

# Agenda

## Council



Date:

Monday, 26 January 2015 at 7.00pm

Venue:

Lowther Pavilion, West Beach, Lytham, FY8 5QQ

### Procedural Items

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<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>Confirmation of Minutes:</b> To confirm the minutes of the previous meeting, held on 1 December 2014, as a correct record, as attached.	<b>3 - 10</b>

### Information Items

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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](http://www.fylde.gov.uk/council-and-democracy/constitution)

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# Minutes Council

<b>Date:</b>	Monday, 1 December 2014
<b>Venue:</b>	Lowther Pavilion, Lytham
<b>Members:</b>	<p>Mayor (Councillor Kevin Eastham) Deputy Mayor (Councillor Karen Henshaw JP)</p> <p>Councillors Brenda Ackers, Ben Aitken, Christine Akeroyd, Frank Andrews, Tim Armit, Susan Ashton, Tim Ashton, Mark Bamforth, Keith Beckett, Karen Buckley, David Chedd, Maxine Chew, Alan Clayton, Peter Collins, Simon Cox, Fabian Craig-Wilson, Susan Cunningham, John Davies, Leonard Davies, David Donaldson, Charlie Duffy, David Eaves, Sue Fazackerley, Dr Trevor Fiddler, Tony Ford JP, Gail Goodman JP, Nigel Goodrich, Peter Hardy, Paul Hayhurst, Howard Henshaw ADK (MALAYSIA), Paul Hodgson, Ken Hopwood, Angela Jacques, Cheryl Little, Kiran Mulholland, Barbara Nash, Edward Nash, Linda Nulty, Elizabeth Oades, Dawn Prestwich, Albert Pounder, Richard Redcliffe, Louis Rigby, Elaine Silverwood, John Singleton JP, Thomas Threlfall, Vivienne M Willder.</p>
<b>Officers:</b>	Allan Oldfield, Tracy Morrison, Paul O'Donoghue, Ian Curtis, Paul Swindells, Andrew Turpin, Colin Dockery, Ross McKelvie, Sharon Wadsworth and Katharine McDonnell.
<b>Other attendees:</b>	Reverend Alan Clark and approximately 6 members of the public.

## Prayers

Prayers were offered by the Mayor's Chaplin, the Reverend Alan Clark.

### 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.

Councillors Andrews and Chedd declared an interest in agenda item 11, Council Tax Discounts and Premiums. They withdrew during the consideration and voting on this item.

Councillors T Ashton, Armit, Buckley, Duffy, Dr Fiddler, Mulholland and Threlfall declared an interest in agenda item 11, Council Tax Discounts and Premiums and agenda item 12, Council Tax Reduction Scheme. They withdrew from the meeting during the consideration and voting on these items.

### 2. Confirmation of minutes

**RESOLVED:** To approve the minutes of the Council meeting, held on 6 October 2014, as a correct record for signature by the Mayor.

### 3. Mayor's Announcements

The Mayor, Councillor Kevin Eastham, on behalf of all members of the Council thanked Councillor Eaves for his leadership of the Council. The Mayor described Councillor Eaves as diplomatic, courteous with a quietly determined manner. He added that the Council had been well served by his leadership and that the Council appreciated his work, time and efforts. The Mayor wished Councillor Eaves well for the future.

The Mayor provided a summary of his recent engagements giving special mention to a most fitting Remembrance Service at Manchester Cathedral. He exhibited the winners' cup presented to Fylde Borough Council for having the most category winners in the recent North West in Bloom awards. In doing so he paid special tribute to the work of all the volunteer village and town teams around the Borough who had worked so hard to achieve the accolades.

The Mayor also mentioned an emotional but special evening at Radio Wave's Local Heroes award ceremony.

### 4. Chief Executive's Communications

The Chief Executive echoed the comments of the Mayor, thanking Councillor Eaves for his leadership and service.

The Chief Executive thanked members for their support of the Homestart initiative and reminded those who had not yet contributed but wished to, had until 12 December to do so.

### 5. Questions from Members of the Council

There were no questions from members of the Council on this occasion.

### 6. Questions from Members of the Public

There were no questions from members of the public on this occasion.

### 7. Election of Leader of the Council

Councillor Karen Buckley proposed Councillor Susan Fazackerley as Leader of the Council for the remainder of the municipal year. In doing so she paid tribute to the outgoing Leader, Councillor David Eaves, thanking him for his contribution to the borough of Fylde during a time of particular change and economic challenge.

Councillor Buckley advised the Council that Councillor Fazackerley had been elected in 1987 to represent Central ward. She had served on Tourism and Leisure committee and Policy and Resources committee; had served as Mayor of the Borough in 2006; had been appointed as Portfolio Holder for Tourism and Leisure in 2009, and appointed Deputy Leader of the Council in 2010.

Councillor Fabian Craig-Wilson seconded the proposal, and it was RESOLVED unanimously to elect Councillor Susan Fazackerley Leader of Fylde Borough Council for the remainder of the municipal year 2014/2015.

### 8. Appointment to Outside Bodies

Councillor Fazackerley advised that as a result of the resignation of Councillor David Eaves as Leader of the Council, two vacancies had arisen on Outside Bodies which needed to be

filled. She advised that these were Conservative vacancies for the purposes of political balance.

Councillor Fazackerley requested that Council confirmed the appointment of Councillor Cheryl Little to the Police Crime Commissioner Panel, and Councillor Albert Pounder to the Three Tier Forum.

Councillor Thomas Threlfall seconded the proposal and following a show of hands it was RESOLVED that;

1. Councillor Cheryl Little be appointed to the Lancashire Police Crime Commissioner Panel for the remainder of the municipal year 2014/2015; and
2. Councillor Albert Pounder be appointed to the Three Tier Forum for the remainder of the municipal year 2014/2015.

#### 9. Governance Arrangements

Councillor Fazackerley introduced the report detailing the changes required to enable the move to a committee system of governance. In introducing the report she made reference to the work of the cross-party working group under the chairmanship of the independent Local Government Association peer member Councillor Glenn Sanderson.

Councillor Fazackerley commented that she was particularly heartened by the spirit of partnership and amicable nature of the meetings as the group worked hard to reach a consensus or where that was not possible to put forward alternative options or a statement of guiding principal.

In proposing the report, Councillor Fazackerley advised that the recommendations were as stated with the exception of two amendments, firstly that the name of the Health and Housing Committee be amended to Environment, Health and Housing Committee; and secondly that in regards to arrangements for substitutes that the Council adopt Option 2 as set out in Appendix 4 of the report.

She concluded by thanking the group for their wisdom and commitment and thanked the officers for their work and support.

Councillor Buckley seconded the proposals.

Councillor Elizabeth Oades proposed an amendment to the motion, seconded by Councillor David Chedd, that in regards to arrangements for substitutes the Council adopt Option 1 as set out in Appendix 4 of the report.

Following a lengthy discussion regarding the merits of each option, there was a show of hands and the amendment was lost.

Returning to the substantive motion, there was further debate including comments regarding committee size, and following a show of hands it was RESOLVED;

1. that the terms of reference of the new programme committees be as set out in Appendix 1 to the report with the exception of title of the Health and Housing Committee, which be amended to Environment, Health and Housing Committee;
2. that the role of the Leader of the Council be as set out in paragraph 15 of the report;
3. to adopt the revised protocols and procedures for setting and monitoring the council's budget, incorporating the revised schedule of meetings, set out in Appendix 2 to the report;

4. to adopt the rules for referral and recovery set out in Appendix 3 to the report;
5. to agree to the arrangements for taking urgent decisions set out in paragraph 21 of the report;
6. that in regards to arrangements for substitutes under the committee system option 2 as outlined in Appendix 4 to the report be adopted;
7. Mandate the Director of Resources to produce an amended version of the constitution incorporating the changes set out in resolutions 1-6 above and such further technical or administrative changes as are necessary or appropriate for the council's transition to a committee system; and
8. Request the Director of Resources to bring a report to the meeting of the council on March 30th 2015 requesting that the council adopt its new constitution with effect from its 2015 annual meeting.

10. Dispensation to Allow Town and Parish Councillors to Participate in Council Tax Reduction Scheme Item

The Mayor presented a report regarding dispensation to allow Town and Parish councillors to participate in the Council Tax Reduction Scheme item. He informed members that the purpose of the report was to ensure that councillors who were also Town and Parish councillors could participate in the discussion about and vote on the item in relation to the Council Tax Reduction Scheme, with reference to the allocation of a grant to Town and Parish Councils.

Tracy Morrison, Monitoring Officer, advised that Councillors E Nash, K Henshaw, Ford, Chew, Jacques, Silverwood, Little, Nulty, Singleton, Hodgson, Akeroyd, Willder, Beckett, Chedd, Clayton, Dr Fiddler, Oades, Pounder, Prestwich, Threlfall, Rigby, Hayhurst and Hardy had all applied for dispensation prior to the Council meeting.

The Mayor proposed, and the Deputy Mayor seconded the recommendation in the report.

Following a show of hands in favour of the proposal, it was RESOLVED:

That dispensations are given to councillors who have requested the same in relation to the Council Tax Reduction Scheme item contained later on the agenda for Council meeting of 1 December 2014 in so far as the allocation of a grant to Town and Parish Councils was concerned.

11. Review of Council Tax Discounts and Premiums

Councillor Fabian Craig-Wilson introduced a report regarding a review of the Council Tax Discounts and Premiums chargeable by the Council. The report set out the issues to be considered and the options available to the Council for its Charging Policy from April 2015.

Councillor Craig-Wilson explained that each of the recommendations were consistent with the resolutions of the Policy Development Scrutiny Committee, who considered the matter at its meeting on 13 November 2014.

Councillor Fabian Craig-Wilson proposed the recommendations in the report, which were seconded by Councillor John Singleton.

Following a show of hands in favour of the proposals, it was RESOLVED that with effect from 1 April 2015:

1. To continue the current Council Tax discounts and premiums regime for 2015/16.

## 12. Council Tax Reduction Scheme 2015/2016 Including Grants to Town and Parish Councils

Councillor Fabian Craig-Wilson presented a report which provided the background to the implementation of the Council Tax Reduction Scheme (CTRS) in April 2013. She advised that the scheme had to be reviewed and renewed each year. Councillor Craig-Wilson set out the considerations and the options available to the Council in adopting a scheme for 2015/16.

The Councils Revenue Budget and Financial forecast for 2015/16 onwards had been prepared on the basis of an assumption that the CTRS would be fully self-funding, at no additional cost to Fylde Borough Council or the major preceptors.

The report also addressed the question of the payment of grants to Town and Parish Councils in relation to changes arising from the introduction of a local CTRS and outlined the options available to the Council in that regard.

Councillor Craig-Wilson explained that the detail of the report had been considered by Policy Development Scrutiny Committee at its meeting of 13 November 2014, and the recommendations set out were again consistent with those made by the Committee.

Councillor Fabian Craig-Wilson proposed and Councillor John Singleton seconded that the recommendations contained in the report be approved.

Following a show of hands in favour of the proposals, it was RESOLVED:

1. to retain the currently implemented key features of the Council Tax Reduction Scheme for 2015/16, with a projected nil cost to the Council and the major preceptors and the 22.7% maximum reduction in the level of support to working age claimants;
2. to adopt option 2 as set out in Section 5 of the report for payments of grants to Town and Parish Councils. That is, in 2015/16 for Fylde Borough Council to agree to fund Town and Parish Councils to compensate them for losses in income as a consequence of the Council Tax Reduction Scheme impact in a total sum which reflects the estimated funding reductions that will apply to Fylde Borough Council for 2015/2016. This reduction would equate to 4.4%, with approximately £68,800 to be distributed as set out in Appendix E;
3. that the distribution methodology for payment of grants to Town and Parish Councils relating to the introduction of the Council Tax Reduction Scheme as described in section 5.10 of the report would be such that the grant allocation would be calculated by reference to the tax-base of each Town and Parish Council excluding the impact of Council Tax Reduction Scheme and the revised tax-base under the 2015/16 Council Tax Reduction Scheme regime, which was consistent with the methodology applied in respect of 2014/2015 grant allocations;
4. that the Council Tax Reduction Scheme continues to provide funding for Discretionary Hardship Relief in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012 as detailed in section 4 of the report; and
5. to authorise the Section 151 Officer to make payments to Town and Parish Councils within Fylde Borough in 2015/2016 in relation to the Council Tax Reduction Scheme.

## 13. Financial Forecast Update (Including Revenue, Capital & Treasury Management) 2014/15 to 2018/19

Councillor Buckley introduced the financial forecast update (including revenue, capital & treasury management) for the period 2014/15 to 2018/19. She advised the report was a mid-year position which included any changes which had arisen since the budget was set in March 2014.

Councillor Buckley drew members' attention to the risks detailed in the report, particularly those arising from the ending of the waste recycling cost sharing arrangements with Lancashire County Council in 2018.

Councillor Buckley proposed the report and it was seconded by Councillor Fazackerley.

Following a show of hands it was RESOLVED to note the report and the implications of the updated financial forecast.

#### 14. Mid Year Prudential Indicators and Treasury Management Monitoring Report 2014/15

Councillor Singleton presented the mid-year prudential indicators and treasury management monitoring report, which he advised the Council had a duty to scrutinise in line with the recommendations of CIPFA (Chartered Institute of Public Finance Accountants) Code of Practice on Treasury Management 2011.

He further advised that the Audit Committee had scrutinised the report at its meeting on 20 November 2014 and had recommended it to Council for approval.

Councillor Singleton advised that the Council currently had borrowing of £3.8m, but no additional external borrowing had occurred during the 2014/2015 financial year. He further advised that the Council had a requirement to fund a further £3.0m for 2014/15 but this was funded by internal borrowing on the advice of the Council's Treasury Advisors.

He explained that £1.5m of external debt would be repaid in December 2014, reducing the level of external borrowing to £2.3m.

Councillor Singleton drew the Committee's attention to a new EU directive, due for implementation in January 2015. He explained that the Directive stopped government bail-outs of failing banks. Instead shareholders and creditors would bear the cost. The European Parliament had also approved revisions to the Deposit Guarantee Schemes Directive, which would increase the amount of loss local authorities would incur if a bank, in which the authority had deposits, failed. As a consequence of these changes, the Council's Treasury Advisors considered that some major UK banks may have their credit rating downgraded.

In anticipation of these changes the Audit Committee had recommended to Council amendments to the Investment Strategy, to allow the Council to invest in BBB+ rated banks and building societies, in limited amounts for short periods as set out in the report.

In concluding his presentation, Councillor Singleton thanked the Finance team for all their hard work.

In response to concerns raised by Councillor Howard Henshaw, Councillor Buckley advised that the Council would always seek to invest in the highest-rated institutions possible.

Councillor Singleton proposed and Councillor Brenda Ackers seconded the report, and following a show of hands it was therefore RESOLVED

1. That the revised Investment Strategy, including the amendment to the Strategy to allow investment in banks and building societies rated BBB+ or above for short periods of time as described at section 5 of the report to Committee, be approved; and
2. That the revised Prudential Indicators and Limits in Appendix B of the report to Committee be approved.

*(Councillor Howard Henshaw requested that his name be recorded as voting against the recommendations)*



15. Park View Playing Field – Sand & Water Play Facility - Fully Funded Addition to the Capital Programme

Councillor Fazackerley presented a report detailing an addition to the capital programme of a scheme to provide a sand and water play facility at Park View playing field, fully funded from a capital grant of £272,084 from the Coastal Communities Fund.

Councillor Fazackerley explained that Park View 4U Charitable Trust had been awarded a grant of £395,084 from the Coastal Communities Fund. She further explained that the grant was split into a capital grant and a revenue grant, with all tendering, procurement and project management costs to be met by the capital grant.

