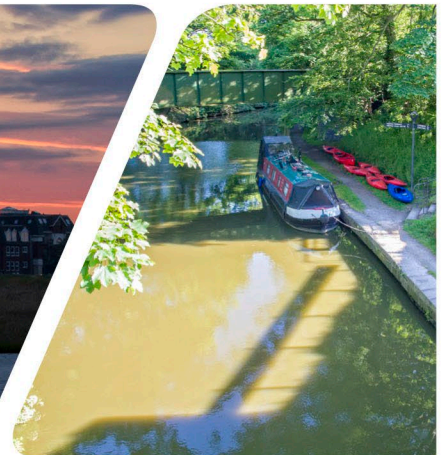
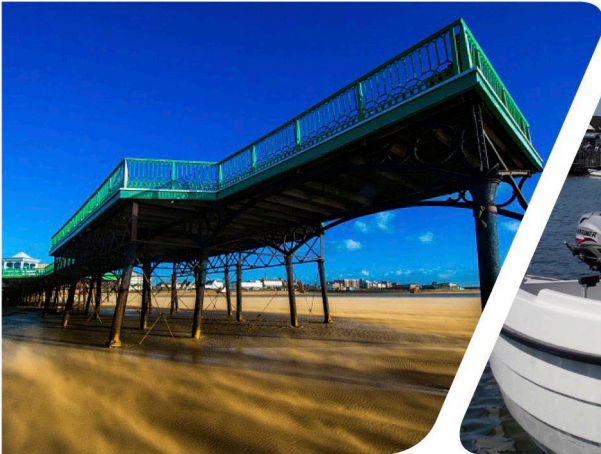
	This can be a significant contribution to the disruption of criminal enterprises through money laundering investigations to aid criminal investigations and through the recovery of criminal assets.
Community Protection Notices	These are issued under the Antisocial Behaviour Crime and Policing Act after a Community Protection Warning has been issued when the conduct of the individual or body is having a detrimental effect, of a persisting or continuing nature on the quality of life of those in the locality, and the conduct is unreasonable.
Criminal Behaviour Orders	These can be applied for when a person has been convicted of an offence and has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress, and the court believes the making of the order will help prevent the offender from engaging in such behaviour
Public Spaces Protection Order	These are intended to deal with nuisance or problems in an area that cause harm to the quality of life of the local community. They impose conditions or restrictions on people using the specified area.
Fixed penalty notices	Notices served by an authorised officer to a person who has committed a criminal offence, often for antisocial behaviour or environmental crime such as littering or dog fouling.  Failure to pay may result in prosecution or civil debt recovery.
Seizure	Certain legislation enables enforcement officers to seize goods, foods, equipment, or documents which may be unsafe or its being used to cause a nuisance, or as evidence for legal proceedings.  We will give the person from whom the goods are taken an appropriate receipt and details of any appeals procedures and/or property return procedures.
Civil penalty	The Housing and Planning Act 2016 allows financial penalties to be imposed as an alternative to prosecution for certain offences under the Housing Act 2004. These can only be used when there is a realistic prospect of a conviction.
Permitting	Environmental permits set out limits on the pollution that a business can make at a premises and sets out what it needs to do prevent and control pollution of air, water, or land.

## 7. Review and Comments

If you would like to discuss or comment on this policy, then please contact us and help us improve.

Any complaints about enforcement action or the actions of our officers can be made through the Councils corporate complaint procedure <https://new.fylde.gov.uk/complaints/>

Our policies will be published on the Fylde Council website.



© Fylde Borough Council copyright 2016

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context. The material must be acknowledged as Fylde Borough Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at [www.fylde.gov.uk](http://www.fylde.gov.uk).

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to [listening@fylde.gov.uk](mailto:listening@fylde.gov.uk).

## SCRUTINY ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF PLANNING	INTERNAL AFFAIRS SCRUTINITY COMMITTEE	5 SEPTEMBER 2023	5
<b>UPDATE ON SECTION 106 MONIES CURRENTLY HELD BY FYLDE COUNCIL</b>			

### PUBLIC ITEM

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

#### PURPOSE OF THIS REPORT

To ensure elected members aware of the Section 106 Monies currently held by Fylde Council, along with the purposes for which they have been secured.

#### SOURCE OF REFERRAL

On 25 May 2023, Executive Committee requested that an updated list of monies currently held by Fylde Council be presented at their next meeting. It was subsequently considered that it would be more appropriate to report this information via the Internal Affairs Scrutiny Committee.

#### FURTHER INFORMATION

Appendices with full details are attached

#### SUGGESTED RECOMMENDATIONS

That members note the contents of the report and that further updates are provided every 6 months.

### REPORT

1. This report provides an update of the current position for Section 106 monies currently held with Fylde Council as requested by the Executive Committee on the 25<sup>th</sup> May 2023.

#### BACKGROUND

2. Under section 106 (s106) of the Town and Country Planning Act 1990 a Local Planning Authority (LPA) can seek obligations, both physically on-site and also contributions for off-site, when it is considered that a development will have negative impacts that cannot be dealt with through conditions in the planning permission.
3. Obligations can only be sought where they are directly related to the development, fairly and reasonably related in scale and kind to the development, and necessary to make the development acceptable in planning terms.

## MONIES CURRENTLY HELD

4. Details in the attached appendices include:
  - a. S106 Summary of balances to the 31<sup>st</sup> July 2023, including detailing the balance brought forward 1<sup>st</sup> April 2023, contributions received, expenditure to date, approved commitments.
  - b. Approved Planned Schemes details planned schemes to the 31<sup>st</sup> July including the scheme name, budget holder, application reference the contribution was paid on, payment export and budget detail, with a scheme/budget holder comment.
  - c. S106 Agreement Expiry further informs of the application and site location, current balance on that payment, commitments, the agreement expiry date and the status of the work. The expiry dates have also been colour coded to reference how close the spend is to the expiry date.
5. The report is intended to make members aware of the funds held by Fylde Council and to provide ensure that a suitable scheme is identified and the funds spent ahead of any repayment deadline. Each year the council also publishes an Infrastructure Funding Statement which sets out how Sn 106 funds have been spent to date which is available at [Infrastructure Funding Statement \(IFS\) – Fylde Council](#).
6. Section 106 monies can only be used for the purposes they were secured as set out in each Sn 106 agreement. Members should be aware that the details shown in the report are only a general summary of the purposes the funds have been provided.