It was explained that officers from the Parks and Greenspace, and Technical Services, would deliver the project including payment to and supervision of the successful contractor. On successful completion of the project, Park View 4U would pay the Council £272,084 for their services.

The Council was asked to approve the inclusion of the project as an addition to the Council's capital programme.

Councillor Fazackerley proposed the addition to the capital programme and it was seconded by Councillor Cheryl Little.

Following a show of hands, it was RESOLVED to approve an addition to the Council's Capital Programme for 2015/2016 in the sum of £272,084 to be fully-funded from a grant from the Coastal Communities Fund in the same sum.

16. Replacement of Motorised Boats at Fairhaven Lake

Councillor Fazackerley presented a report regarding an addition to the Council's capital programme in the sum of £55,000 in 2014/2015 for the replacement of motorised boats at Fairhaven Lake, to be fully funded from the capital investment reserve.

Councillor Fazackerley explained that following a health and safety inspection in August 2014, it was deemed that only 4 of the current 17 teak boats could be refurbished and then classed as "sea-worthy" for the forthcoming season. It was proposed that therefore to replace the motorised teak boats with 10 fibre glass, electric boats.

It was explained that the boats were very popular with the visiting public, and if the Council were to only run a non-motorised service it would result in a significant loss of income.

Councillor Fazackerley advised that if Council were minded to approve the addition to the capital programme it would enable the procurement of the new boats in time for the start of the season at Easter.

Councillor Fazackerley proposed the addition to the capital programme and it was seconded by Councillor Little.

Following a show of hands, it was RESOLVED to approve an addition to the Council's capital programme in the sum of £55,000 in 2014/2015 to be fully funded from the capital investment reserve.

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REPORT OF	MEETING	DATE	ITEM
RESOURCES DIRECTORATE	COUNCIL	26 JANUARY 2015	6

## QUESTIONS FROM MEMBERS OF THE PUBLIC

### PUBLIC ITEM

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

### SUMMARY

No questions for Council have been received from the public before the deadline for publication of the agenda.

Any further questions received before the deadline for questions, as outlined in Standing Order 9 in Part 4 of the Council's Constitution, will be circulated prior to the meeting for members' information, under separate cover.

Any question(s) will be read out during the Council meeting on 26 January 2015 by the Chief Executive. A response will be given by the relevant Cabinet Member.

# REPORT

REPORT OF	MEETING	DATE	ITEM
RESOURCES DIRECTORATE	COUNCIL	26 JANUARY 2015	7

## INVITATION TO ACCEPT APPOINTMENT AS MAYOR 2015/16

### PUBLIC ITEM

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

### SUMMARY

To invite a member of the Council to accept appointment as Mayor of the Borough of Fylde for the ensuing municipal year.

### RECOMMENDATION

That the Council invites Councillor Peter Hardy to accept appointment at the 2015 Annual Meeting as Mayor of the Borough of Fylde for the municipal year 2015/16.

### CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Finance and Resources - Councillor Karen Buckley

### CORPORATE PRIORITIES

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

### SUMMARY OF PREVIOUS DECISIONS

The Council is invited to appoint a Mayor of the Borough of Fylde annually.

### REPORT

1. Members are invited to consider nominations for the position of Mayor for the municipal year 2015/16.

2. It is understood that Councillor Peter Hardy will be nominated.

<b>IMPLICATIONS</b>	
Finance	Provision is contained within the council budget for the Mayoralty.
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

<b>LEAD AUTHOR</b>	<b>TEL</b>	<b>DATE</b>	<b>DOC ID</b>
Tracy Morrison	01253 658521	18 December 2014	

<b>LIST OF BACKGROUND PAPERS</b>		
<b>Name of document</b>	<b>Date</b>	<b>Where available for inspection</b>
None		

Attached documents

None

# REPORT

REPORT OF	MEETING	DATE	ITEM
RESOURCES DIRECTORATE	COUNCIL	26 JANUARY 2015	8

## INVITATION TO ACCEPT APPOINTMENT AS DEPUTY MAYOR 2015/16

### PUBLIC ITEM

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

### SUMMARY

To invite a member of the Council to accept appointment as Deputy Mayor of the Borough for the ensuing municipal year.

### RECOMMENDATION

- To accept invitation of a member of the Council at the 2015 Annual Meeting as Deputy Mayor of the Borough of Fylde for the municipal year 2015/16.

### CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Finance and Resources - Councillor Karen Buckley

### CORPORATE PRIORITIES

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

### SUMMARY OF PREVIOUS DECISIONS

The Council is invited to appoint a Mayor and Deputy Mayor of the Borough of Fylde annually.

### REPORT

- Members are invited to receive nominations for the position of Deputy Mayor for the municipal year 2015/16.

IMPLICATIONS	
Finance	An allowance is paid to the Deputy Mayor which is budgeted for within the Council's base budget.
Legal	The report is presented in accordance with the Council's Constitution.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

LEAD AUTHOR	TEL	DATE	DOC ID
Tracy Morrison	01253 658521	18 December 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
The Policy on the Operation of the Mayoralty	March 2013	<a href="http://www.fylde.gov.uk/council/mayor/">http://www.fylde.gov.uk/council/mayor/</a>

Attached documents

None

# REPORT

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	26 JANUARY 2015	9

## MEMBERS' ALLOWANCES

### PUBLIC ITEM

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

### SUMMARY

The independent remuneration panel has agreed on recommendations for councillors' allowances for the financial year 2015-16. The recommendations are detailed below. The report asks members to consider the recommendations and adopt them if appropriate.

### RECOMMENDATION

Adopt the following recommendations of the independent remuneration panel with effect from 1 April 2015:

1. *Maintain the present level of basic allowance (£3,500) for 2015 – 16.*
2. *To continue to pay travel and subsistence allowances, with an increase to the members' mileage rate to 45p per mile*
3. *To place a time limit of three months on claims, i.e. claims must be made within 3 months of the meeting or travel occurring. Any claims made after 3 months would not be paid.*
4. *To recognise the change in governance with the following changes to the Members special responsibility allowance:-*
  - *Leader of the Council - £6,000*
  - *Deputy Leader of the Council - £3,000*
  - *Chairmen of the Development Management, Finance and Democracy, Operational Management, Environment Health and Housing, Tourism and Leisure, Audit and Standards Committees - £3250.00.*
  - *Vice-Chairmen of the above Committees - 50% of Chairmen's allowance -£1,625.00.*
  - *Chairmen of the Public Protection and Licensing Committees - £1,625.00.*
  - *Vice-Chairmen of the above Committees - 50% of Chairmen's allowance -£812.50.*
  - *Leader of each political group - £32 per group member.*
5. *To continue to the payment of £250 per annum to the three Independent persons, who work*



*with the Standards and Audit Committee and the Monitoring Officer*

6. *To continue to pay dependents' carers' allowance at the current rate*

#### **CABINET PORTFOLIO**

This item falls within cabinet portfolio:

Finance and Resources - Councillor Karen Buckley

#### **CORPORATE PRIORITIES**

To Promote the Enhancement of The Natural & Built Environment ( <b>Place</b> )		To Encourage Cohesive Communities ( <b>People</b> )	
To Promote a Thriving Economy ( <b>Prosperity</b> )		To Meet Expectations of our Customers ( <b>Performance</b> )	v

#### **SUMMARY OF PREVIOUS DECISIONS**

Council considers recommendations from the independent remuneration panel each year. Last municipal year the recommendations were reported to the council on 2 December 2013. The recommendation was to maintain the existing level of basic allowance. Council accepted the recommendation.

#### **REPORT**

1. The Local Authorities (Members' Allowances) (England) Regulations 2003 provide for local authorities to establish and maintain an independent remuneration panel. The purpose of the panel is to make recommendations to the council about the allowances to be paid to elected members.
2. The council must have regard to the recommendations of the panel.
3. Local authorities must include in their scheme of allowances a basic allowance, payable to all members, and may include provision for the payment of special responsibility allowances and dependants' carers' allowance. The Regulations allow the inclusion of a travel and subsistence and a co-optees' allowance within an allowances scheme. These allowances are discretionary.
4. The independent panel has met and has made recommendations concerning the council's scheme, with particular regard to change in the Council's governance arrangements in May 2015.
5. The independent panel has made recommendations in regards to special responsibility allowances, whilst being mindful of the Council's budget.
6. Members are asked to consider the three appendices to this report:
  - Appendix 1: The report to the independent panel;
  - Appendix 2: A note of the panel's deliberations and recommendations; and
  - Appendix 3: The allowances scheme, as it would appear following the implementation of the panel's recommendations.

IMPLICATIONS	
Finance	The provision for the cost of Members' Allowances within the approved revenue budget for 2014/15 is in the sum of £240,138. There is no assumed increase to this budget in respect of future years. Any increases in allowance levels would therefore result in increased revenue costs in future years which would require approval by Council in due course.
Legal	Payment of members' allowances and the amount of such allowances is discretionary. However, the council is obliged to "have regard" to the recommendations of the independent panel.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
Ian Curtis	01253 68506	4 December 2014	

LIST OF BACKGROUND PAPERS		
Report to remuneration panel	19 November 2014	Town Hall, Lytham St Annes
Notes of remuneration panel meeting	19 November 2014	Town Hall, Lytham St Annes

Attached documents

Appendix 1: The report to the independent panel;

Appendix 2: A note of the panel's deliberations and recommendations

Appendix 3: The allowances scheme, as it would appear following the implementation of the panel's recommendations.

# REPORT

REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	MEMBERS' ALLOWANCES INDEPENDENT REMUNERATION PANEL	19 NOVEMBER 2014

## MEMBERS' ALLOWANCES

### PUBLIC/EXEMPT ITEM

This item is for consideration in a meeting that is not open to the public.

### SUMMARY

To brief members of the remuneration panel on the factors that may affect their consideration of the proper level of allowances for members of Fylde Council. Panel members will need in particular to consider changes in the roles and responsibilities of councillors that flow from the council's change from a cabinet form of governance to a committee system.

### RECOMMENDATIONS

- Members are asked to reach recommendations for the financial year 2015-16 about:
  - The level of basic allowance payable to all councillors
  - Which councillors are to receive special responsibility allowances
  - The levels of special responsibility allowances
  - Whether to continue to pay dependants' carers' allowance and, if so, whether to cap the rates payable
  - Whether to continue to pay travel and subsistence allowances and, if so, of how much; and
  - What allowance (if any) to pay in respect of independent persons appointed in conjunction with the standards machinery.

### SUMMARY OF PREVIOUS DECISIONS

The Independent Remuneration Panel last met, to review Members' Allowances, on 17 October 2013.

## REPORT

### Introduction

- As panel members will recall, the Local Authorities (Members' Allowances) (England) Regulations 2003 provide for local authorities to establish and maintain an independent

remuneration panel. The purpose of the panel is to make recommendations to the council about the allowances to be paid to elected members.

2. The council must have regard to the recommendations of the panel.
3. Local authorities must include in their scheme of allowances a basic allowance, payable to all members, and may include provision for the payment of special responsibility allowances and a dependants' carers' allowance. The Regulations allow the inclusion of a travel and subsistence and a co-optees' allowance within an allowances scheme. These allowances are discretionary.
4. The existing members' allowances scheme, adopted by the council following consideration of the recommendations of the independent remuneration panel, and which is subject to review in respect of the period commencing 1 April 2015, is as set out as appendix 1. For convenience, the levels of basic and special responsibility allowances presently payable are set out in paragraph 26.
5. Paragraphs 10 to 25 below are based on previously published guidance from the Department for Communities and Local Government on members' allowances, subject to deletion of material now superseded and material not now applicable to Fylde.
6. In summary, the allowances which are or may be payable to members of local authorities are as follows:
  - basic allowance
  - special responsibility allowance
  - dependants' carers' allowance
  - travelling and subsistence allowance.

#### **Financial settlement**

7. The latest announcements by the Department of Communities and Local Government are of further reductions in funding to local authorities for future years. This comes on top of previously announced (and implemented) public sector funding reductions which have impacted to a significant extent upon the Councils overall financial position.
8. These reductions in funding have meant that the Council has needed to take significant steps to reduce expenditure in the current and future years. Based on the latest forecast position the Council currently has a recurring funding shortfall in future years which is unsustainable in the long-term. Consequently the Council continues to explore, and implement where possible, all opportunities to reduce expenditure including taking advantage of efficiency-savings achieved through the restriction on non-essential spending.
9. The annual budgeted cost of members' allowances and expenses to the council based on the amount estimated for 2014/15 under the present scheme is set out in Table 1 –

Table 1 – Annual Estimated Members Allowances & Expenses – Budget provision 2014/15

Basic Allowances	£178,500
Independent Person Allowances	£750
Special Responsibility Allowances	£60,888
National Insurance	£925

Car Mileage	£5,000
Total Estimated Cost	<b>£246,063</b>

### **Basic allowance**

10. Each local authority must make provision in its scheme of allowances for a basic, flat rate allowance payable to all members of the authority. The allowance must be the same for each member. The allowance may be paid in a lump sum, or in instalments through the year.
11. Basic allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes.

### **Special responsibility allowance**

12. Each local authority may also make provision in its scheme for the payment of special responsibility allowances for those councillors who have significant responsibilities. Special responsibility allowance may be payable for duties which fall within the following categories:
  - acting as leader or deputy leader of a political group
  - presiding at meetings of a committee, sub-committee, or joint committee
  - representing the authority at meetings of another body
  - membership of a committee or sub-committee which meets with exceptional frequency or for exceptionally long periods
  - acting as a spokesperson for a political group on a committee or sub-committee
  - membership of a panel dealing with licensing or controlling any activity
  - any other activities in relation to the discharge of the authority's functions as to require equal or greater effort of the member than any of the activities listed above.
13. A scheme must also specify the amounts of allowance to be paid for each such responsibility.
14. Where, as at Fylde, one political group is in control, and where an authority has decided to pay special responsibility allowances, the authority must make provision for the payment of a special responsibility allowance to at least one member of a minority group.

### **Dependants' carers' allowance**

15. A scheme of allowances may also include the payment of a dependants' carers' allowance to those councillors who incur expenditure for the care of children or other dependants whilst undertaking particular duties. These duties are specified in the Regulations and are as follows:
  - a meeting of the authority
  - a meeting of a committee or sub-committee of the authority
  - a meeting of some other body to which the authority make appointments or nominations, or
  - a meeting of a committee or sub-committee of a body to which the authority make appointments or nominations

- a meeting which has both been authorised by the authority, a committee, or subcommittee of the authority, and to which representatives of more than one political group have been invited
- a meeting of a local authority association of which the authority is a member
- duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises
- any other duty approved by the authority in connection with discharging the duties of the authority or its committees or sub-committees.

### **Travelling and subsistence allowance**

16. Each local authority may also make provision in its scheme for the payment of a travelling and subsistence allowance to its members.
17. This may include provision for the payment of an allowance for those members who travel by bicycle or other non-motorised transport.
18. The Regulations provide that travelling and subsistence allowances may be paid for:
  - a meeting of the authority
  - a meeting of a committee or sub-committee of the authority
  - a meeting of some other body to which the authority make appointments or nominations
  - a meeting of a committee or sub-committee of a body to which the authority make appointments or nominations
  - a meeting which has both been authorised by the authority, a committee, or subcommittee of the authority or a joint committee of the authority and one or more other authorities, and to which representatives of more than one political group have been invited
  - a meeting of a local authority association of which the authority is a member
  - duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises
  - any other duty approved by the authority in connection with discharging the duties of the authority or its committees or sub-committees.

### **Backdating of Allowances**

19. When a scheme of allowances is amended, an authority may choose to apply the amendment retrospectively to the beginning of the financial year in which the amendment is made.
20. Where a councillor takes on duties entitling them to a different level of allowances (e.g. where a councillor is appointed to a position entitling them to special responsibility allowance), the new level of allowances may be applied retrospectively to the time at which the circumstances changed.
21. Independent remuneration panels may make recommendations, where relevant, as to whether the payments on which they have made a recommendation may be backdated. Authorities will be required to have regard to these recommendations.

### Annual Adjustments of Allowance levels

22. A scheme of allowances may make provision for an annual adjustment of allowances to be ascertained by reference to an index as may be specified by the authority and contained in the scheme. The scheme must be publicised each year, whether or not it has been amended.
23. Where the only change made to a scheme is that caused by the annual impact of an index contained within that scheme, the scheme shall not be deemed to have been amended, and thus an authority will not have to seek a recommendation from its independent remuneration panel.
24. Where a panel makes a recommendation that allowance levels should be determined according to an index, it should also make a recommendation as to how long the index should run before reconsideration. In any case, an index may not run for more than four years before a further recommendation on it is sought from an independent remuneration panel.

### Forgoing allowances

25. A scheme must provide that a person may forgo all or part of any allowances to which they are entitled. To do this they must give notice in writing to the proper officer of the authority.

### Basic and special responsibility allowances at Fylde Council

26. The present allowances scheme at Fylde provides for a basic allowance of £3,500 and the following special responsibility allowances:  
 Leader of the Council - £6,000.00.  
 Members of the Executive Cabinet - £4,000.  
 Chairmen of the Policy Development Scrutiny Committee, the Community Focus Scrutiny Committee and the Development Management Committee - £3250.00.  
 Vice-Chairmen of the above Committees - 50% of Chairmen's allowance -£1,625.00.  
 Chairmen of the Public Protection and Licensing Committees - £1,625.00.  
 Vice-Chairmen of the above Committees - 50% of Chairmen's allowance -£812.50.  
 Chairman of the \*Standards Committee - £1,900.00  
 Vice –chairman of the Standards Committee - £950.00  
 Chairman of the Audit Committee - £1,980  
 Vice-chairman of the Audit Committee - £990  
 Leader of each political group - £32 per group member.  
 \* N.B Independent persons, who work with the Standards Committee and the monitoring

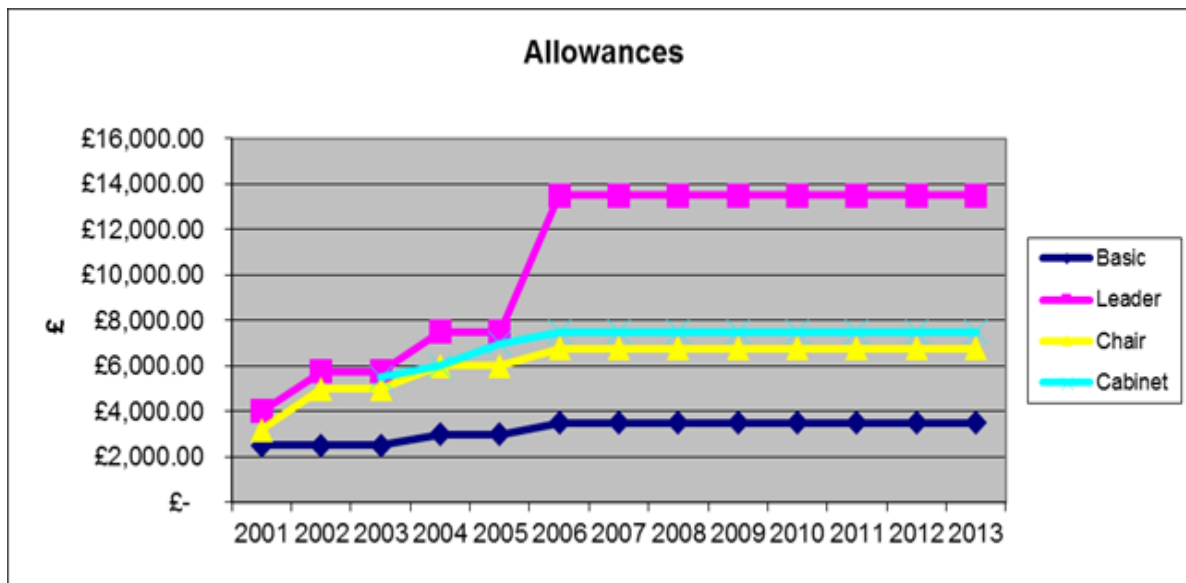
### Historical data

27. The following table and graph<sup>1</sup> shows allowance levels at Fylde since 2001 :

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<sup>1</sup> The allowance shown leader includes his basic allowance and his special responsibility allowance as a cabinet member, as well as the leader's allowance; the allowance shown for cabinet member includes basic allowance.

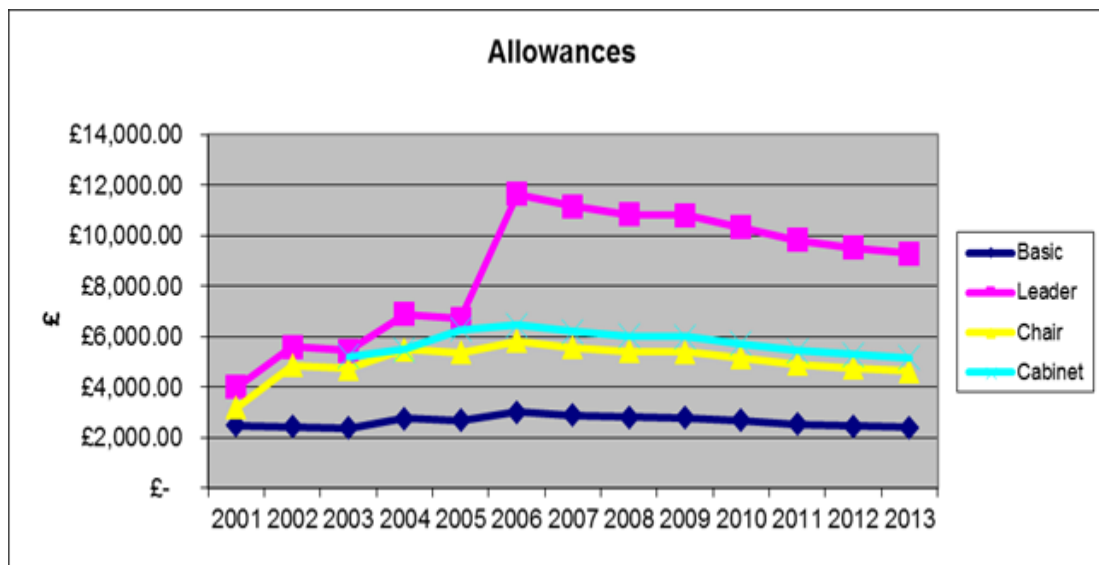
	Basic	Leader	Chair	Cabinet
2001	£2,500.00	£ 4,000.00	£3,200.00	
2002	£2,500.00	£ 5,750.00	£5,000.00	
2003	£2,500.00	£ 5,750.00	£5,000.00	£5,500.00
2004	£3,000.00	£ 7,500.00	£6,000.00	£6,000.00
2005	£3,000.00	£ 7,500.00	£6,000.00	£7,000.00
2006	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2007	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2008	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2009	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2010	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2011	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2012	£3,500.00	£13,500.00	£6,750.00	£7,500.00
2013	£3,500.00	£13,500.00	£6,750.00	£7,500.00





28. The following table and graph<sup>2</sup> shows the same data adjusted for inflation since 2001:

	Basic	Leader	Chair	Cabinet
2001	£2,500.00	£ 4,000.00	£ 3,200.00	
2002	£2,435.47	£ 5,601.57	£ 4,870.93	
2003	£2,375.48	£ 5,463.60	£ 4,750.96	5,226.05
2004	£2,755.56	£ 6,888.89	£ 5,511.11	5,511.11
2005	£2,690.08	£ 6,725.21	£ 5,380.17	6,276.86
2006	£3,021.38	£11,653.90	£ 5,826.95	6,474.39
2007	£2,897.47	£11,175.97	£ 5,587.98	6,208.87
2008	£2,812.96	£10,850.00	£ 5,425.00	6,027.78
2009	£2,805.17	£10,819.94	£ 5,409.97	6,011.08
2010	£2,679.01	£10,333.33	£ 5,166.67	5,740.74
2011	£2,547.59	£ 9,826.42	£ 4,913.21	5,459.12
2012	£2,473.94	£ 9,542.35	£ 4,771.17	5,301.30
2013	£2,410.15	£ 9,296.31	£ 4,648.16	£5,164.62



<sup>2</sup> The allowance shown for leader includes his basic allowance and his special responsibility allowance as a cabinet member, as well as the leader's allowance; the allowance shown for cabinet member includes basic allowance

### Comparisons with other authorities

29. Officers have carried out a survey of current members' allowances schemes, which is included as appendix 2. The survey covers all other district councils in Lancashire. It is considered to be more relevant and reliable than the latest Local Government Association data, which dates back to 2008. The comparative information below is taken from this survey except where noted. Members will note that Blackburn with Darwen and Blackpool are unitary authorities, which deal with the whole range of council functions.
30. Other district councils have changed to a committee system since the Localism Act 2011 made it possible to do so. The spreadsheet at appendix 2 includes information about allowances payable by four such authorities.
31. For ease of reference, I set out comparisons between Fylde and relevant averages below:
- The basic allowance at Fylde (£3,500) is **below** the average for all councils in Lancashire (£4,010) and **below** the average for shire districts in Lancashire (£3,516).
  - The special responsibility allowance for the leader of the council at Fylde (£6,000) is **below** the average for all councils in Lancashire (£12,004) and **below** the average for shire districts in Lancashire (£10,782).
  - Fylde does presently pay a dependent/carer's allowance. 177 out of 203 shire districts<sup>3</sup> surveyed also pay such an allowance, as do 31 out of 37 of all councils in the North West and 15 out of 21 of shire districts in the North West. Fylde's dependent carer's allowance is paid at cost. Other authorities pay an hourly rate. The average hourly rate paid by shire districts is £8.16. The average hourly rate paid by councils in the North West is £6.61. The average hourly rate paid by shire districts in the North West is £6.74. There is no specific budget provision for this allowance as difficult to forecast, as it will vary each year. At time of writing, no payments are believed to have been made for 2014/15.
  - Fylde does presently pay travel and subsistence allowances. 193 out of 203 shire districts surveyed<sup>4</sup> pay subsistence allowance, and 197 pay travel allowance. 33 out of 37 of all councils in the North West pay subsistence allowance and 35 also pay travel allowance. 18 out of 21 shire districts in the North West pay subsistence allowance and 20 also pay travel allowance.

### Specific issues: governance change

32. In May 2015, Fylde Council's system of governance will change from a Leader and Cabinet (England) form of executive arrangements to a committee system. The panel will need to consider carefully how the new structure should be reflected in the allowances scheme.
33. The present scheme provides for special responsibility allowances to be paid for the following roles, which will be discontinued: cabinet members, chairmen and vice-chairmen

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<sup>3</sup> Information from 2008 LGA survey

<sup>4</sup> Information from 2008 LGA survey

of scrutiny committees, chairman and vice-chairman of Audit Committee, chairman and vice-chairman of Standards Committee.

34. The new structure will contain the following new roles which the panel may consider should attract a special responsibility allowance:

Role	Observations
Chairman and vice-chairman of each of the four new programme committees: Finance and Democracy, Operational Services, Health and Housing, Tourism and Leisure	<i>Between them, the four programme committees will take responsibility for the functions previously under the remit of the Cabinet. However, unlike cabinet members, chairmen and vice-chairmen will not have power to take decisions individually.</i>
Chairman and vice-chairman of the Audit and Standards Committee	<i>The committee will take responsibility for the functions previously under the remit of the separate Audit and Standards committees.</i>

35. The role of the Leader of the Council will also change significantly. Under the present system, the Leader is responsible for appointing the Cabinet, chairs Cabinet meetings and has authority to take any executive decision on behalf of the council. Those responsibilities will no longer exist under a committee system. The leader would still be expected to be the political figurehead of the council and the leading advocate for local communities. However, his formal responsibilities would be confined to answering, or choosing another member to answer, questions from members of the public at council meetings.
36. The remit of the Development Management Committee will be expanded to include development of planning policy.

#### **Specific issues: time limits for claims**

37. Members are presently encouraged to submit claims for travel and subsistence allowances monthly. However, not all members do so. Claims are occasionally submitted six or even twelve months after the event giving rise to them. Processing and paying these claims causes accounting and administrative difficulty, especially where the claim relates to a previous financial year.
38. The panel is asked to consider introducing a time limit under which claims for travelling or subsistence submitted more than three months after the event giving rise to them would not be paid.

#### **Specific issues: Mileage rates**

39. Travelling allowance includes a rate per mile for travel in a member's own private motor vehicle<sup>5</sup>, or one provided for their use. The rate per mile has not increased over the last eleven years and is not considerably different to the rate payable to officers undertaking car travel in the course of their employment. The relevant comparisons are in the table below.

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<sup>5</sup> Not including a solo motorcycle

The panel is asked to consider increasing the rate per mile payable to members to bring it in line with that payable to officers.

Vehicle CC	Rate payable to members	Rate payable to officers
999 or less	34.6p	46.9p
1000 or more	39.5p	52.2p

IMPLICATIONS	
Finance	The Council's base revenue budget includes recurring provision of £246,063 per annum for member's allowances as set out in paragraph 9 of this report. Any increases in allowances will result in increased revenue costs which will require approval by Council in due course.
Legal	The council must take into account the views of the panel when reviewing members' allowances.
Community Safety	
Human Rights and Equalities	The allowances scheme should enable people from all sectors of the community to serve as elected members without suffering a financial detriment by doing so.
Sustainability and Environmental Impact	
Health & Safety and Risk Management	

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	01253 658506	17November 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection

#### Attached documents

- Appendix 1 Existing Members Allowance Scheme
- Appendix 2 Allowance Schemes at Other Authorities

**INDEPENDENT REMUNERATION PANEL –  
NOTE OF MEETING HELD ON 19 NOVEMBER 2014, TOWN HALL, ST ANNES**

Present: Mr David Cam, Chairman

Mrs Helen Hockenhull

Mrs Mary Wilson

Tracy Morrison, Director of Resources

Ian Curtis, Head of Governance

Katharine McDonnell, Democratic Services Officer

Ian Curtis presented a report, of which a copy had previously been circulated to members of the Panel, regarding the current level of members' allowances, the forthcoming change in governance arrangements and the impact on special responsibility allowances, and comparison statistics for neighbouring local authorities.

Mr Curtis also asked the panel to consider continuing dependents' carers' allowances and the level of members' mileage rates. In regards to claims, Mr Curtis asked the panel to consider whether they wished to impose a deadline on members' for claims.

In considering the levels on member allowances the Panel took note of current scheme of allowances; the Council's financial position and the Government's policy on public sector funding; the levels of allowances since 2001 and the allowances adjusted for inflation; and the comparisons between allowance schemes operated by other authorities in Lancashire.

Following a detailed discussion, especially in regard to the forthcoming governance change, the Panel noted that -

- In common with other councils, the financial settlement for Fylde continued to be extremely challenging. The council continues to explore all opportunities to reduce expenditure through efficiency saving schemes. It was noted that some members do not claim travel allowances that they are entitled to.
- Councillors had not received an increase in their allowances for a number of years, however an increase could be politically unpalatable.
- The change in governance would place more responsibility on the Chairmen of the new programme committees.
- The Panel felt considerable responsibility to not further add to the Council's financial burden by recommending increases to members' allowances.