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
106 Monitoring to 31.07.2023	August 2023	Fylde Council Planning Office

LEAD AUTHOR	CONTACT DETAILS	DATE
Karen Hodgkiss	Email karenh@fylde.gov.uk & Tel 01253 658515	8 August 2023

Attached documents

Appendix 1 – Section 106 Agreements Monitoring of Approved/ Planned Schemes as at 31/07/23



**Section 106 Monitoring 2023 / 24**

**Capital Projects Funding Allocation (Schemes with additional sources of funding e.g capital investment reserve)**  
 Expenditure will be allocated against S106 funding before any other source of funding to ensure timing restraints within the S106 agreement are met unless specifically identified by the capital accountant

**Summary**

Section 106 Agreements	Balance B/fwd 01/04/23	Section 106 Contributions Received	Section 106 Expenditure		Balance Sheet at 31/07/23	Direct Expenditure		Summary Balance at 31/07/23	Approved Commitments 2023 / 24	Monies Available
			Revenue	Capital		Revenue	Capital			
B361 Whitehills	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
B362 Highways Improvements	-241,000.00	0.00	115,000.00	0.00	-126,000.00	0.00	0.00	-126,000.00	10,000.00	-116,000.00
B363 Affordable Housing	-2,474,029.86	0.00	0.00	0.00	-2,474,029.86	0.00	0.00	-2,474,029.86	0.00	-2,474,029.86
B364 Bus Stops / Transport Services	-165,361.77	0.00	12,000.00	35,731.77	-117,630.00	0.00	0.00	-117,630.00	60,000.00	-57,630.00
B365 Conservation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
B366 Open Spaces / Play Equipment	-115,381.28	0.00	0.00	0.00	-115,381.28	0.00	0.00	-115,381.28	25,574.28	-89,807.00
B367 Friends of Hove Road	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
B368 Public Realm	-612,805.32	0.00	0.00	0.00	-612,805.32	0.00	145,911.86	-466,893.46	261,068.90	-205,824.56
B421 Education Contributions	-310,455.80	0.00	0.00	0.00	-310,455.80	0.00	0.00	-310,455.80	310,455.80	0.00
B422 Primary Care Contributions	-53,004.00	0.00	0.00	0.00	-53,004.00	0.00	0.00	-53,004.00	0.00	-53,004.00
	<b>-3,972,038.03</b>	<b>0.00</b>	<b>127,000.00</b>	<b>35,731.77</b>	<b>-3,809,306.26</b>	<b>0.00</b>	<b>145,911.86</b>	<b>-3,663,394.40</b>	<b>667,098.98</b>	<b>-2,996,295.42</b>

(See breakdown below)

Check  
-26,000.00

Check  
0.00

Check  
0.00

Check  
-26,000.00

Capital Scheme Direct Coding	S106 Funding Available at 31.07.23	Actual Expenditure to 31.07.23	S106 Allocation to 31.07.23
Z138 - St.Annes Regeneration Scheme	73,563.90	21,700.00	21,700.00
Z139 - Lytham Regeneration Scheme	130,000.00	22,500.00	22,500.00
Z204 - Kirkham HAZ Scheme	101,711.86	139,821.02	101,711.86
			<b>145,911.86</b>

**Section 106 Agreements Monitoring of Approved / planned Schemes as at 31/07/23**

CODE	APPROVED SCHEMES	Head of Service / Budget Holder	Application Number	Agreement Expiry	Capital / Revenue	Committee Approval	Approved Budget 2023/24 £0	S106 Monies Available £0	Expenditure to 31/07/23 £0	Variance	Comments
	<u>PUBLIC REALM AGREEMENTS</u>										
Z138	St.Annes Regeneration Scheme	Charlie Richards	16/0062	25/07/2027	Capital	Council 03/03/15	73,564	73,564	21,700	51,864	
Z139	Lytham Regeneration Scheme	Charlie Richards	11/0803	No Payback	Capital	Council 03/05/15 & 05/03/19	130,000	130,000	22,500	107,500	
Z204	Kikham Heritage Action Zone Scheme	Charlie Richards	15/0177 15/0547 16/0112	Triggers to hit totalling £329,288.14	Capital	Council 04/03/20	431,000	101,712	101,712	0	Approved capital scheme includes funding of £431k, but to date we have only received £102k. The balance will only be received when further triggers on the s106 agreement are hit.
3607	Warton Public Realm Scheme	Charlie Richards	12/0550	09/07/2023	Revenue	Executive Committee 04/07/23	75,000	75,000	0	75,000	
3607	Wrea Green Pedestrian Improvements Scheme	Charlie Richards	13/0507	No Payback	Revenue	Executive Committee 04/07/23	26,705	26,705	0	26,705	
	<b>Sub total</b>						<b>736,269</b>	<b>406,981</b>	<b>145,912</b>	<b>261,069</b>	
	<u>HIGHWAYS IMPROVEMENT AGREEMENTS</u>										
3607	Wrea Green Pedestrian Improvements Scheme	Charlie Richards	14/0302	10/03/2030	Revenue	Executive Committee 04/07/23	10,000	10,000	0	10,000	
4410	Squires Gate Lane/Lytham Road Upgrading of Signalised Junction Scheme	Mark Evans	16/0317 18/0316	26/04/24 No Payback	Revenue	Executive Committee 04/07/23	115,000	115,000	115,000	0	Completed 24/07/23
	<b>Sub total</b>						<b>125,000</b>	<b>125,000</b>	<b>115,000</b>	<b>10,000</b>	
	<u>BUS STOP / TRANSPORT SERVICES AGREEMENTS</u>										
Z165	Public Transport Improvements - Mill Farm Sports Village Scheme	Darren Bell	13/0655	14/06/2028 Final Trigger to hit £30k	Capital	F&D Committee 25/06/18	90,000	60,000	0	60,000	
Z241	Improvement to Sustainable Transport Facilities Clifton Drive Scheme	Charlie Richards	06/1189 14/0327	No Payback 03/10/2026	Capital	F&D Committee 21/03/23	35,732	35,732	35,732	0	Completed 17/07/23
4410	Travel Plan Improvements The former GEC Marconi Factory, Warton Scheme	Charlie Richards	12/0550	09/07/2023	Revenue	Executive Committee 04/07/23	12,000	12,000	12,000	0	Completed 21/06/23
	<b>Sub total</b>						<b>137,732</b>	<b>107,732</b>	<b>47,732</b>	<b>60,000</b>	