The following recommendations were made by the Panel -

- *Maintain the present level of basic allowance (£3,500) for 2015 – 16.*

- *To continue to pay travel and subsistence allowances, with an increase to the members' mileage rate to 45p per mile*
- *To place a time limit of three months on claims, i.e. claims must be made within 3 months of the meeting or travel occurring. Any claims made after 3 months would not be paid.*
- *To recognise the change in governance with the following changes to the Members special responsibility allowance:-*
  - *Leader of the Council - £6,000*
  - *Deputy Leader of the Council - £3,000*
  - *Chairmen of the Development Management, Finance and Democracy, Operational Management, Health and Housing, Tourism and Leisure, Audit and Standards Committees - £3250.00.*
  - *Vice-Chairmen of the above Committees - 50% of Chairmen's allowance - £1,625.00.*
  - *Chairmen of the Public Protection and Licensing Committees - £1,625.00.*
  - *Vice-Chairmen of the above Committees - 50% of Chairmen's allowance - £812.50.*
  - *Leader of each political group - £32 per group member.*
- *To continue to the payment of £250 per annum to the three Independent persons, who work with the Standards and Audit Committee and the Monitoring Officer*
- *To continue to pay dependents' carers' allowance at the current rate*

Mr Cam thanked the new panel members and thanked the officers for their work and advice.

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**Part 6**  
**Members’ Allowances Scheme**

## **Members' Allowances Scheme**

### **1 INTRODUCTION**

The scheme outlined in this document is based on the recommendations of the Members' Allowances Independent Remuneration Panel, which has met to consider members' allowances in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003. The scheme will have effect from 1 October 2007.

### **2 BASIC ALLOWANCE**

Basic allowance is to be paid to all Members, and is intended to recognise a time commitment expected of all Members, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of homes, and IT costs such as telephone connections to the internet. Each Member is entitled to £3,500.00 per annum, which will be paid monthly.

### **3 SPECIAL RESPONSIBILITY ALLOWANCE**

3.1 A special responsibility allowance will be paid in addition to any entitlement to basic allowance for those Members who have significant responsibilities.

3.2 The Members receiving special responsibility allowance and the yearly allowances payable are as follows:-

Leader of the Council - £6,000.00.

Deputy Leader of the Council - £3,000

Chairmen of the Development Management; Finance and Democracy; Operational Management; Environment, Health and Housing; Tourism and Leisure; Audit and Standards Committees - £3250.00.

Vice-Chairmen of the above Committees - 50% of Chairmen's allowance - £1,625.00.

Chairmen of the Public Protection and Licensing Committees - £1,625.00.

Vice-Chairmen of the above Committees - 50% of Chairmen's allowance - £812.50.

Leader of each political group - £32 per group member.

*\* NB Independent persons, who work with the Standards Committee and the Monitoring Officer receive a payment of £250 per annum each from Fylde Borough Council*

### **4 PART PAYMENTS**

In the case of basic and special responsibility allowances, payment will only be made for the period during which a person performs the duties for which these allowances are payable.

### **5 REPAYMENTS**

In the event of a Member ceasing to be entitled to these allowances for whatever reason, any amount overpaid should be repaid in full to the Council on demand.



**6 REVOCATION**

Basic and special responsibility allowances will be paid automatically unless notice is received in writing from the member concerned revoking the entitlement. All such notices should be delivered to the Director of Corporate Resources.

**7 TRAVEL AND SUBSISTENCE ALLOWANCES**

7.1 In addition to the Members’ Allowances Scheme, travel and subsistence allowance are payable.

7.2 A full schedule of rates payable for travel and subsistence is attached at annex B.

7.3 A full list of those bodies which are accepted as approved duties for the payment of travel allowance is attached at annex C.

**8 DEPENDENTS’ CARERS’ ALLOWANCES**

8.1 In addition to the Members’ Allowances Scheme, dependents’ carers’ allowances are payable.

8.2 The allowance is payable in respect of such expenses of arranging for the care of their children or dependants as are necessarily incurred by a member in attending at a meeting of a body accepted as an approved duty for the payment of dependents’ carers’ allowance.

8.3 A full list of those bodies which are accepted as approved duties for the payment of dependents’ carers’ allowance is attached at annex C.

**9 CLAIMS**

Claims for travel and subsistence allowances should be submitted monthly. Claims must be made on the official claim form available from the Finance Director.

**NB** – There is a time limit of three months on claims, i.e. claims must be made within 3 months of the meeting or travel occurring. Any claims made after 3 months will not be paid.

**10 PUBLICATION**

The Council is required to publish details of the Members’ Allowances Scheme as soon as practicable after the scheme has been determined/revised and after the end of each financial year the total amounts received by each Member.

**ANNEX A****SUMMARY OF THE LOCAL AUTHORITIES (MEMBERS’ ALLOWANCES) (ENGLAND) REGULATIONS 2003, insofar as they define “approved duty” and are relevant to Fylde**

The regulations provide that the following duties are approved for the purposes of the payment of travel and subsistence allowance and dependants’ carers’ allowance:

- Attendance at a meeting of the authority, or any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- any other meeting the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee, provided that-
  - (a) where the authority is divided into two or more political groups, it is a meeting of which members of at least two such groups have been invited, or
  - (b) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- a meeting of any association of authorities of which the authority is a member;

- Duties undertaken on behalf of the authority in pursuance of any standing order requiring a member or members to be present while tender documents are opened;
- Duties undertaken on behalf of the authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises; and
- Any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority, or of any of its committees or sub-committees.

## Annex B

### RATES OF TRAVELLING ALLOWANCE PAYABLE

1 (1) The rate of travel by public transport shall not exceed the amount of ordinary fare or any available cheap fare, and where more than one class of fare is available the rate shall be determined, in the case of travel by ship by reference to first class fares, and in any other case by reference to second class fares unless the body determines, either generally or specifically, that first class fares shall be substituted.

(2) The rate specified in the proceeding sub-paragraph may be increased by supplementary allowances not exceeding expenditure actually incurred:

(a) on Pullman Car or similar supplements, reservation of seats and deposit or portage of luggage; and

(b) on sleeping accommodation engaged by the member for an overnight journey, subject, however, to reduction by one-third of any subsistence allowance payable to him/her for that night.

2 (1) The rate of travel by a member's own solo motor cycle, or one provided for his/her use, shall not exceed:

(a) for the use of a solo motor cycle of cylinder capacity not exceeding 150 c.c., 8.5p a mile;

(b) for the use of a solo motor cycle of cylinder capacity exceeding 150 c.c., but not exceeding 500 c.c., 12.3p a mile;

(c) for the use of a solo motor cycle of cylinder capacity exceeding 500 c.c., 16.5p a mile.

(2) The rate of travel by a member's own private motor vehicle, or one belonging to a member of his/her family or otherwise provided for his/her use, other than a solo motor cycle, shall not exceed:

45p a mile;

(3) The rates specified in sub-paragraphs (1) and (2) may be increased:

(a) in respect of the carriage of each passenger, not exceeding 4, to whom a travelling allowance would otherwise be payable under any enactment, by not more than 3.0 pence a mile for the first passenger and 2.0 pence per mile for the second and subsequent passengers.

(b) by not more than the amount of any expenditure incurred on tolls, ferries or parking fees, including overnight garaging.

(4) For the purpose of this paragraph the cylinder capacity shall be that entered in the vehicle registration book or document by the Secretary of State under the Vehicles (Excise) Act 1971.

3. The rate of travel by taxi-cab or cab shall not exceed:

(a) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid, and

(b) in any other case, the amount of the fare for travel by appropriate public transport.

4. The rate of travel by a hired motor vehicle other than a taxi-cab shall not exceed the rate which would have been applicable had the vehicle belonged to the member who hired it:

Provided that where the body so approves the rate may be increased to an amount not exceeding the actual cost of hiring.

5. The rate of travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in attendance allowance or financial loss allowance, and subsistence allowance consequent on travel by air:

Provided that where the council resolves, either generally or specifically, that the saving in time is so substantial as to justify payment of the fare for travel by air, there may be paid an amount not exceeding:

- (a) the ordinary fare or any available cheap fare for travel by regular air service, or
- (b) where no such service is available or in case of urgency, the fare actually paid by the member.

#### RATES OF SUBSISTENCE ALLOWANCE PAYABLE

1 (1) The rate of subsistence allowance shall not exceed:

(a) in the case of an absence, not involving an absence overnight, from the usual place of residence:

***(i) of more than 4 hours, or where the authority permits, a lesser period, before 11 a.m., (breakfast allowance) £4.92;***

***(ii) of more than 4 hours, or where the authority permits, a lesser period, including the period between 12 noon and 2 p.m., (lunch allowance), £6.77;***

***(iii) of more than 4 hours, or where the authority permits, a lesser period, including the period 3 p.m. to 6 p.m., (tea allowance), £2.67;***

***(iv) of more than 4 hours, or where the authority permits, a lesser period, ending after 7 p.m., (evening meal allowance), £8.38.***

(b) in the case of an absence overnight from the usual place of residence £79.82 and for such an absence overnight in London, or for the purposes of attendance at an annual conference (including or not including an annual meeting) of the Local Government Association or such other association of bodies as the Secretaries of State may for the time being approve for the purpose, £91.04.

(2) For the purposes of this paragraph, London means the City of London and the London boroughs of Camden, Greenwich, Hackney Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

2. Any rate determined under paragraph 1(b) above shall be deemed to cover a continuous period of absence of 24 hours.

3. The rates specified in paragraph 1 above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

4. Where main meals (breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT), may be reimbursed in full, within specified limits. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowances for the appropriate meal period.

#### ANNEX C

##### Approved Duties

Attendance at any of the following meetings in column 1 is specified as an approved duty for the purpose of the payment of travelling and subsistence allowances and dependents' carers' allowances for the persons specified in column 2

NB. "Committee", "sub-committee" and "joint committee" include committees and sub-committees

<b>Meeting</b>	<b>Persons qualified for allowance</b>
Council	Councillor
Committee	Member of that committee
Sub-committee	Member of that sub-committee
Joint committee	Member of that committee appointed or nominated by Fylde Borough Council
Committee chairman's briefing	Chairman and vice-chairman
Course, seminar or conference	Member authorised to attend by the Member Development Steering Group or the Chief Executive
Any other external organisation	Member appointed or nominated to the organisation, or nominated to attend its meetings, by the council
Any other meeting arranged by an officer of the council	Member invited
Site visit	Member of the committee or sub-committee under whose auspices the visit has been arranged

# REPORT

REPORT OF	MEETING	DATE	ITEM
FINANCE & RESOURCES PORTFOLIO	COUNCIL	26 JANUARY 2015	10

## THE PAY POLICY STATEMENT 2015/16

### PUBLIC ITEM

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

### SUMMARY

The report provides details of the Pay Policy Statement for Fylde Council which is a requirement for all local authorities to have in place since April 1st 2012 as part of the Localism Act. The objective of the Statement is to ensure that there is openness, transparency and fairness in the pay policy arrangements. Annual reviews are required and this report represents the third annual review of the Pay Policy statement for Fylde.

### RECOMMENDATION

That the Council approve the Pay Policy Statement for Fylde Council included in Appendix 1 to this report, which has no proposed changes from the statement approved in 2014.

### CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Finance and Resources - Councillor Karen Buckley.

### CORPORATE PRIORITIES

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

### SUMMARY OF PREVIOUS DECISIONS

The Pay Policy Statement has been approved by the Full Council every year since 2012.

### REPORT

1. The Council is required as part of the Localism Act to produce a pay policy statement and to review and formally approve it each year.

2. The statement sets out the Council policy on:
  - I. Chief Officer Remuneration (recruitment, salary, bonus, performance related pay, charges, fees, allowances, benefits in kind, enhancement to pension at termination)
  - II. Remuneration of its lowest paid employees (covering the same elements as above) the definition used for this group and the reason for adopting that definition
  - III. The relationship between Chief Officer remuneration and that of other staff
3. This however is a minimum requirement and Councils can do more if they want.
4. The guidance from the DCLG provides details of what is expected in the Pay Policy Statement, and includes:
  - I. The opportunity for full council to vote on senior remuneration packages with a value over £100,000 prior to an offer of appointment being made
  - II. The relationship between Chief Officer remuneration and that of other staff and the ratio between the highest paid and median salary that the authority aims to achieve and maintain
  - III. The value of the system of earn back pay with an element of the basic pay at risk each year to be earned back through meeting pre-agreed objectives
  - IV. Any decision that the authority takes in relation to the award of severance to an individual Chief Officer
  - V. An explicit statement on whether or not they permit an individual to be in receipt of a pension in addition to receiving a salary
  - VI. Policies to deal with those who may have returned to the authority under a contract of service of any type having already received a severance or redundancy payment
5. In addition to this guidance it should be noted that the recommended practice for local authorities on data transparency states that Council's should disclose publically:
  - I. Senior employee salaries at £50,000 and above including disclosing the names, job descriptions, budgets and numbers of staff
  - II. An organisational chart
  - III. The pay multiple which is the ratio between the highest paid salary and the median average salary of the whole authorities workforce
6. The Council implemented a pay review process in 2007 and as part of that review a robust pay and grading evaluation scheme designed to ensure fairness and equity in terms of pay was introduced.
7. The Council complies with the recommended practice for local authorities on data transparency and publishes data that is required to be made publicly available.

#### **Pay Policy Statement**

8. The Council's Pay Policy Statement is included as Appendix 1 to this report. Central to the statement is the acknowledgement that each job has a value in terms of scope, specialist skills and knowledge, size and impact that has been subject to the pay and grading evaluation scheme to determine an appropriate pay scale.
9. The Council's employee benefits policies are universally applied wherever possible and the financial arrangements for all employees leaving the organisation for whatever reason are based on the same principles regardless of grade.

10. The Statement has been subject to review and there has been no legislative or operational reason to change the policy over the last 12 months. The ratios between salary levels will change when they are republished in May 2015 because there has been a 2.2% pay increase from January 1<sup>st</sup> 2015. All the required information in relation to the pay policy is published online and updated after the financial year end on March 31<sup>st</sup>.

IMPLICATIONS	
Finance	There is no change to the financial position of the Council arising from the report.
Legal	The legal responsibilities in respect of the Pay Policy Statement have been included in the body of the report.
Community Safety	There are no community safety implications as a result of this report
Human Rights and Equalities	The pay and grading scheme implemented at Fylde has been subject to equality impact assessment. There are no direct human rights and implications arising from the report.
Sustainability and Environmental Impact	No impact is required for this report
Health & Safety and Risk Management	The most significant risks around pay relate to the increased costs of employment and balancing the need to pay an appropriate salary that will mean that the roles the council needs to fill to discharge our duties as a Local Authority can be filled by skilled, appropriately qualified staff. In mitigation against the first risk the council ensures that its budgets are managed effectively and to deal with the second risk there is a policy to deal with market supplements if they can be objectively justified.