CODE	APPROVED SCHEMES	Head of Service / Budget Holder	Application Number	Agreement Expiry	Capital / Revenue	Committee Approval	Approved Budget 2023/24 £0	S106 Monies Available £0	Expenditure to 31/07/23 £0	Variance	Comments
3144	Area Conservation Ranger & Coastal Improvements Scheme	Mark Wilde	16/0062	09/06/2027	Revenue	Council 17/07/17	25,574	25,574	0	25,574	
	<b>Sub total</b>						<b>25,574</b>	<b>25,574</b>	<b>0</b>	<b>25,574</b>	

	<b>EDUCATION AGREEMENTS</b>										
3607	Transfer of funds to LCC	Mark Evans	12/0717 19/0140 14/0161	25/06/2024 05/07/2029 08/01/2031	Revenue	Council 06/02/23	310,456	310,456		310,456	
	<b>Sub total</b>						<b>310,456</b>	<b>310,456</b>	<b>0</b>	<b>310,456</b>	
	<b>AFFORDABLE HOUSING AGREEMENTS</b>										
	<b>Sub total</b>						<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
	<b>PRIMARY CARE AGREEMENTS</b>										
	<b>Sub total</b>						<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
	<b>Total Expenditure</b>						<b>1,335,031</b>	<b>975,743</b>	<b>308,644</b>	<b>667,099</b>	

**Section 106 Agreement Profiles - as at 31/07/23**

Key:	< 12 months	
	12-36 months	
	> 3 Years	

Application Number	Site Location	Scheme Budget Holder	Balance B/f from 2022/23 £	New Agreements 2023/24 £	Total 31.07.23 £	Commitments on Approved/Planned Schemes £	Total Available 31.07.23 £	Agreement Expiry Date	Status
<b>Highways Improvements - B362</b>									
16/0317	Former Westgate House, and rear 5 to 21 Westgate Road,	Mark Evans	50,000	0	50,000	50,000	0	26/04/2024	Complete
18/0316	Blackpool & Fylde College, Squires Gate Lane.	Mark Evans	65,000	0	65,000	65,000	0	No Payback	Complete
13/0655	Mill Farm Ventures, Fleetwood Road, Wesham	TBC	47,500	0	47,500	0	47,500	14/06/2028	Scheme to be identified
15/0763	Land North of Preston Old Road, Newton	TBC	6,000	0	6,000	0	6,000	17/03/2029	Scheme to be identified
14/0302	Land off Willow Drive, Wrea Green	Charlie Richards	10,000	0	10,000	10,000	0	10/03/2030	Ongoing
13/0655	Mill Farm Ventures, Fleetwood Road, Wesham	TBC	62,500	0	62,500	0	62,500	21/02/2032	Scheme to be identified
		<b>Sub total</b>	<b>241,000</b>	<b>0</b>	<b>241,000</b>	<b>125,000</b>	<b>116,000</b>		
<b>Affordable Housing - B363</b>									
05/0658	Edenfield, 2a Clifton Drive, Lytham	Kirstine Riding	68,392.62	0	68,392.62	0	68,392.62	No Payback	Scheme to be identified
13/0386	Land South of Cartford Inn, Cartford Lane, Little Eccleston	Kirstine Riding	23,000.00	0	23,000.00	0	23,000.00	27/10/2026	Scheme to be identified
14/0856	Harbour Lane, Warton	Kirstine Riding	50,000.00	0	50,000.00	0	50,000.00	No Payback	Scheme to be identified
09/0524	Plane Tree Farm, Thistleton Road, Greenhalgh	Kirstine Riding	23,250.00	0	23,250.00	0	23,250.00	08/01/2028	Scheme to be identified
14/0856	Harbour Lane, Warton	Kirstine Riding	50,000.00	0	50,000.00	0	50,000.00	No Payback	Scheme to be identified
12/0717	Moss Farm, Cropper Road, Westby	Kirstine Riding	497,586.42	0	497,586.42	0	497,586.42	No Payback	Scheme to be identified
12/0717	Moss Farm, Cropper Road, Westby	Kirstine Riding	1,015,000.00	0	1,015,000.00	0	1,015,000.00	No Payback	Scheme to be identified
14/0491	North View Farm, Ribby Road, Wrea Green	Kirstine Riding	299,988.00	0	299,988.00	0	299,988.00	No Payback	Scheme to be identified
14/0320	Land at 23-33 Fairhaven Road, Lytham At Annes	Kirstine Riding	71,812.82	0	71,812.82	0	71,812.82	22/07/2030	Scheme to be identified
20/0266	Land Opposite 15-23 Ribchester Road, Lytham	Kirstine Riding	75,000.00	0	75,000.00	0	75,000.00	31/03/2028	Scheme to be identified

Application Number	Site Location	Scheme Budget Holder	Balance B/f from 2022/23	New Agreements 2023/24	Total 31.07.23	Commitments on Approved/Planned	Total Available 31.07.23	Agreement Expiry Date	Status
			£	£	£	£	£		
18/0043	High Meadows, Lower Lane, Freckleton	Kirstine Riding	50,000.00	0	50,000.00	0	50,000.00	28/01/2032	Scheme to be identified
16/0156	54 Bryning Lane, Wrea Green	Kirstine Riding	250,000.00	0	250,000.00	0	250,000.00	12/08/2032	Scheme to be identified
		<b>Sub total</b>	<b>2,474,029.86</b>	<b>0.00</b>	<b>2,474,029.86</b>	<b>0.00</b>	<b>2,474,029.86</b>		
		<b>Bus Stops / Transport Services - B364</b>							
05/0535, 06/1189	Crossacrcres Highbury Road, St Annes	Charlie Richards	13,411.77	0	13,411.77	13,411.77	0.00	No Payback	Complete
06/1083	Kirkham Service Station, Freckleton Street, Kirkham	Mark?	20,000.00	0	20,000.00	0.00	20,000.00	No Payback	Scheme to be identified
13/0450, 13/0635	Former Gov. offices, Heyhouses Lane. LSA	TBC	17,630.00	0	17,630.00	0.00	17,630.00	12/05/2024	Scheme still to be identified - TRAVEL PLAN DETAIL NEEDED FROM LCC
14/0327	Orchid Court, 35-37 South Promenade. LSA	Charlie Richards	22,320.00	0	22,320.00	22,320.00	0.00	03/10/2026	Complete
12/0550	Land Adj GEC Marconi Factory, Warton Aerodrome	Charlie Richards	12,000.00	0	12,000.00	12,000.00	0.00	09/07/2023	Complete
19/0140	Moss Farm, Cropper Road, Westby	TBC	20,000.00	0	20,000.00	0.00	20,000.00	05/07/2029	Scheme to be identified
13/0655	Mill Farm Ventures, Fleetwood Road, Wesham	Darren Bell	30,000.00	0	30,000.00	30,000.00	0.00	21/02/2032	Ongoing
13/0655	Mill Farm Ventures, Fleetwood Road, Wesham	Darren Bell	30,000.00	0	30,000.00	30,000.00	0.00	21/02/2032	Ongoing
		<b>Sub total</b>	<b>165,361.77</b>	<b>0.00</b>	<b>165,361.77</b>	<b>107,731.77</b>	<b>57,630.00</b>		
		<b>Public Open Spaces - B366</b>							
16/0062	Pontins Site 1, Clifton Drive North, LSA	Lisa Foden	25,574.28	0	25,574.28	25,574.28	0.00	09/06/2027	Ongoing
17/0044	Sunnybank Mill, Kirkham	TBC	11,500.00	0	11,500.00	0.00	11,500.00	No Payback	Scheme to be identified
19/0140	Moss Farm, Cropper Road, Westby	TBC	31,000.00	0	31,000.00	0.00	31,000.00	05/07/2029	Scheme to be identified
14/0320	Land at 23-33 Fairhaven Road, LSA	TBC	10,307.00	0	10,307.00	0.00	10,307.00	22/07/2030	Scheme to be identified
18/0043	High Meadows, Lower Lane, Freckleton	TBC	11,000.00	0	11,000.00	0.00	11,000.00	28/01/2032	Scheme to be identified
		<b>Sub total</b>	<b>89,381.28</b>	<b>0.00</b>	<b>89,381.28</b>	<b>25,574.28</b>	<b>63,807.00</b>		

Application Number	Site Location	Scheme Budget Holder	Balance B/f from 2022/23 £	New Agreements 2023/24 £	Total 31.07.23 £	Commitments on Approved/Planned Schemes £	Total Available 31.07.23 £	Agreement Expiry Date	Status
<b>Public Realm - B368</b>									
11/0803	Former Aegon Site, Lytham	Charlie Richards	52,000.00	0	52,000.00	52,000.00	0.00	No Payback	Ongoing
11/0803	Former Aegon Site, Lytham	Charlie Richards	78,000.00	0	78,000.00	78,000.00	0.00	No Payback	Ongoing
13/0507	North View Farm, Wrea Green	Charlie Richards	26,705.00	0	26,705.00	26,705.00	0.00	No Payback	Ongoing
13/0526	Riversleigh farm, Lytham Road, Warton	TBC	30,000.00	0	30,000.00	0.00	30,000.00	20/02/2027	Scheme to be identified
16/0062	Former Pontins, Clifton Drive North (larger site)	Charlie Richards	73,563.90	0	73,563.90	73,563.90	0.00	25/07/2027	Ongoing
12/0550	Land Adj GEC Marconi Factory, Warton Aerodrome	Charlie Richards	75,000.00	0	75,000.00	75,000.00	0.00	09/07/2023	Ongoing - monies committed but not spent by expiry date.
18/0743	Morrisons, Squires Gate Lane	TBC	31,300.00	0	31,300.00	0.00	31,300.00	17/03/2030	Scheme to be identified
14/0320	Land at 23-33 Fairhaven Road, LSA	TBC	20,957.56	0	20,957.56	0.00	20,957.56	22/07/2030	Scheme to be identified
18/0489	The Spinnings Kirkham	TBC	17,000.00	0	17,000.00	0.00	17,000.00	25/06/2026	Scheme to be identified
15/0562	Clifton House Farm, Lytham Road, Warton	TBC	41,567.00	0	41,567.00	0.00	41,567.00	No Payback	Scheme to be identified
17/0738	Axa Data Centre, West Cliffe, LSA	TBC	32,500.00	0	32,500.00	0.00	32,500.00	07/06/2031	Scheme to be identified
15/0547	Brook Mount Farm, Dowbridge, Kirkham	Charlie Richards	101,711.86	0	101,711.86	101,711.86	0.00	No Payback	Ongoing
17/0738	Axa Data Centre, West Cliffe, Lytham St Annes	TBC	32,500.00	0	32,500.00	0.00	32,500.00	11/04/2032	Scheme to be identified
		<b>Sub total</b>	<b>612,805.32</b>	<b>0.00</b>	<b>612,805.32</b>	<b>406,980.76</b>	<b>205,824.56</b>		
<b>Education Contributions - B421</b>									
12/0717	Cropper Road, Westby	Mark Evans	218,206.74	0	218,206.74	218,206.74	0.00	25/06/2024	Ongoing - monies to be handed over to LCC?
19/0140	Moss Farm, Cropper Road, Westby	Mark Evans	32,101.06	0	32,101.06	32,101.06	0.00	05/07/2029	Ongoing
14/0161	Land Ballam Road (Ballam Oaks), Lytham	Mark Evans	60,148.00	0	60,148.00	60,148.00	0.00	08/01/2031	Ongoing
		<b>Sub total</b>	<b>310,455.80</b>	<b>0.00</b>	<b>310,455.80</b>	<b>310,455.80</b>	<b>0.00</b>		