LEAD AUTHOR	TEL	DATE	DOC ID
Allan Oldfield	01253 658500		

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Pay Policy Online	May 2014	<a href="http://www.fylde.gov.uk/council/your-council/pay-policy-statement/">http://www.fylde.gov.uk/council/your-council/pay-policy-statement/</a>
Salary Ratios	May 2014	<a href="http://www.fylde.gov.uk/council/your-council/transparency/salary-ratios/">http://www.fylde.gov.uk/council/your-council/transparency/salary-ratios/</a>
Pay Scales	January 2015	<a href="http://www.fylde.gov.uk/council/your-council/pay-scales/">http://www.fylde.gov.uk/council/your-council/pay-scales/</a>
Senior Management Pay	May 2104	<a href="http://www.fylde.gov.uk/council/your-council/management-team/">http://www.fylde.gov.uk/council/your-council/management-team/</a>

Attached Documents

**Appendix 1** – The Pay Policy Statement Fylde 2015/16



## **Pay Policy Statement**

### **Version 3 Approved March 2014**

#### **Summary Statement**

Fylde Council is committed to paying all employees appropriately and fairly using recognised and approved job evaluation schemes that have been tested to ensure they are free of gender and any other bias. The pay scales for employees at all levels are in the public domain and the Council complies with the requirement to publish data on senior salaries and its entire pay scale in the interests of transparency.

In determining the pay and remuneration of all its employees, the Council will comply with all relevant employment legislation. This includes legislation such as the Equality Act 2010; Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000; and where relevant, the Transfer of Undertakings (Protection of Earnings) Regulations.

As far as possible all Council policies that relate to employment benefits are universally applied unless there is a specific contractual or business reason why they should be limited to a certain group of employees.

#### **Basic Pay**

All employee basic pay is based on pay and grading evaluation schemes with the GLPC scheme for posts up to Chief Officer and the Hay scheme for Chief Officer Posts.

Both of these schemes have been tested to ensure that they are free from gender bias and the use of these schemes has been agreed with the relevant recognised trades unions.

Pay and grading evaluation panels made up of trained employee representatives evaluate the job description and person specification for the posts which in turn produces a score and a grade. Equality is ensured by evaluating the post and not the person.

Apprentices paid at the government's apprenticeship rate.

The Council does not have a policy to pay the Living Wage in preference to the Minimum Wage for posts that are remunerated at the Minimum Wage.

The Council adopts the national pay bargaining arrangements in respect of the establishment and the revision of the national pay spine, for example, through any agreed annual pay increases negotiated with joint trade unions.

All other pay related allowances are the subject of either nationally or locally negotiated rates, having been determined from time to time in accordance with collective bargaining process.



**Market Supplements**

Market force supplements are only paid to employees and Chief Officers in exceptional circumstances in accordance with the strict controls in the Council's Market Supplements Policy. Any such payments are reviewed annually to ensure they remain valid and at present there are no Market Supplements paid at Fylde.

**Incremental Progression**

Progression through the grade for permanent and temporary employees, including Chief Officers, is only possible upon completion of satisfactory service and in line with the NJC terms and conditions as described in the Green Book.

**New Appointments**

Appointment to new posts are usually made at the bottom of the grade, except in exceptional circumstances where the most suitable candidate can evidence that such an offer would not reasonably be acceptable to them and the Council is satisfied that market conditions require the appointment to take place at a higher point than the minimum.

Any Chief Officer appointment is dealt with by the Chief Officer Employment Committee, using the normal recruitment procedures and options with appointments made to a post with a remuneration package of more than £100,000 being ratified by Full Council.

**Overtime and Additional Hours Payments and Premium Payments**

Contractual overtime and additional hours are paid in accordance with the NJC terms and conditions as described in the Green Book.

Non contractual, voluntary overtime, additional hour's payments are paid in accordance with the Council's pay review terms and agreed policy on overtime.

To meet specific operational requirements it may be necessary for an individual to temporarily take on additional duties to their identified role. The Council's arrangements for authorising any additional remuneration, e.g. honoraria, ex gratia, 'acting up' relating to temporary additional duties are set out in the Council's personnel code. Any additional payment is subject to approval by the Employee Resource Panel that consists of the Chief Executive, the UNISON Chairman and a senior Human Resource officer.

Chief Officers are not permitted to be paid overtime, additional hour's payments or premium payments.

**Bonus Payments and Earn Back Schemes**

No employees including Chief Officers in the Council are in receipt of bonus payments or subject to earn back schemes where employees give up some salary to earn it back upon completion of agreed targets.

**Performance Related Pay**

The Council does not operate performance related pay schemes for any employees and has no plans to introduce policy to support performance related pay schemes.

The Council does not operate a policy of 'earn back' where a proportion of the basic salary is retained and only released if targets or objectives are achieved.

### **Honorarium Payments**

Honorarium payments are only made in exceptional circumstances and are subject to a business case being approved by the Employee Resource Panel with payment only made after the agreed outcome has been delivered / achieved.

### **Relationship between the Highest and the Lowest Paid**

The Council is committed to paying employees based on the recognised job evaluation schemes detailed above. It is the application of these schemes that creates the salary differentials. Pay rates for each grade are published on the Council's website.

### **Relationship between the Highest Paid Employee and the Median Salary**

The relationship between the highest paid employee and the median salary will be calculated on an annual basis and published on the Council's website alongside the information provided regarding senior manager salaries.

As part of its overall and ongoing monitoring of alignment with external pay markets, both within and outside the sector, the Council will use available benchmark information as appropriate. In addition, upon the annual review of this statement, the Council will also monitor any changes in the relevant 'pay multiples' and benchmark against other comparable local authorities.

### **Charges, Fees and Allowances**

The Travelling, Subsistence and Related Expenses Policy is applicable to all employees including Chief Officers.

The reimbursement of professional fees for certain occupational groups is covered by the Personnel Code and applies to all relevant employees regardless of grade.

Any other allowances paid to employees regardless of grade are detailed in the appropriate policy and procedures approved by the Council and paid only when necessary to the service activity.

Chief Officers do not receive additional allowance payments.

### **Electoral Fees**

The Resources Director is the Council's appointed Returning Officer and is personally (not corporately) liable for the management of elections and referendums. The fee payable to the returning Officer for a European, UK Parliamentary and any other election or referendum organised nationally is set and paid for from Central Government. The fee payable to the Returning Officer for local and local by-elections is set at £150 per ward, for the parish and parish by-elections the fee is set at £75 per ward. The scale of fees is based on a payment for the first 3000 electors per ward, then for each 500 electors or part thereof over 3000 an additional fee is incurred. Although there is provision to pay an additional fee, no additional payment is made. Any changes to these fees will be reflected as part of the annual review of the Pay Policy.

A panel is in place at Fylde that periodically reviews the payments made to any officers involved in election work.

**Pension**

Where employees have exercised their statutory right to become members of the Local Government Pension Scheme, the Council is required to make a contribution to the scheme representing a percentage of the pensionable remuneration due under the contract of employment of that employee. The rate of contribution is set by Actuaries advising the Lancashire Pension Fund and reviewed on a triennial basis in order to ensure the scheme is appropriately funded. The employer contribution rates are set by statute and are available from the Payroll Team.

Under the terms of the Flexible Retirement Policy it is permitted for an employee to be in receipt of a pension and to be paid a salary at the same time. The policy requires a minimum reduction in hours worked of 30% and only employees aged 55 years and older are eligible to apply. Flexible retirement will only be granted in exceptional circumstances when there is a financial benefit to the Authority or extenuating personal circumstances without any cost to the Authority.

**Redundancy Payments and Retirement**

All employees including Chief Officers are entitled to redundancy payments and pension release in accordance with the Council's Redundancy and Retirement procedure.

**Access to Information on Remuneration (Chief Officers and all staff)**

The Council will identify and publish all remuneration information and job descriptions relating to any Officers paid in excess of £50,000 per annum. This includes the details of any employee that is employed on reduced hours but pro rata would earn in excess of £50,000 per annum.

Post titles and salary scale band will be published for all employees in the Council in the format of an organisational structure chart.

The Council will publish the policy on employee expenses and a table of all the salary pay scale points applicable at Fylde. The schedule of election fees paid to the Returning Officer will be published.

This information will be available on the Council website [www.fylde.gov.uk](http://www.fylde.gov.uk) and on request from the Council.

**Scope**

This Pay Policy Statement applies to all Council employees, excluding those who are subject to the TUPE Regulations (Transfer of Undertakings Protection of Employment).

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	26 JANUARY 2015	11

## REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY

### PUBLIC ITEM

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

### SUMMARY

Under the Regulation of Investigatory Powers Act 2000, the council must have in place a system of authorising, recording and reviewing any surveillance that it carries out that is covered by the act. Its system must comply with the act, regulations and codes of practice. It must have its own RIPA policy. Legislation under RIPA requires annual review and re-adoption of the RIPA guidance by the full council

The report asks the council to adopt updated guidance, and provides information in the council's use of RIPA in 2013-14 and in the current municipal year 2014-15 to date.

### RECOMMENDATIONS

1. Note the information contained in the report about the council's use of surveillance powers.
2. Adopt the updated policy.

### CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Finance and resources:

Councillor Karen Buckley

### CORPORATE PRIORITIES

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

## **SUMMARY OF PREVIOUS DECISIONS**

The council is invited annually to note the use made by the council of surveillance powers and adopt or endorse the council's RIPA policy. The council last did so at its meeting on 29 July 2013.

The Audit Committee receives quarterly reports on the council's use of surveillance powers.

## **REPORT**

### **THE RIPA FRAMEWORK**

1. The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
2. Fylde Council is therefore included within RIPA framework with regard to the authorisation of both directed surveillance and of the use of covert human intelligence sources.
3. Directed surveillance includes the covert surveillance of an individual in circumstances where private information about that individual may be obtained. A covert human intelligence source ("CHIS") is a person who, pretending to be someone that they are not, builds up a relationship of trust with another person for the purpose of obtaining information as part of an investigation.
4. RIPA introduced a mandatory system of authorisation and review for surveillance activities. Only certain people can be designated to authorise surveillance. Authorisations must be approved by the Magistrates' Court. There must be a centrally-retrievable record of authorisations.
5. As well as the act, the RIPA framework includes statutory instruments and codes of practice issued by the Home Office. Each public authority that can use RIPA must have its own RIPA policy. The Office of the Surveillance Commissioners can inspect any public authority's RIPA compliance. The Commissioners' inspections are rigorous and thoroughgoing.

### **CONSIDERATION OF RIPA POLICY**

6. Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010:
  - The full council should set the RIPA policy and review use of RIPA at least once each year; and
  - Councillors should consider reports on use of RIPA at least quarterly to ensure that it is being used consistently with the council's policy and that the policy remains fit for purpose (a quarterly report goes to the council's Audit Committee for this purpose).
7. The 2014 report to the council was held over so that any recommendations arising from the review of the council's RIPA compliance held in September 2014 could be incorporated in the RIPA policy to be presented to the council for approval.
8. An updated policy is attached for members to approve. The only substantive changes from the previous policy arise from observations of the inspector following the September inspection. These are the incorporation of guidance on the application of RIPA to the use of social media in investigations and the removal of outdated references to the granting of urgent oral authorisations. Hyperlinks have also been updated.

## THE COUNCIL'S USE OF RIPA IN 2013-14 AND 2014-15 TO DATE

9. The council did not used RIPA in 2013-14. In the current municipal year 2014-15 to date, the Council has not used RIPA.
10. Due to the timing of this report to Council and the meeting of the Audit Committee on 29 January 2015, this report will fulfil the requirements of the quarterly reporting to Councillors and as such there will be no report to Audit Committee at its next meeting. The quarter ending 31<sup>st</sup> March 2015 will be reported to the first meeting of the Audit Committee in the municipal year 2015-16.

IMPLICATIONS	
Finance	No implications
Legal	Authorisation of surveillance activity gives that surveillance "lawful authority" for the purposes of the European Convention on Human Rights.
Community Safety	CCTV cameras have the capability of being used for purposes falling within the ambit of RIPA. If they were so used, a RIPA authorisation would need to be obtained.
Human Rights and Equalities	See the comments under "Legal"
Sustainability	No implications
Health & Safety and Risk Management	Failure to comply with the statutory requirements would lead to an adverse report by the Surveillance Commissioners.

LEAD AUTHOR	TEL	DATE	DOC ID
Ian Curtis	01253 658506	December 12 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Employee's Guide: Regulation of investigatory Powers Act 2000, draft 2015 revision	December 2014	Town Hall, St Annes

### Attached documents

1. Employees' Guide: Regulation of Investigatory Powers Act 2000, draft 2014 revision



## **Employees' Guide**

### **Regulation of Investigatory Powers Act 2000**

### **Directed Surveillance and Use of Covert Human Intelligence Sources**

## 1 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.2 Fylde Council is therefore included within the RIPA framework with regard to the authorisation of both [Directed Surveillance](#) and of the use of [Covert Human Intelligence Sources](#).
- 1.3 The purpose of this guidance is to:
- explain the scope of RIPA and the circumstances where it applies
  - provide guidance on the authorisation procedures to be followed.
- 1.4 The Council has had regard to the Code of Practice produced by the Home Office in preparing this guidance. It is available on the Internet at [www.gov.uk/government/publications/code-of-practice-for-covert-surveillance-and-property-interference](http://www.gov.uk/government/publications/code-of-practice-for-covert-surveillance-and-property-interference). Please ask your head of service if you want to refer to a paper copy.
- 1.5 This policy is reviewed annually by the full council. Additionally, reports on the use of authorisations under RIPA are made to the council's Audit and Standards Committee on a quarterly basis.
- 1.6 In summary RIPA requires that when the Council undertakes [directed surveillance](#) or uses a [covert human intelligence source](#), these activities must satisfy certain conditions and be authorised by an officer with delegated powers and approved by a Justice of the Peace.
- 1.7 The table and paragraphs 1.8 to 1.10 below set out the officers of the council who have delegated powers under RIPA and the extent of their powers:

<b>Job title</b>	<b>Extent of power</b>
Chief Executive	All
Directors	In connection with directorate activities
Director of Resources	In connection with council tax and housing benefits

- 1.8 Personnel matters are for RIPA purposes regarded as being within the province of the Human Resources section and not that of individual directorates. [Covert](#) surveillance of any council employee for the purpose of preventing or detecting crime arising out of their employment by the council can therefore only be authorised by the Chief Executive or the Director of Resources.



- 1.9 There are special rules that apply where the Council intends to undertake [directed surveillance](#) or use a [covert human intelligence source](#) and the surveillance or use of the source is likely to result in [confidential material](#) being acquired. In those circumstances, the chief executive must authorise the use of the source. Nobody else can authorise the surveillance or use of the source unless the chief executive is absent. Even if the chief executive is absent, only the officer acting for the time being as Head of Paid Service can authorise: no other officer can do so.
- 1.10 The same special rules apply where the council intends to use a [covert human intelligence source](#) who is under 18 years old, or who is vulnerable. A person is vulnerable if he or she is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Again, the chief executive must authorise the use of such a source. Nobody else can authorise the surveillance or use of the source unless the chief executive is absent. Even if the chief executive is absent, only the officer acting for the time being as Head of Paid Service can authorise: no other officer can do so.
- 1.11 The council will only use a person who is vulnerable as a covert human intelligence source in the most exceptional circumstances, and will not use any person who is under 16 years old.
- 1.12 Authorisation and approval under RIPA gives lawful authority to carry out [surveillance](#) and the use of a source. Obtaining authorisation and approval helps to protect the Council and its officers from complaints of interference with the rights protected by Article 8(1) of the European Convention on Human Rights which is now enshrined in English law through the Human Rights Act 1998. This is because any interference with the private life of citizens will be “in accordance with the law”. Provided activities undertaken are also “reasonable and proportionate”, they will not be in contravention of Human Rights legislation.
- 1.13 It should be noted that the Council cannot authorise [Intrusive Surveillance](#). Investigators should familiarise themselves with the provisions of chapters 5 and 6 of the [Code of Practice](#) on Covert Surveillance to ensure a good understanding of the limitation of powers within RIPA.
- 1.14 Deciding when authorisation is required involves making a judgment. [Paragraph 2](#) sets out some factors you will need to consider. If you are in any doubt, seek the advice of an Authorising Officer, if they are in doubt they will seek advice from the Head of Governance. While it is always safer to get authorisation, many kinds of investigation may not involve the use of the kinds of surveillance covered by RIPA.
- 1.15 The Head of Governance has responsibility for maintaining a centrally retrievable record of authorisations under RIPA and for overseeing:

- 1.15.1 the integrity of the process in place within the authority to authorise and seek approval of directed surveillance;
  - 1.15.2 compliance with Part II of the 2000 Act, Part III of the 1997 Act and with the codes of practice;
  - 1.15.3 engagement with the Commissioners and inspectors when they conduct their inspections, and
  - 1.15.4 where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner.
- 1.16 Before any officer of the Council undertakes or commissions any [surveillance](#) of any individual or individuals they need to assess whether the activity comes within RIPA. In order to do this the following key questions need to be asked.