Application Number	Site Location	Scheme Budget Holder	Balance B/f from 2022/23 £	New Agreements 2023/24 £	Total 31.07.23 £	Commitments on Approved/Planned Schemes £	Total Available 31.07.23 £	Agreement Expiry Date	Status
		<b>Primary Care Contributions - B422</b>							
20/0315	Land Adj 8 & 12 Oak Lane, Newton	TBC	24,025.00	0	24,025.00	0.00	24,025.00	25/06/2031	Scheme to be identified
21/0752	Wesham Park Hospital, Wesham	TBC	16,347.00	0	16,347.00	0.00	16,347.00	No Payback	Scheme to be identified
19/0690	Concert Living Land North View Fold	TBC	12,632.00	0	12,632.00	0.00	12,632.00	27/07/2032	Scheme to be identified
		<b>Sub total</b>	<b>53,004.00</b>	<b>0.00</b>	<b>53,004.00</b>	<b>0.00</b>	<b>53,004.00</b>		
		<b>Total</b>	<b>3,946,038.03</b>	<b>0.00</b>	<b>3,946,038.03</b>	<b>975,742.61</b>	<b>2,970,295.42</b>		

## SCRUTINY ITEM

REPORT OF	MEETING	DATE	ITEM NO
INTERIM SCRUTINY MANAGER	INTERNAL AFFAIRS SCRUTINY COMMITTEE	5 SEPTEMBER 2023	6
<b>ANNUAL REVIEW LETTER 2022/23 - LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN</b>			

### PUBLIC ITEM

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

#### PURPOSE OF THIS REPORT

To consider the Annual Review Letter from the Local Government and Social Care Ombudsman (LG&SCO) for 2022/23, attached.

#### SOURCE OF REFERRAL

Annual Review Letter from Local Government and Social Care Ombudsman for 2022/23.

#### FURTHER INFORMATION

<https://www.lgo.org.uk/your-councils-performance/fylde-borough-council/statistics>

#### SUGGESTED RECOMMENDATIONS

To note the Annual Review Letter and make any comments as necessary.

### REPORT

1. The Local Government & Social Care Ombudsman investigates complaints of injustice arising from maladministration by local authorities and certain other bodies. They investigate complaints about most council matters including housing, planning, education, social services, consumer protection, drainage, council tax etc. The Ombudsman can investigate complaints about how the council has done something, but they cannot question what a council has done simply because someone does not agree with it.
2. A complainant must give the council concerned an opportunity to deal with a complaint first. It is best to use [the council's own complaints procedure](#), if it has one. If the complainant is not satisfied with the action the council takes, he or she can submit a complaint to the Local Government & Social Care Ombudsman (LG&SCO).
3. The Ombudsman Annual Review Letter (attached as Appendix 1) presents an annual summary of the complaints made to the Ombudsman about Fylde Borough Council over the last year 2022/23. The letter also provides a link to [your council's performance](#) for the past several years.
4. Appendix 2 provides statistics for the year on the numbers of complaints received by the Ombudsman in relation to Fylde, the numbers of complaints decided (including those which were upheld) and compliance



with the Ombudsman’s recommendations on those complaints upheld.

5. Attached at appendix 3 is a comparison of Fylde Council’s performance over the past five years for complaints received and decided by the LG&SCO. Appendix 4 sets out a comparison of the performance of all Lancashire district authorities for the past year 2022/23 for complaints and enquires received (by category) and decided (by outcome) by the LG&SCO.
6. For the year ending 31 March 2023, the Ombudsman received 5 complaints against Fylde Council (4 less than the year before in 2021/22). It is noted that complaints about planning matters continues to make up the single largest group of complaints. There were no findings of maladministration.
7. Gemma Broadley, Head of Corporate Services, who acts as the Council’s Ombudsman Liaison Officer will be at the meeting to answer questions from the Committee.