## 2 **Directed Surveillance**

### 2.1 What is meant by Surveillance?

"Surveillance" includes:

- a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communication;
- b) recording anything monitored, observed or listened to in the course of surveillance; and
- c) surveillance by or with the assistance of a surveillance device.

### 2.2 When is surveillance directed?

Surveillance is 'Directed' for the purposes of RIPA if it is [covert](#) and is undertaken:

- a) for the purposes of a [specific investigation](#) or a [specific operation](#);
- b) in such a manner as is likely to result in the obtaining of [private information](#) about a person (whether or not one is specifically identified for the purposes of the investigation or operation); and
- c) otherwise than by way of an [immediate response](#) to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the [surveillance](#).

2.3 Is the surveillance covert?

Covert surveillance is that carried out in a manner **calculated** to ensure that subjects of it are unaware it is or may be taking place.

If activities are open and not hidden from the subjects of an investigation, the RIPA framework will normally not apply.

2.4 Is it for the purposes of a specific investigation or a specific operation?

For example, are Town Hall CCTV cameras which are readily visible to anyone walking around the building covered?

The answer is not if their usage is to monitor the general activities of what is happening in the car park. If that usage, however, changes, RIPA may apply.

For example, **if** the CCTV cameras are targeting a particular known individual, and are being used in monitoring his activities, that has turned into a specific operation. However, the operation will only require authorisation if the surveillance is covert.

2.5 Is it in such a manner that is **likely** to result in the obtaining of private information about a person?

"Private information" is any information relating to a person's private or family life.

An investigation that merely gathers intelligence about a person's use of public spaces and premises open to the public would not by itself usually be likely to result in the obtaining of private information.

For example, the fact that a person has visited a particular pub and spoke to another particular person on a particular occasion will not be private information about either of them. But recording information about what they talk about may be. Private information may also be obtained if several records about what the person did in a public place are analysed together to produce a pattern of behaviour.

If it is likely that observations will not result in the obtaining of private information about a person, then it is outside RIPA framework. However, the use of 'test purchasers' may involve the use of [covert human intelligence sources](#) (see later). If in doubt, speak to your Authorising Officer.

2.6 Otherwise than by way of an immediate response to event or circumstances where it is not reasonably practicable to get authorisation

The Home Office gives the example of an immediate response to something happening during the course of an observer's work, which is unforeseeable.

However, if as a result of an immediate response, a [specific investigation](#) subsequently takes place that brings it within RIPA framework.

### **3 Is the Surveillance Intrusive?**

3.1 [Surveillance](#) becomes intrusive if it:

- a) is carried out in relation to anything taking place on any **residential premises** or in any **private vehicle**; and
- b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device; or
- c) Is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle but is carried out without that device being present on the premises or in the vehicle, where the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

3.2 Surveillance is also automatically deemed to be intrusive if it relates to certain kinds of premises which are, at the time of the surveillance, being used for legal consultations. The premises are prisons, courts, police stations, legal practitioners' offices and high security hospitals.

**The council cannot carry out intrusive surveillance.**

### **4 Covert use of Human Intelligence Source (CHIS)**

4.1 A person is a Covert Human Intelligence Source if:

- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph b) or c),
- b) he covertly uses such a relationship to obtain information or provide access to any information to another person; or
- c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

4.2 A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of that purpose.

- 4.3 An example of a CHIS would be an officer or other person who pretends to form a friendship with a suspect, but who is really using that relationship to secretly obtain information from the suspect.
- 4.4 It would be unusual for the council to use a CHIS, but if you do so, you need to obtain authorisation

## **5 Authorisations, approvals, renewals and cancellations**

### **5.1 The Process for Authorisation and Approval**

5.1.1 Obtaining authorisation and approval is a two-stage process. The first stage is to obtain authorisation from an Authorising Officer. Details of Authorising Officers and their remits are in [paragraphs 1.7 to 1.10](#).

5.1.2 The second stage is to obtain approval from a Justice of the Peace. This involves applying to the magistrates' court. The council will follow the Home Office [guidance on applying for approval](#). Only qualified lawyers or officers authorised by the council under [section 223 of the Local Government Act 1972](#) can make the application for approval and appear in court.

5.1.3 A Justice of the Peace, in considering giving approval to an authorisation, must consider whether the statutory tests have been met and whether the use of the surveillance technique is necessary and proportionate.

5.1.4 An authorisation or renewal is not effective until it has been approved by a Justice of the Peace. The investigating officer should not begin the authorised surveillance until it has been approved.

### **5.2 The Conditions for Authorisation**

#### **5.2.1 Directed Surveillance**

5.2.1.1 For [directed surveillance](#) no officer shall grant an authorisation for the carrying out of directed surveillance unless he believes:

- a) that an authorisation is **necessary** for the purpose of preventing or detecting crime or of preventing disorder and
- b) the authorised [surveillance](#) is **proportionate** to what is sought to be achieved by carrying it out.

5.1.1.2 In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. As such the [forms](#) listed in the Appendix are to be completed where relevant.

5.1.1.3 Authorisations should provide enough flexibility to avoid the need for amendments to accommodate minor changes in the times or methods of surveillance, while still facilitating effective monitoring of compliance with the authorisation.

#### 5.1.2 Covert Use of Human Intelligence Sources

5.1.2.1 The same principles apply as for [Directed Surveillance](#). (see paragraph [5.1.1](#) above), but there are some additional requirements. The person authorising use of a CHIS must believe that management arrangements for the source satisfy requirements laid down in RIPA and relevant regulations. The requirements are set out in [Appendix 3](#).

5.1.2.2 The conduct so authorised is any conduct that:

- a) is comprised in any such activities involving the use of a [covert human intelligence source](#), as are specified or described in the authorisation;
- b) relates to the person who is specified or described as the person to whose actions as a covert human intelligence source the authorisation relates; and
- c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.

5.1.2.3 In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. As such the [forms](#) listed in appendix 2 are to be completed where relevant.

5.1.2.4 It is also sensible to make any authorisation sufficiently wide enough to cover all the means required, while still facilitating effective monitoring of compliance with the authorisation.

#### 5.2 Requirements of RIPA

5.2.1 All authorisations **must** be in **writing**. The Appendix to this guidance refers to standard [forms](#), which must be used. **Officers must direct their mind to the circumstances of the individual case with which they are dealing when completing the form.**

5.2.2 Although it is possible to combine two authorisations in one form the Council's practice is for separate forms to be completed to maintain the distinction between [Directed Surveillance](#) and the use of a [source](#).

5.2.3 Authorisations lapse, if not renewed, three months from the date of approval by the Magistrates Court for directed surveillance and twelve months from date of approval by the Magistrates Court for the conduct or use of a [covert human intelligence source](#).

- 5.2.4 The person who originally granted the authorisation can renew it in the same terms at any time before it ceases to have effect. If the person who originally granted the authorisation is unavailable, another [person entitled to grant a new authorisation](#) can renew it. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation. Any renewal will not be effective unless approved by the Magistrates Court.

But, for the conduct of a [covert human intelligence source](#), an Authorised Officer should not renew unless a review has been carried out and that person has considered the results of the review when deciding whether to renew or not. A review must cover what use has been made of the source, the tasks given to them and information obtained.

- 5.2.5 The benefits of obtaining an authorisation are described in [paragraph 7](#) below.

#### 5.2.6 Factors to Consider

Any [person giving an authorisation](#) should first satisfy him/herself that the authorisation is **necessary** on particular grounds and that the surveillance is **proportionate** to what it seeks to achieve.

- 5.2.7 Particular consideration should be given to **collateral intrusion** on or interference with the privacy of persons other than the subject(s) of [surveillance](#). Such collateral intrusion or interference would be a matter of especial concern in cases where there are special sensitivities, for example in cases of premises used for any form of medical or professional counselling, advice or therapy.

- 5.2.8 An application for an authorisation should include **an assessment of the risk** of any collateral intrusion or interference. The authorising officer must take this into account when considering the proportionality of the surveillance.

- 5.2.9 Those carrying out the [covert surveillance](#) should inform the Authorising Officer if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.

- 5.2.10 Any person giving an authorisation will also need to be aware of particular **sensitivities in the local community** where the surveillance is taking place or of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance. Where the Authorising Officer considers that conflicts might arise they should consult a senior police officer before granting the authorisation.

#### 5.2.7 Home Surveillance

5.2.7.1 The fullest consideration should be given in cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance at his/her home, or where there are special sensitivities.

#### 5.2.8 Spiritual Counselling

No operations should be undertaken in circumstances where investigators believe that surveillance would lead to them intrude on spiritual counselling between a Minister and a member of his/her faith. In this respect, spiritual counselling is defined as conversations with a Minister of Religion acting in his/her official capacity where the person being counselled is seeking or the Minister is imparting forgiveness, absolution of conscience or counselling concerning appropriate repentance. “Minister of Religion” does not necessarily imply a paid office.

#### 5.2.9 Confidential Material

5.2.9.1 RIPA does not provide any special protection for [confidential material](#). Nevertheless, such material is particularly sensitive, and is subject to additional safeguards under this guidance.

5.2.9.2 In general, any application for an authorisation that is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken where the target of the investigation is likely to be involved in handling confidential material. Such applications should only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

5.2.9.3 The following general principles apply to confidential material acquired under authorisations:

- Those handling material from such operations should be alert to anything that may fall within the definition of confidential material. Where there is doubt as to whether the material is confidential, advice should be sought from the Head of Governance before further dissemination takes place;
- Confidential material should not be retained or copied unless it is necessary for a specified purpose;
- [Confidential material](#) should be disseminated only where an appropriate officer (having sought advice from the Head of Governance) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be



safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information.

- [Confidential material](#) should be destroyed as soon as it is no longer necessary to retain it for a specified purpose.

#### 5.2.10 Combined authorisations

A single authorisation may combine two or more different authorisations under RIPA. Combined authorisations must not include [intrusive](#) surveillance activity.

#### 5.2.11 Partnership working

The council's human resources service and benefit fraud services are outsourced to other councils. As the tasking authority, it is Fylde's responsibility to provide the authorisation. This means that where the outsourced human resources or benefit fraud service wishes to carry out [directed surveillance](#) or use a [CHIS](#), authorisation must be obtained from an appropriate [Authorising Officer](#) of Fylde Council. An authorisation sought or granted by an officer of the council providing the outsourced service would not be valid under RIPA and would not give lawful authority for the activity.

## **6 Handling and disclosure of product**

- 6.1 [Authorising Officers](#) are reminded of the guidance relating to the retention and destruction of confidential material as described in paragraph [5.2.9.3](#) above.
- 6.2 Authorising Officers are responsible for ensuring that authorisations undergo timely reviews and are cancelled promptly after directed surveillance activity is no longer necessary.
- 6.3 Authorising Officers must ensure that the relevant details of each authorisation are sent to the [designated officer](#) for registration as described in [paragraph 8](#) below.
- 6.4 The authorised officer should retain applications for [directed surveillance](#) for 5 years. Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable further period, commensurate to any subsequent review.
- 6.5 [Authorising officers](#) must ensure compliance with the appropriate [data protection](#) requirements and the relevant codes of practice in the handling and storage of material. Where material is obtained by [surveillance](#), which is wholly unrelated to a criminal or other investigation or to any person who is the subject of the investigation, and there is no reason to believe it will be relevant to future civil or criminal proceedings, it should be destroyed

immediately. Consideration of whether or not unrelated material should be destroyed is the responsibility of the Authorising Officer.

- 6.6 There is nothing in RIPA that prevents material obtained through the proper use of the authorisation procedures from being used in other investigations. However, you should always bear in mind that the purpose of your surveillance is governed by its authorisation. If the purpose changes, you will need to seek a new authorisation.

## **7 The Use of Covert Human Intelligence Sources**

- 7.1 The [Authorising Officer](#) must consider the continuing safety and welfare of any employee to be used as a [CHIS](#), and the foreseeable consequences to others of the tasks they are asked to carry out. He should assess any risk to the employee **before** authorisation is given.
- 7.2 The Council's practice is **not** to use an employee acting as a source to infiltrate existing criminal activity, or to be a party to the commission of criminal offences, even where this is within the limits recognised by law.
- 7.3 The Authorising Officer must believe that the use of an employee as a source is proportionate to what it seeks to achieve. He should satisfy himself that the likely degree of intrusion into the privacy of those potentially affected is proportionate to what the use of the source seeks to achieve. Accurate and proper records should be kept about the source and tasks undertaken.
- 7.4 Particular care should be taken in circumstances where people would expect a high degree of privacy or where, as a consequence of the authorisation, [confidential material](#) is likely to be obtained.

## **8 Confidential material**

RIPA does not provide any special protection for confidential material. Nevertheless, such material is particularly sensitive, and is subject to additional safeguards under the relevant Home Office [Code](#). In general, any application for an authorisation that is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired.

## **9. Central Register of Authorisations**

- 9.1 RIPA requires a central register of all authorisations to be maintained. The Head of Governance or his nominated representative maintains this register.
- 9.2 Whenever an authorisation is granted the [Authorising Officer](#) must arrange for the following details to be forwarded by e-mail to the Head of Governance or nominated representative. Receipt of the e-mail will be acknowledged.

- Whether it is for [Directed Surveillance](#) or [CHIS](#) ;

- Applicants name, job title and directorate;
- Applicant's address and Contact Number;
- Identity of 'Target';
- Authorising Officer and Job Title; (in line with delegation scheme)
- Date of Authorisation;
- Whether the special provisions for urgent authorisation were used and, if so, why;
- Whether the investigation or operation is likely to result in obtaining [confidential material](#); and
- The first date for review.

A copy of the authorisation should be sent either with the notification or to follow as soon as practicable afterwards.

9.3. The Head of Governance or person nominated to maintain the register of authorisations will:

- a) Review the authorisation and draw the authorising officer's attention to any issues or problems with it;
- b) Check that arrangements have been made to seek approval of the authorisation from the Magistrates Court and to forward details of the approval for inclusion on the central record when granted;
- c) Remind [authorising officers](#) of the expiry of authorisations;
- d) Check that surveillance does not continue beyond the authorised period;
- e) At the anniversary of each authorisation, remind authorising officers to consider the destruction of the results of [surveillance](#) operations;
- f) At the fifth anniversary of each authorisation, remind authorising officers to consider destruction of the forms of authorisation, renewal or cancellation.

9.4 It is each director's responsibility to securely retain all authorisations, renewals and cancellations within their directorate. These records are confidential and should be retained for a period of five years from the ending of the authorisation. Once the investigation is closed (bearing in mind court proceedings may be lodged some time after the initial work) the records held by the directorate should be disposed of in an appropriate manner (e.g. shredded).

## **10 Benefits of Obtaining Authorisation under RIPA.**

10.1 Authorisation of surveillance and human intelligence sources

RIPA states that

- if authorisation confers entitlement to engage in a certain conduct and
- the conduct is in accordance with the authorisation, **then**
- it shall be “lawful for all purposes”.

However, the corollary is not true – i.e. if you do **not** obtain RIPA authorisation it does not make any conduct unlawful (e.g. use [of intrusive surveillance](#) by local authorities). It just means you cannot take advantage of any of the special RIPA benefits.

- 10.2 RIPA states that a person shall not be subject to any civil liability in relation to any conduct of his which -
- a) is incidental to any conduct that is lawful by virtue of authorisation; and
  - b) is not itself conduct for which an authorisation is capable of being granted under a relevant enactment and might reasonably be expected to have been sought in the case in question

## **11 Scrutiny and Tribunal**

To effectively police RIPA, Commissioners regulate conduct carried out under thereunder. The Chief Surveillance Commissioner will keep under review, among others, the exercise and performance by the persons on whom are conferred or imposed, the powers and duties under the Act. This includes authorising [directed surveillance](#) and the use of [covert human intelligence sources](#).

### **APPENDIX 1.**

#### **Definitions from RIPA**

- **“Confidential Material”** consists of:
  - a) matters subject to legal privilege;
  - b) confidential personal information; or
  - c) confidential journalistic material.
- **“Matters subject to legal privilege”** includes both oral and written communications between a professional legal adviser and his/her client or any person representing hi/her client, made in connection with the

giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege (see Note A below)

- **“Confidential Personal Information”** is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and relating:
  - a) to his/her physical or mental health; or
  - b) to spiritual counselling or other assistance given or to be given, and

which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office (see Note B below). It includes both oral and written information and also communications as a result of which personal information is acquired or created. Information is held in confidence if:

- c) it is held subject to an express or implied undertaking to hold it in confidence; or
  - d) it is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation.
- **“Confidential Journalistic Material”** includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

**Note A.** *Legally privileged communications will lose their protection if there is evidence, for example, that the professional legal adviser is intending to hold or use them for a criminal purpose; privilege is not lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege shall apply to the provision of professional legal advice by any agency or organisation.*

**Note B.** *Confidential personal information might, for example, include consultations between a health professional or a professional counsellor and a patient or client, or information from a patient’s medical records.*

**APPENDIX 2.**

1. RIPA 2000 PART II **APPLICATION** FOR AUTHORITY FOR DIRECTED SURVEILLANCE
2. RIPA 2000 PART II APPLICATION FOR **RENEWAL** OF DIRECTED SURVEILLANCE
3. RIPA 2000 PART II APPLICATION FOR **CANCELLATION** OF DIRECTED SURVEILLANCE
4. RIPA 2000 PART II **REVIEW** OF DIRECTED SURVEILLANCE
5. RIPA 2000 PART II APPLICATION FOR **CHANGE OF CIRCUMSTANCES** OF DIRECTED SURVEILLANCE

**APPENDIX 3****Management arrangements for CHIS**

[From RIPA, section 29(5)]

- a) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;
- (b) that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;
- (c) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;
- (d) that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and
- (e) that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

The matters specified in paragraph (d) are the following (see The Regulation of Investigatory Powers (Source Records) Regulations 2000)

:

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the authority maintaining the records;
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;

- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the 2000 Act or in any order made by the Secretary of State under section 29(2)(c);
- (i) the periods during which those persons have discharged those responsibilities;
- (j) the tasks given to the source and the demands made of him in relation to his activities as a source;
- (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- (l) the information obtained by each relevant investigating authority by the conduct or use of the source;
- (m) any dissemination by that authority of information obtained in that way; and
- (n) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.



# REPORT



REPORT OF	MEETING	DATE	ITEM
RESOURCES DIRECTORATE	COUNCIL	26 JANUARY 2015	12

## COUNCIL TAX AND BUSINESS RATES DISCRETIONARY DISCOUNT POLICY - 2015/16 UPDATE

### PUBLIC ITEM

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

### SUMMARY

In respect of both Council Tax and Business Rates national schemes of discounts and exemptions have been in place since the introduction of those arrangements for local taxation. Fylde BC, in line with all local authorities, implemented the schemes of discounts and exemptions as directed by central government

With effect from April 2013 the Government introduced two key changes to the established position:

1. The introduction of the local Council Tax Reduction Scheme (LCTS) to replace the national Council Tax Benefit Scheme;
2. The granting of discretion to local authorities to determine Council Tax discounts for their own Council area in respect of both second homes and empty properties.

A consequence of these changes was a review of the Council's existing arrangements with regard to the procedures relating to Council Tax and Business Rates discounts and exemptions and the adoption of a new scheme of Hardship Relief in respect of Council Tax. These changes were included within an updated Discretionary Discount Policy.

It is necessary, from time-to-time, to update the Council's policy of Discretionary Discounts to incorporate new reliefs, or amendments to schemes of existing reliefs, or to provide clarification where such would be helpful.

### RECOMMENDATIONS

Council is recommended to:

1. Approve and adopt the Council Tax and Business Rates Discretionary Discount Policy (2015/16 update).

**CABINET PORTFOLIO**

This item falls within the following cabinet portfolio(s):

Finance and Resources - Councillor Karen Buckley

**CORPORATE PRIORITIES**

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

**SUMMARY OF PREVIOUS DECISIONS**

Council - 28th January 2013 – Council resolved ‘To agree the proposed criteria for discretionary hardship awards (as detailed in the Discretionary Discount Policy at Appendix E to the report) which are designed to mitigate part of the impact of the new scheme in particular circumstances’

Council - 27th January 2014 – Council resolved ‘That the Council Tax Reduction Scheme would continue to provide funding for Discretionary Hardship Relief in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012 as detailed in section 4 of the report’

Council – 1st December 2014 - Council resolved ‘That the Council Tax Reduction Scheme continues to provide funding for Discretionary Hardship Relief in accordance with S13A (1) (a) or S13A (1) (c) of the Local Government Finance Act 2012 as detailed in section 4 of the report’.

The CTRS report presented to Council at the 1st December 2014 advised Members that an updated Discretionary Discount Policy would be presented to Council for ratification at a later date.

**REPORT**

1. In respect of both Council Tax and Business Rates national schemes of discounts and exemptions have been in place since the introduction of those arrangements for local taxation. Fylde BC, in line with all local authorities, implemented the schemes of discounts and exemptions as directed by central government. Information of the available discounts and exemptions has always been made available to potential claimants and beneficiaries of such and for a number of year this information has also been promoted through the Council’s website.
2. With the introduction of the local CTRS in April 2013 it became necessary for the Council to consider the provision of discretionary hardship relief to provide support for claimants in exceptional circumstances, and who are unable to increase their income from other means. Such provision is a key element of the operation of the scheme.
3. Section 76 of the Local Government Act 2003 (as amended by section 13A of the Local Government Finance Act 2012) empowers a billing authority to reduce the amount of tax payable as it thinks fit. Funding for such reductions must be provided by the Council and major preceptors as necessary.
4. In order to mitigate part of the impact of the CTRS on the most vulnerable households, the Council at that time approved the award of discretionary Hardship Relief under the above powers. Strict criteria is used to determine if any additional relief is appropriate and the level of

any such award. Awards are made only in exceptional circumstances to those unable to increase their income.

5. With regard to Non-domestic (i.e. business) rates the Council is required to apply national (mandatory) schemes of relief, as determined by central government. The Council may also award additional (discretionary) business rate relief. This may be in relation to charitable organisations (following the application of 80% mandatory relief) or in respect of other organisations in exceptional circumstances.
6. A number of new Business Rate reliefs for 2014/15 were announced by the Government in the Autumn Statement of 2013 (e.g. Retail Relief) and extended in respect of 2015/16 as part of the 2014 Autumn Statement. Although the Council is expected to apply these reliefs they are not mandatory. Therefore they must be included within the Council's Discretionary Discount Policy. The Council is reimbursed by central government for the cost of these reliefs by way of specific grant.
7. From time-to-time it is necessary to revise the Council Tax and Business Rates Discretionary Discount Policy in order to incorporate additional reliefs that have been introduced by central government and any changes in the application of the policy due to changes in local circumstances or to provide clarification.

**CHANGES REFLECTED IN THIS UPDATE OF THE POLICY**

8. The Discretionary Discount Policy has been updated for 2015/16 to include:
  - a section on Rural Rate Relief, which is a relief that has been applicable for a number of years but which was omitted in error from earlier versions of the policy; and
  - a revised section on discretionary relief to charitable organisations which clarifies the Council's policy in respect of charity shops which is as follows: shops operated by a registered charity which have been granted mandatory rate relief may, in exceptional circumstances, receive a further discretionary award. The Council will consider the merits of each case but such an award is likely to be the exception rather than the rule.
9. The revised policy now contains information on all available reliefs and discounts. The policy is consistent with both the Council Tax Reduction Scheme for 2015/16 and the Council Tax Discounts and Premium for 2015/16, each of which were the subject of reports to Council in December 2014 in respect of 2015/16.
10. The updated Discretionary Discount Policy for 2015/16 is attached at Appendix A.

<b>IMPLICATIONS</b>	
Finance	This reports seeks approval to the updated Discretionary Discount Policy to ensure that it is complete in respect of all available Council Tax and Business Rate discretionary reliefs. There are no financial implications arising directly from this report.
Legal	Section 76 of the Local Government Act 2003 (as amended by section 13A of the Local Government Finance Act 2012) empowers a billing authority to reduce the amount of tax payable as it thinks fit.
Community Safety	None
Human Rights and Equalities	None

Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
Paul O'Donoghue Chief Financial Officer	01253 658566	January 2015	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Council Tax Reduction Scheme 2015/16	1st December 2014	<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>

Attached documents:

Appendix A - Council Tax and Business Rates Discretionary Discount Policy

## Council Tax and Business Rates Discretionary Discount Policy

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## Council Tax and Business Rates Discretionary Discount Policy

# Council Tax and Business Rates Discretionary Discount Policy

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# Council Tax and Business Rates Discretionary Discount Policy

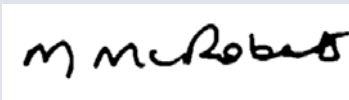
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Date	Version	Amended by	Description of changes
10/03/2014	1.1	Graeme Ruse	Business Rates Reliefs added - Retail Relief pages 19 to 22, New Build Relief page 23 to 24, Temporary Reoccupation Relief page 25 to 26.
01/10/2014	1.2	Andrew Turpin	Rural Rate Relief pages 27 to 28
19/12/2014	1.3	Andrew Turpin	Retail Relief page 19

## Approved By:

Name	Title	Signature	Date
Marie McRoberts	Head of Shared Revenues and Benefits Service		19/12/2014

# Council Tax and Business Rates Discretionary Discount Policy

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## **1. Introduction**

Section 13A of the Local Government Finance Act 1992 (as amended) and sections 47, 48 and 49 of the Local Government Finance Act 1988 (as amended) empowers a billing authority to reduce the amount of tax payable.

Fylde Borough Council has adopted a local Council Tax Reduction Scheme, to take effect from 1st April 2013, which replaces Council Tax Benefit. However it is likely that other circumstances will arise where the Council could consider a further discretionary reduction in respect of Council Tax and Business Rates in exceptional circumstances.

Funding for such reductions must be provided by the Council. This policy sets out how the Council will use these powers and the criteria that must be satisfied.

The Council is committed to ensuring that the local taxpayers are aware of the policy as set out in this document.

## **Aims of the Discretionary Discount Policy**

- Provide a mechanism for the Council to support members of the community to enable them to meet the financial burden of local taxation
- Helping residents in receipt of Council Tax Reduction who are unable to increase their income
- Alleviating poverty
- Helping those who are trying to help themselves
- Supporting people who are starting work
- Supporting the most vulnerable in the local community
- Helping customers through difficult personal events
- Assisting customers in accordance with the Council's Child Poverty Strategy



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## **2. Policy Objectives and Action Plan**

### **Objective 1: To ensure that assistance is available and accessible to members of the community most in need**

- Issue regular bulletins to staff reminding them of the policy and qualifying criteria
- Regular refresher training for assessment staff to promote proactive identification of potential cases
- Provide effective overview training to non-benefits staff on the policy and qualifying criteria to promote take-up and awareness in appropriate circumstances.
- Promote access to the scheme through:
  - Leaflets and posters in areas accessed by customers.
  - Continued development of the Fylde Borough Council website to ensure that up to date information is provided and that relevant forms and information can be downloaded.
- Ensure third sector advice agencies are aware of the policy and qualifying criteria.
- Promoting awareness to Members
- Identifying target client groups who will be unlikely to be able increase their income. This may include :
  - Council Tax Reduction recipients in receipt of Employment Support Allowance (Support Component) and Long Term Incapacity Benefit
  - Council Tax Reduction recipients, in receipt of Carer's Premium, who are full time carers
  - Council Tax Reduction recipients with disabled children
  - Council Tax Reduction recipients with children under 5
  - Council Tax Reduction recipients who are starting employment
  - Council Tax Reduction recipients who do not have English as a first language
  - Council Tax Reduction recipients with learning difficulties

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- Identify target groups from records held by other Council Services:
  - Social and Private Sector Housing Tenants with significant arrears who may qualify for a Discretionary Housing Payment (DHP).
  - Council Tax payers who have been issued with a summons.
  - Customers who are eligible for but have not claimed a disabled parking badge.
  - People requiring assistance following an emergency
- Providing a facility to visit customers to assist them in making an application and provide supporting documents.
- Working closely with existing and new service partners and stakeholders to promote awareness of the policy.

**Objective 2: To ensure discretionary discounts are only considered when no other means of assistance is available.**

- Ensure assessments of applications for local Council Tax Reduction incorporate a benefits maximization check.
- Ensure the applicant does not have income or capital which should be used to meet the liability.
- Signpost customers who do not meet the criteria to appropriate alternative advice services
- Conduct a regular review of the policy and outcomes of applications in order to review qualifying criteria and improve targeting procedures and processes.
- Provide guidance for decision makers (Senior Benefits Assistant, Senior Benefits Specialist or Team Manager) which is regularly reviewed and updated.
- Implement a quality monitoring regime to ensure decisions are independent, fair and consistent.
- Ensure publicity is available to encourage customers to claim other benefits they are entitled to and where to access debt advice and money management tools.

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- Ensure other sums owed to the Council (e.g. sundry debts, Housing Benefit overpayments) are reviewed and reduced repayments agreed where appropriate.
- Ensure a Discretionary Housing Payment for Housing Benefit is awarded if appropriate
- Ensure recovery action is delayed where appropriate
- Awards will be tailored to match need. The period and amount of an award will be determined based upon the circumstances in each case.
- Awards will only be made for a period relating to the financial year in which the application is made.
- Awards may be reviewed at any time and may be revised, reduced or withdrawn if it is found that the circumstances of the applicant have changed and the award is no longer appropriate.

### **Objective 3: To monitor and evaluate the administration of the policy to ensure that the service reflects the needs of the community**

- Monitoring of fund spending:
  - Monthly reporting of expenditure to be provided to Divisional Management Team meetings.
  - Quarterly reporting to the Chief Financial Officer.
  - Analysis of applications received and outcomes in order to review policy, methodology and improve targeting.
- Conduct a regular review of income and expenditure forms, policy, criteria and guidance for decision makers.
- Review the outcome of requests for reconsideration to improve guidance and methodology.