PAPERS REVELANT BACKGROUND TO THIS ITEM		
Name of document	Date	Where available for inspection
Your council performance	2022/23	<a href="https://www.lgo.org.uk/your-councils-performance">https://www.lgo.org.uk/your-councils-performance</a>

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul Walker	<a href="mailto:paul.walker@fylde.gov.uk">paul.walker@fylde.gov.uk</a>	7 August 2023

Attached documents:

- Appendix 1 Local Government & Social Care Ombudsman Annual Review Letter 2022/23
- Appendix 2 Local Government & Social Care Ombudsman – Complaint statistics 2022/23
- Appendix 3 Fylde Council - Complaints and enquiries received (by category) and decided (by outcome) by LG&SCO over past 5 years
- Appendix 4 Comparisons of Lancashire district authorities - Complaints and enquiries received (by category) and decided (by outcome) by LG&SCO - 2022-23

19 July 2023

*By email*

Mr Oldfield  
Chief Executive  
Fylde Borough Council

Dear Mr Oldfield

### **Annual Review letter 2022-23**

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2023. The information offers valuable insight about your organisation's approach to complaints. As always, I would encourage you to consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

The end of the reporting year, saw the retirement of Michael King, drawing his tenure as Local Government Ombudsman to a close. I was delighted to be appointed to the role of Interim Ombudsman in April and look forward to working with you and colleagues across the local government sector in the coming months. I will be building on the strong foundations already in place and will continue to focus on promoting improvement through our work.

### **Complaint statistics**

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

**Complaints upheld** - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

Over the past two years, we have reviewed our processes to ensure we do the most we can with the resources we have. One outcome is that we are more selective about the complaints we look at in detail, prioritising where it is in the public interest to investigate. While providing a more sustainable way for us to work, it has meant that changes in uphold rates this year are not solely down to the nature of the cases coming to us. We are less likely to carry out investigations on 'borderline' issues, so we are naturally finding a higher proportion of fault overall.

Our average uphold rate for all investigations has increased this year and you may find that your organisation's uphold rate is higher than previous years. This means that comparing uphold rates with previous years carries a note of caution. Therefore, I recommend comparing this statistic with that of similar organisations, rather than previous years, to better understand your organisation's performance.

**Compliance with recommendations** - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

**Satisfactory remedy provided by the authority** - In these cases, the organisation upheld the complaint and we were satisfied with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 26 July 2023. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

### **Supporting complaint and service improvement**

I know that complaints offer organisations a rich source of intelligence and insight that has the potential to be transformational. These insights can indicate a problem with a specific area of service delivery or, more broadly, provide a perspective on an organisation's culture and ability to learn. To realise the potential complaints have to support service improvements, organisations need to have the fundamentals of complaint handling in place. To support you to do so, we have continued our work with the Housing Ombudsman Service to develop a joint complaint handling code that will provide a standard for organisations to work to. We will consult on the code and its implications prior to launch and will be in touch with further details.

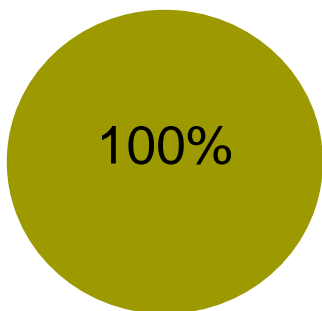
In addition, our successful training programme includes practical interactive workshops that help participants develop their complaint handling skills. We can also offer tailored support and bespoke training to target specific issues your organisation might have identified. We delivered 105 online workshops during the year, reaching more than 1350 people. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training) or get in touch at [training@lgo.org.uk](mailto:training@lgo.org.uk).

Yours sincerely,



Paul Najsarek  
Interim Local Government and Social Care Ombudsman  
Interim Chair, Commission for Local Administration in England

### Complaints upheld



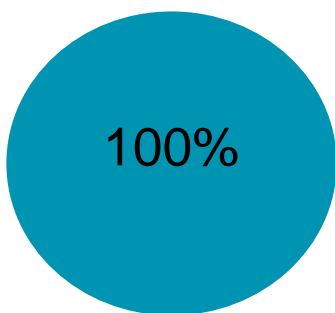
**100%** of complaints we investigated were upheld.

This compares to an average of **59%** in similar organisations.

**2**  
upheld decisions

Statistics are based on a total of **2** investigations for the period between 1 April 2022 to 31 March 2023

### Compliance with Ombudsman recommendations



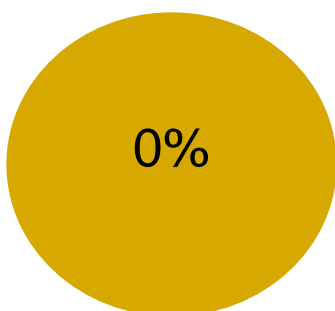
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **2** compliance outcomes for the period between 1 April 2022 to 31 March 2023

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

### Satisfactory remedy provided by the organisation



In **0%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **15%** in similar organisations.

**0**  
satisfactory remedy decisions

Statistics are based on a total of **2** upheld decisions for the period between 1 April 2022 to 31 March 2023

## Appendix 2

### Local Government & Social Care Ombudsman – Fylde Council Annual Review letter 2022/23 – Complaint statistics

#### Complaints received by Ombudsman

Reference	Authority	Category	Received
22001771	Fylde Borough Council	Benefits & Tax	11/05/2022
22003682	Fylde Borough Council	Planning & Development	20/06/2022
22004058	Fylde Borough Council	Planning & Development	24/06/2022
22007838	Fylde Borough Council	Planning & Development	10/10/2022
22016744	Fylde Borough Council	Environmental Services & Public Protection & Regulation	08/03/2023

#### Complaints decided by Ombudsman (those upheld shaded yellow)

Reference	Authority	Category	Decided	Decision	Decision Reason	Remedy	Service improvement recommendations
21016670	Fylde Borough Council	Planning & Development	07/04/2022	Closed after initial enquiries	Not warranted by alleged fault		
21018288	Fylde Borough Council	Planning & Development	01/08/2022	Upheld	fault & inj	Apology	
22001771	Fylde Borough Council	Benefits & Tax	18/05/2022	Closed after initial enquiries	Other Agency better placed		
22003682	Fylde Borough Council	Planning & Development	28/06/2022	Closed after initial enquiries	26B(2) not made in 12 months		
22007838	Fylde Borough Council	Planning & Development	30/01/2023	Upheld	fault & inj	Apology, Procedure or policy change/ review	The Council was at fault because it cannot produce a copy of a case officer report. It agreed to correct its records by writing a post-decision case officer report that explains issues and recommendations. This report will be saved on its planning file and uploaded to its website. The Council was at fault because it cannot produce a copy of a case officer report. The Council will report what has happened at the next scheduled meeting of its planning committee, so the members and the public can be made aware of the fault found, and it is placed on the public record through committee papers and minutes.