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- Conduct an annual review and analysis of applications received to identify and learn from:
  - Reasons for the award
  - Reasons for the refusal of an award
  - Origin of the application
- Invite and action feedback on processes and procedures from partners and stakeholders.

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## **3. Discretionary Discount - Customers in receipt of local Council Tax Reduction (Hardship Fund)**

Fylde Borough Council adopted a local Council Tax Reduction Scheme which is effective from 1<sup>st</sup> April 2013. During the development of the scheme the Councils' Equality Analysis identified that certain groups affected by the reduction in support would be unlikely to be able to increase their income. The Discretionary Discount Policy will prioritise these customers.

For an award of this type of discretionary discount to be considered, the applicant must be:

- In receipt of Council Tax Reduction; and
- Have a shortfall between the level of Council Tax Reduction and their council tax liability; and
- In the opinion of the Council, be in need of further assistance with Council Tax in accordance with the qualifying criteria.

Requests for further reductions in Council Tax liability will be required in writing from the customer, their advocate / appointee or a recognised third party acting on their behalf.

Each case will be considered on 'its merits' however all of the following criteria should be met:

- There must be evidence of hardship or personal circumstance that justifies a further reduction in Council Tax liability.
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application.
- The customer does not have access to other assets that could be realised and used to pay the Council Tax.
- All other eligible discounts/reliefs have been awarded to the customer.

### **Responsible officer**

The responsibility for making discretionary discount decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

# Council Tax and Business Rates Discretionary Discount Policy

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## **Decision making process**

Stage 1: The initial request will be dealt with by a decision maker (Senior Benefits Assistant, Senior Benefit Specialist or Team Manager) who will consider the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council.

Stage 2: A Senior Benefits Manager will authorise the decision.

## **Notification of decision**

The Council will notify the applicant of its decision within 28 days of receiving sufficient information to make a decision.

## **Review of decision/re-determination requests**

The Council will accept an applicant's written request for a redetermination of its decision. The process will be as follows:

Stage 1: The original decision and any additional information provided will be reviewed by a different decision maker who will recommend either to confirm or amend the original decision.

Stage 2: The Assistant Treasurer (Head of Shared Revenues and Benefits Service) will consider the application for review and the recommendation and determine whether to award a discretionary discount.

## **Notification of review/re-determination decision**

The Council will notify an applicant of its decision within 28 days of receiving a request for a re-determination.

A discretionary reduction made under section 13A (1)(a) or (c) of the Local Government Finance Act (LGFA) 1992 can be the subject of an appeal to the Valuation Tribunal under section 16 of the LGFA 1992.

# Council Tax and Business Rates Discretionary Discount Policy

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## **4. Discretionary Discounts – Customers not in receipt of local Council Tax Reduction**

Requests for reductions in Council tax liability will be required in writing from the customer, their advocate / appointee or a recognised third party acting on their behalf

Each case will be considered on 'its merits' however all of the following criteria should be met:

- There must be evidence of hardship or personal circumstance that justifies a reduction in Council Tax Liability.
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application.
- The customer does not have access to other assets that could be realised and used to pay the Council Tax.
- The customer is not entitled to an award under the local Council Tax Reduction Scheme.
- All other eligible discounts/reliefs have been awarded to the customer.

### **Responsible officer**

The responsibility for making discretionary decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

The Decision Maker (Revenues Team Manager) will liaise with the applicant in each case to request sufficient information in order that a decision can be made.

### **Decision making process**

Stage 1: The initial request will be dealt with by a decision maker (Revenues Team Manager) who will consider the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council. The decision maker (Revenues Team Manager) will liaise with the applicant in each case to request sufficient information in order that a decision can be made.

# Council Tax and Business Rates Discretionary Discount Policy

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Stage 2: A Senior Revenues Manager will authorise the decision.

## **Notification of decision**

The Council will notify the applicant of its decision within 28 days of receiving sufficient information to make a decision.

## **Review of decision/re-determination requests**

Council will accept an applicant's written request for a redetermination of its decision.

Stage 1: The original decision and any additional information provided will be reviewed by a different decision maker who will recommend either to confirm or amend the original decision.

Stage 2: The Assistant Treasurer (Head of Shared Revenues and Benefits Service) will consider the application for review and the recommendation and determine whether to award a discretionary discount.

## **Notification of review/re-determination decision**

The Council will notify an applicant of its decision within 28 days of receiving a request for a re-determination.

A discretionary reduction made under section 13A(1)(a) or (c) of the Local Government Finance Act (LGFA )1992 can be the subject of an appeal to the Valuation Tribunal under section 16 of the LGFA 1992.



# Council Tax and Business Rates Discretionary Discount Policy

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## **5. Discretionary Discounts – Rate Relief Policy relating to Organisations established for Charitable, Sporting and Community Purposes.**

Each case will be considered on its merits however all of the following criteria should be met:

- Requests for reductions in Business Rates will be required in writing from the ratepayer or a recognised third party acting on their behalf.
- It must be in the interest of Council Tax payers for the local authority to grant a reduction.
- All other eligible discounts/reliefs have been awarded to the ratepayer.

In addition to the above, the Council has determined the following guidelines for the granting of discretionary rate relief.

- a) The organisation is small in stature in that it occupies a hereditament with a Rateable Value of less than £13,000 in the National Non-Domestic Rating List effective from 1 April 2010.

(The premise is that larger organizations are generally well established and can, to a certain extent, exist without any external aid at all).

And

- b) The organisation is not part of a charging or precepting authority.

And

- c) The organisation has been specifically set up for the benefit of the young, the aged, the disabled or for ethnic minorities.

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Sports organisations that allow or promote junior or senior citizen membership would not necessarily fall under the jurisdiction of this rule. The organisation must have been created or is in being for the sole or main purpose of aiding any one of these sections of the community.

Or

- d) The property is for the general use of the local community without any membership and/or subscription requirements and has no specific use except for the general benefit of the community

Or

- e) The property is used for the housing of vehicles used only for offshore emergency purposes

Or

- f) The aims of the organisation are to educate volunteers in emergency training for the benefit of the local community.

Discretionary Relief of the remaining balance (taking into account 80% mandatory relief granted to all charitable bodies) may be granted to any non-profit making organisations that meet the above criteria.

The above is intended only as a guide when considering applications for discretionary rate relief. All applications will be considered on their merits and it might be found that it is only right and proper to approve applications which do not conform exactly to the above.

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- g) The Council will continue with its current policy regarding granting discretionary rate relief, each application be considered on its merits and favourable consideration be given to applications from qualifying organisations in instances when the non-granting of relief could seriously jeopardize the financial viability of the organisation.
- h) One factor to be taken into account in determining discretionary rate relief shall be the training or coaching provided by sports clubs for the youth of the Borough.

In addition, Organisations with charitable status and not being Limited Companies, and set up for recreational purposes:

- Whose membership is open to all sections of the community.
- Do not restrict membership on the grounds of ability or the availability or their facilities,
- Whose membership levels are not set at such a rate to preclude membership by all sections of the community,
- Who provide outside sporting activities,
- Who actively encourage participation by young people,
- Make their facilities available to people other than members eg. to schools or casual public sessions,
- Whose main aim is sporting rather than social,
- Whose members are mainly from Fylde Borough.

May be given discretionary relief of 100% based on the Rateable Value of the outside playing area and changing areas only.

- i) Retail premises operated by a registered charity which have been granted mandatory rate relief may, in exceptional circumstances, receive a further discretionary award. The Council will consider the merits of each case but such an award is likely to be the exception rather than the rule.

### **Responsible officer**

The responsibility for making discretionary decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

# Council Tax and Business Rates Discretionary Discount Policy

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## **Decision making process**

Stage 1: The decision making process will involve the Principal Income and Recovery Manager making a recommendation to the Revenues and Benefits Service Manager, considering the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council. The Revenues and Benefits Service Manager will liaise with the applicant in each case to request sufficient information in order that a decision can be made.

Stage 2: The Chief Financial Officer will consider the application and the recommendation of the Revenues and Benefits Service Manager and determine whether to award a discretionary discount.

## **Notification of decision**

The Council will notify the applicant of its decision within 28 days of receiving sufficient information to make a decision.

## **Review of decision/re-determination requests**

The Council will accept an applicant's written request for a redetermination of its decision. The process will be as follows:

Stage 1: The original decision and any additional information provided will be reviewed by a different decision maker who will recommend either to confirm or amend the original decision.

Stage 2: The Chief Financial Officer will consider the application for review and the recommendation and determine whether to award a discretionary discount.

# Council Tax and Business Rates Discretionary Discount Policy

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## **Notification of review/re-determination decision**

The Council will notify an applicant of its decision within 28 days of receiving a request for a re-determination.

Following the redetermination of a request for discretionary discount, there is no further right of appeal.

# Council Tax and Business Rates Discretionary Discount Policy

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## **6. Other Discretionary Discounts**

It is possible that other exceptional circumstances will arise where the Council could consider a further discretionary reduction in respect of Business Rates.

Each case will be considered on its merits however all of the following criteria should be met:

- Requests for reductions in Business Rates will be required in writing from the ratepayer or a recognised third party acting on their behalf.
- It must be in the interest of Council Tax payers for the local authority to grant a reduction.
- All other eligible discounts/reliefs have been awarded to the ratepayer.

The Chief Financial Officer will consider such applications in line with the Council's Financial Regulations.

# Council Tax and Business Rates Discretionary Discount Policy

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## **7. Business Rates Retail Relief (Discretionary)**

### **Eligible retail properties description**

Relief of up to £1,000 may be provided to occupied retail properties, with a rateable value of £50,000 or less, in the financial year 2014/15. For 2015/16 relief of up to £1,500 may be provided subject to local discretion.

To qualify for the relief the retail property should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, retail properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

The Council will consider each application for relief based on the particular merits on the request.

Relief will only be allowed where the award complies with European Union State Aid law.

The Council reserves the right to withdraw any award where it becomes evident that the property is not being used for a qualifying purpose.

For the purposes of this relief the Council considers shops, restaurants, cafes and drinking establishments to mean:

### **Retail properties that are being used for the sale of goods to visiting members of the public:**

Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc.)

Charity shops

Opticians

Post offices

Furnishing shops/ display rooms (such as: carpet shops, double glazing)

Car/ caravan show rooms

Second hand car lots

Markets

Petrol stations

Garden centres

Art galleries (where art is for sale/hire)

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## **Retail properties that are being used for the provision of the following services to visiting members of the public:**

Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc.)

Shoe repairs/ key cutting

Travel agents

Ticket offices e.g. for theatre

Dry cleaners

Launderettes

PC/ TV/ domestic appliance repair

Funeral directors

Photo processing

DVD/ video rentals

Tool hire

Car hire

## **Retail properties that are being used for the sale of food and/ or drink to visiting members of the public:**

Restaurants

Takeaways

Sandwich shops

Coffee shops

Pubs

Bars

## **Ineligible retail properties descriptions**

The list below sets out the types of uses that the Council does not consider to be retail use for the purpose of this relief.

### **(A) Retail properties that are being used for the provision of the following services to visiting members of the public:**

Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)

Other services (e.g. estate agents, letting agents, employment agencies)

Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)

Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)

Post office sorting office



# Council Tax and Business Rates Discretionary Discount Policy

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**(B) Retail properties that are not reasonably accessible to visiting members of the public**

**(C) Retail properties that do not support the Council's wider objectives or could have a detrimental impact on neighbourhoods and communities**

## **Responsible officer**

The responsibility for making discretionary relief decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

## **Decision making process**

Stage 1: The initial request will be dealt with by a Team Manager who will consider the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council.

Stage 2: The Revenues and Benefits Service Manager/Principal Income and Recovery Manager will authorise the decision.

## **Notification of decision**

The Council will notify the applicant of its decision within 28 days of receiving sufficient information to make a decision.

## **Review of decision/re-determination requests**

The Council will accept an applicant's written request for a redetermination of its decision. The process will be as follows:

# Council Tax and Business Rates Discretionary Discount Policy

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Stage 1: The original decision and any additional information provided will be reviewed by a different Manager who will recommend either to confirm or amend the original decision.

Stage 2: The Assistant Treasurer (Head of Shared Revenues and Benefits Service) will consider the application for review and the recommendation and determine whether to award discretionary retail relief.

## **Notification of review/re-determination decision**

The Council will notify an applicant of its decision within 28 days of receiving a request for a re-determination.

Following the re-determination of a request for a discretionary award there is no further right of appeal.

# Council Tax and Business Rates Discretionary Discount Policy

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## **8. Business Rates New Build Empty Property Relief (Discretionary)**

All newly built commercial property completed between 1 October 2013 and 30 September 2016 may be exempted from empty property rates for the first 18 months, up to the state aid limits.

### **Responsible officer**

The responsibility for making discretionary relief decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

### **Decision making process**

Stage 1: The initial request will be dealt with by a Team Manager who will consider the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council.

Stage 2: The Revenues and Benefits Service Manager/Principal Income and Recovery Manager will authorise the decision.

### **Notification of decision**

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Following the re-determination of a request for a discretionary award there is no further right of appeal.

# Council Tax and Business Rates Discretionary Discount Policy

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## **9. Temporary Reoccupation Relief (Discretionary)**

New occupants of retail premises which have been unoccupied for in excess of 12 months may be offered a 50% discount from business rates. The discount would be for 18 months. Application for the relief is open to businesses which move into properties between 1 April 2014 and 31 March 2016.

There are no restrictions based on the type, or the size, of the business which takes the property on – i.e. it is not required to be a retail business.

### **Responsible officer**

The responsibility for making discretionary relief decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

### **Decision making process**

Stage 1: The initial request will be dealt with by a Team Manager who will consider the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council.

Stage 2: The Revenues and Benefits Service Manager/Principal Income and Recovery Manager will authorise the decision.

### **Notification of decision**

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### **Review of decision/re-determination requests**

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# Council Tax and Business Rates Discretionary Discount Policy

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Stage 2: The Assistant Treasurer (Head of Shared Revenues and Benefits Service) will consider the application for review and the recommendation and determine whether to award discretionary retail relief.

## **Notification of review/re-determination decision**

The Council will notify an applicant of its decision within 28 days of receiving a request for a re-determination. Following the re-determination of a request for a discretionary award there is no further right of appeal.

# Council Tax and Business Rates Discretionary Discount Policy

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## **Rural Rate Relief**

Relief of up to 100% can be granted to the occupier of a general store, post office, pub or petrol station if it is the only such business in the authority's rural settlement list. Each case will be dealt with on its own set of circumstances and rateable value limits will apply.

## **Responsible officer**

The responsibility for making discretionary decisions will rest with the Chief Financial Officer, who will discharge this responsibility by the following process:

## **Decision making process**

Stage 1: The decision making process will involve the Principal Income and Recovery Manager making a recommendation to the Revenues and Benefits Service Manager, considering the application against the criteria set out in this policy, based upon the information provided by the applicant and known to the Council. The Revenues and Benefits Service Manager will liaise with the applicant in each case to request sufficient information in order that a decision can be made.

Stage 2: The Chief Financial Officer will consider the application and the recommendation of the Revenues and Benefits Service Manager and determine whether to award a discretionary discount.

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# Council Tax and Business Rates Discretionary Discount Policy

Stage 2: The Chief Financial Officer will consider the application for review and the recommendation and determine whether to award a discretionary discount.

## **Notification of review/re-determination decision**

The Council will notify an applicant of its decision within 28 days of receiving a request for a re-determination.

Following the redetermination of a request for discretionary discount, there is no further right of appeal.

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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).

Date: Oct 2014  
Review Date: Oct 2015

Our Ref: Discretionary Discount Policy  
Authorised by: M McRoberts,  
Head of Revenues and Benefits