### Compliance with Ombudsman recommendations

Reference	Authority	Category	Decided	Remedy	Remedy Target Date	Remedy Achieved Date	Satisfaction with Compliance
21018288	Fylde Borough Council	Planning & Development	31-Jul-22	Apology	01-Sep-22	22-Aug-22	Remedy complete and satisfied
22007838	Fylde Borough Council	Planning & Development	30-Jan-23	Apology Procedure or policy change/review	08-Mar-23	08-Mar-23	Remedy complete and satisfied

## Appendix 3

### Fylde Council - Complaints and Enquiries Received (by category) over past 5 years

Year	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environmental Services, Public Protection and Regulation	Highways and Transport	Housing	Planning and Development	Other	Total
2022 23	1	0	0	1	0	0	3	0	5
2021 22	0	0	0	2	0	1	6	0	9
2020 21	1	0	0	1	0	0	4	0	6
2019 20	3	0	0	0	0	0	4	0	7
2018 19	3	0	0	3	0	1	5	0	12

### Fylde Council - Complaints and Enquiries Decided (by outcome) over past 5 years

Year	Invalid or Incomplete	Advice Given	Referred Back for Local Resolution	Closed after Initial Enquiries	Not Upheld	Upheld	Total	Uphold rate (%)	Average uphold rate (%) of similar authorities
2022 23	0	0	0	3	0	2	5	100%	59%
2021 22	0	0	3	3	0	2	8	100%	51%
2020 21	0	1	0	2	2	0	5	0%	53%
2019 20	0	0	4	2	2	1	9	33%	45%
2018 19	0	1	4	4	3	0	12	0%	43%

## Appendix 4

### Comparisons of Lancashire district authorities - Complaints and enquiries received by LG&SCO (by category) - 2022-23

Authority Name	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environmental Services, Public Protection and Regulation	Highways and Transport	Housing	Planning and Development	Total
Burnley Borough Council	4	2	0	0	0	1	2	9
Chorley Borough Council	2	1	0	2	0	1	1	7
Fylde Borough Council	1	0	0	1	0	0	3	5
Hyndburn Borough Council	1	1	0	2	0	0	0	4
Lancaster City Council	2	3	0	1	0	0	3	9
Pendle Borough Council	3	1	0	4	0	1	0	9
Preston City Council	4	0	0	1	0	1	4	10
Ribble Valley Borough Council	1	1	0	2	0	0	5	9
Rosendale Borough Council	2	0	0	1	0	0	2	5
South Ribble Borough Council	0	1	0	3	0	1	3	8
West Lancashire Borough Council	1	0	0	3	1	4	9	18
Wyre Borough Council	0	0	0	1	0	1	1	3



### Comparisons of Lancashire district authorities - Complaints decided by LG&SCO (by outcome) - 2022-23

Authority Name	Invalid or Incomplete	Advice Given	Referred Back for Local Resolution	Closed after Initial Enquiries	Not Upheld	Upheld	Total	Uphold rate (%)	Average uphold rate (%) of similar authorities
Burnley Borough Council	0	0	0	6	1	4	11	<b>80%</b>	59%
Chorley Borough Council	0	0	3	4	0	1	8	<b>100%</b>	59%
Fylde Borough Council	0	0	0	3	0	2	5	<b>100%</b>	59%
Hyndburn Borough Council	1	0	0	2	2	0	5	<b>0%</b>	59%
Lancaster City Council	0	1	3	4	1	1	10	<b>50%</b>	59%
Pendle Borough Council	0	0	6	4	0	1	11	<b>100%</b>	59%
Preston City Council	0	0	6	2	2	2	12	<b>50%</b>	59%
Ribble Valley Borough Council	0	0	5	4	0	1	10	<b>100%</b>	59%
Rosendale Borough Council	0	0	1	4	1	0	6	<b>0%</b>	59%
South Ribble Borough Council	1	0	3	4	0	0	8	<b>0%</b>	59%
West Lancashire Borough Council	0	1	7	9	0	1	18	<b>100%</b>	59%
Wyre Borough Council	0	0	0	0	0	2	2	<b>100%</b>	59%

# SCRUTINY ITEM

REPORT OF	MEETING	DATE	ITEM NO
INTERIM SCRUTINY MANAGER	INTERNAL AFFAIRS SCRUTINY COMMITTEE	5 SEPTEMBER 2023	7
<b>INTERNAL AFFAIRS SCRUTINY COMMITTEE WORKPLAN 2023/24</b>			

## PUBLIC ITEM

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

### PURPOSE OF THIS REPORT

To consider and agree the in-depth scrutiny reviews for Internal Affairs Scrutiny Committee for the remainder of the 2023/24 municipal year.

### SOURCE OF REFERRAL

Scrutiny training event - 7 June 2023  
 Workshop of Internal Affairs Scrutiny Committee members - 22 August 2023.

### SUGGESTED RECOMMENDATIONS

To agree the in-depth scrutiny reviews for Internal Affairs Scrutiny Committee for the remainder of the 2023/24 municipal year.

## REPORT

1. The Constitution sets out the terms of reference of both scrutiny committees (Internal Affairs and Community Focus). Both committees should keep the respective work programmes under review and establish topic-specific in-depth reviews, to be time limited.
2. An in-depth review is a major piece of work involving background research, taking evidence from several sources including face to face witnesses and consulting with relevant stakeholders on the topic under review. Each review is usually undertaken by a task and finish working group of members over several months culminating in a final report being agreed by the parent scrutiny committee which would normally include their conclusions and a set of recommendations. Given the time and resources involved to undertake and conclude a review each committee would normally only establish 2 or 3 in-depth reviews in each municipal year.
3. The Internal Affairs Scrutiny Committee at its last meeting in June agreed an in-depth review of the use of Residential Premises as Children’s Care Homes. Work is underway on this review and a series of meetings of the task and finish group are currently being arranged.
4. A training event was held in June for newly elected members of both scrutiny committees. This was facilitated by an external consultant with extensive knowledge and experience in the operation of local government scrutiny. The session included the opportunity for members to suggest topic areas for in-depth

reviews. A long list of suggestions was then prioritised. These suggestions were circulated to members of both committees.

5. Since then, the Interim Scrutiny Manager has met with the chairs and vice chairs of both scrutiny committees to discuss which topics best fit the terms of reference of each respective scrutiny committee and how the member suggestions for in-depth reviews can be further prioritised for agreement.
6. It is best practice in local government scrutiny to have a method of assessing which reviews to proceed with when there are competing demands for resources. Such assessment should ensure that agreed reviews are focused on matters that are significant, important, of public interest and relevant to the community.
7. To help with this a scrutiny topic selection assessment matrix has been developed by the Interim Scrutiny Manager in consultation with the chairs of both scrutiny committees. This is attached at appendix 1 and considers factors such as:
  - Alignment to corporate priorities
  - Is the issue strategic and significant to the borough?
  - Is the issue of public interest?
  - Risk to Council or service delivery.
  - Financial Value.
  - Is the issue of concern for partners?
  - Will the Council be able to achieve an effective outcome?

Each of the above factors is scored 1 for low priority/importance, 2 for medium priority/importance and 3 for high priority/importance. The total score for all 7 factors above is then totalled to give an overall score which can be ranked alongside other topics that have been assessed.

8. A workshop of members of the Internal Affairs Scrutiny Committee was held on 22 August. The main purpose to consider the priority list for reviews (under the terms of reference of the Internal Affairs Scrutiny Committee) which were proposed at the training event in June. These were:
  - Enforcement of council policies
  - Events policy
  - Tree Preservation Orders
  - Planning policy
  - Delivery of services
  - Rural tourism and leisure
  - Affordable housing
  - Regeneration

The following additional suggestion for a review topic was made by Councillor Gardner following the training event in June:

- FBC's approach to the Environment

9. Members at the workshop further discussed each of the above topics to better understand and define the focus of each potential review. They also noted that was work underway on some of these topics so as to ensure there was no duplication of work. As a result, the following review topics were taken forward for assessment with the scoring shown alongside:

Topic	Total score
Affordable housing	16
Regeneration	21

10. The workshop of members concluded that the following in-depth reviews are established and commenced in the remainder of 2023/24 in the following order:
  - Regeneration
  - Affordable Housing

11. The Committee is asked to consider the conclusions of the above workshop and agree the above two in-depth reviews for the Internal Affairs Scrutiny Committee.
12. Once the Committee agrees which in-depth reviews to proceed with a scrutiny review scoping report will be produced for consideration at the next meeting setting out the objectives and methodology for the reviews.

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
Fylde Borough Council Constitution	May 2023	<a href="https://fylde.cmis.uk.com/fylde/ConstitutionGovernanceMatters.aspx">https://fylde.cmis.uk.com/fylde/ConstitutionGovernanceMatters.aspx</a>

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul Walker	<a href="mailto:paul.walker@fylde.gov.uk">paul.walker@fylde.gov.uk</a>	22 August 2023

Attached documents:

Appendix 1 Scrutiny topic selection assessment matrix

# Fylde Borough Council

## Scrutiny Topic Selection Assessment

Scrutiny topic:

Assessment factor	Numerical score		
<b>Alignment to corporate priorities</b> Is the topic/policy/service referred to in the current Fylde Council corporate plan?	low <b>1</b>	medium <b>2</b>	high <b>3</b>
<b>Is the issue strategic and significant to the borough?</b> Will the issue have a significant affect/impact all or most of the borough?	low <b>1</b>	medium <b>2</b>	high <b>3</b>
<b>Is the issue of public interest?</b> Is the issue likely to be of interest to residents/businesses/the wider community?	low <b>1</b>	medium <b>2</b>	high <b>3</b>
<b>Risk to Council or service delivery.</b> Is this service area identified on the council's strategic risk register as facing challenges?	low <b>1</b>	medium <b>2</b>	high <b>3</b>
<b>Financial Value.</b> Does the issue/service consume significant costs? In the case of external organisations what is the scale of the cost of the service as delivered within Fylde Borough?	low <b>1</b>	medium <b>2</b>	high <b>3</b>
<b>Is the issue of concern for partners?</b> Is the issue/service currently the subject of concern to partners? Is it impacting on other service providers?	low <b>1</b>	medium <b>2</b>	high <b>3</b>
<b>Will the Council be able to achieve an effective outcome?</b> Will the review be able to achieve an effective outcome that will have a positive impact on partners/stakeholders or the community/Council?	low <b>1</b>	medium <b>2</b>	high <b>3</b>

Date of assessment:

Total Score

Comments/additional information:

### Total Score Result and Guidelines for Further Action

- > 14 **High Priority** - The issue/item has a high likelihood of entering the Scrutiny Work Plan but should be prioritised according to score.
- >9 **Medium Priority** – The issue has less chance of gaining a place on the Scrutiny Work Plan and should be held in abeyance.
- < 8 **Low Priority** - The issue/item should not normally gain a place on the Scrutiny Work Plan

**After selection and in the event of competing priorities, consideration should be given by committee on any necessary resources required to deliver the topic to scrutiny.**