DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	25 APRIL 2022	11

REVISED CODE OF CONDUCT FOR ELECTED MEMBERS

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

SUMMARY

In January 2019, the Committee on Standards in Public Life published a report on local government ethical standards, an area of long-standing interest for the committee.

The report outlined several proposed recommendations, some of which would require a change in legislation (no changes to date), and others considered to be of a best practice nature to drive high ethical standards within local authorities which councils could implement without a change in legislation.

A number of these recommendations related to the code of conduct, and as a result the Local Government Association (LGA) developed a non-mandatory, model code of conduct.

Following two workshops to consider the LGA's model code of conduct; one with both Blackpool and Fylde's respective Monitoring Officers (MO's), senior governance officers and the three shared Independent Persons (IP's); and the other with the respective MO's, senior governance officers and Chairmen and Vice Chairmen of Blackpool and Fylde's Audit and Standards Committee together with an opposition member from each council (Councillor Brian Gill representing Fylde) a revised code has been developed.

As a result of these workshops, this revised code was presented to the Audit and Standards Committee on 17th March 2022 for consideration and recommended the adoption of the revised code to council.

RECOMMENDATION

1. To adopt the revised Code of Conduct for Elected Members.

SUMMARY OF PREVIOUS DECISIONS

Audit and Standards committee 17 March 2022

It was RESOLVED:

1. To recommend that the Council adopts the revised Code of Conduct attached at Appendix A of the report;
2. That the code is shared with the 15 Town and Parish Councils across the Borough, inviting them to consider if they wish to adopt it locally;
3. Following adoption of the revised code by the Council, that the Member Development Steering Group, is invited to consider adding a training event on ethical standards, to outline the content and provisions of the revised code, to its programme of activity.

Audit & Standards - 20th May 2021 – outlined that the model code had been published and agreed that it should be considered by the chairmen and vice-chairmen of the respective councils together with one opposition member from each council, the three IP's and MO's.

Audit & Standards - 26th November 2020 – report on the position with respect to the development of a model Code of Conduct by the Local Government Association – progress was noted, and members requested a further update in due course.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

High ethical standards are required across all council activity; hence this reports cuts across all the council's corporate priorities.

REPORT

1. Members will recall that in January 2019, the Committee on Standards in Public Life published a report on local government ethical standards, an area of long-standing interest for the Audit and Standards Committee.
2. The report outlined several proposed recommendations, some of which would require a change in legislation, and others considered to be of a best practice nature to drive high ethical standards within local authorities which councils could implement without a change in legislation.
3. A number of these related to the code of conduct, and as a result the Local Government Association (LGA) subsequently developed a non-mandatory, model code of conduct.
4. Following two workshops to consider the LGA's model code of conduct; one with both Blackpool and Fylde's respective Monitoring Officers (MO's), senior governance officers and the three shared Independent Persons (IP's); and the other with the respective MO's, senior governance officers and Chairmen and Vice Chairmen of Blackpool and Fylde's Audit and Standards Committee together with an opposition member from each council (Councillor Brian Gill representing Fylde) a revised Code of Conduct has been developed.
5. The revised code is effectively a hybrid-model of the council's existing code, together with the LGA model code. Broadly, the interest provisions within the council's existing code were considered superior to the content of the model code. Conversely the strengthened nature of the LGA's code in terms of general obligations, together with the explanatory information, was considered to give a more thorough context.

IMPLICATIONS	
Finance	There are no financial implications arising directly from this report
Legal	The Localism Act 2011 gives council's freedom to adopt a local code of conduct.
Community Safety	There are no implications arising directly from this report
Human Rights and Equalities	There are no implications arising directly from this report
Sustainability and Environmental Impact	There are no implications arising directly from this report
Health & Safety and Risk Management	There are no implications arising directly from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	tracy.manning@fylde.gov.uk & Tel 01253 658521	29 March 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Minutes from Audit & Standards		Council Website

Attached documents
Revised Code of Conduct for Elected Members

[ ] Council Code of Conduct for Members	
Effective from:	**Approved by Council on:**

Preamble

General

A. This is the code of conduct adopted by XXX Borough Council under section 27(2) of the Localism Act 2011. It consists of this preamble, general principles, code obligations and explanatory information.

B. In this document:

"the code" means this code of conduct

"councillor" means anybody who the code applies to, including both councillors and co-opted members.

C. The **general principles** set out what the code is intended to achieve and provide the context for the code obligations. The **code obligations** set out what councillors must or must not do when the code applies to them. The **explanatory information** gives guidance and examples about how the code obligations should be understood and applied.

Scope

D. The code applies to elected councillors from when they sign their declaration of acceptance of the office of councillor and co-opted members from when they attend their first meeting and continues to apply until they cease to be in office.

E. The code obligations apply when councillors are acting in their capacity as a councillor which includes when they:

- misuse their position as a councillor
- give the impression that they are acting as a councillor or
- act as a representative of the council on another body.

F. The code applies to all forms of communication and interaction, including:

- face-to-face meetings
- online or telephone meetings
- written communication
- verbal communication
- non-verbal communication and
- electronic and social media communication, posts, statements and comments.

Sanctions

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

- by the council (if it relates to the Code itself or a personal/prejudicial interest); or
- through criminal proceedings (if it relates to a Disclosable Pecuniary Interest which may result in a criminal conviction and a fine up to £5,000 and/ or disqualification from office for a period of up to five years).

General principles

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles (see Appendix 1).

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- *I act with integrity and honesty*
- *I act lawfully*
- *I treat all persons fairly and with respect; and*
- *I lead by example and act in a way that secures public confidence in the role of councillor*.

In undertaking my role:

- *I impartially exercise my responsibilities in the interests of the local community*
- *I do not improperly seek to confer an advantage, or disadvantage, on any person*
- *I avoid conflicts of interest*
- *I exercise reasonable care and diligence; and*
- *I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.*

You are also expected to uphold high standards of conduct and lead by example when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the code.

Town and Parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer. As the respective Town ad Parish Councils have responsibility for adopting their own Codes, the provisions of these Codes may differ.

Code obligations and explanatory information

1. Respect

Code obligation:

1.1 You must treat all others with respect

Explanatory information:

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to any relevant authority. This also applies to fellow councillors, where action could then be taken under the code, and local authority employees, where concerns should be raised in line with the local authority's councillor/officer protocol. The principle behind this section is that you should treat others how you would want to be treated yourself.

2. Bullying, harassment and discrimination

Code obligations:

2.1 You must not bully any person

2.2 You must not harass any person

2.3 You must promote equalities and not discriminate unlawfully against any person

2.4 You must not do anything which would breach or cause your local authority to breach the provisions of Equality Act 2010.

Explanatory information:

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

Code obligation:

3.1 You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Explanatory information:

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

Code obligation:

4.1 You must not disclose confidential information except where:

- **You have the consent of the person authorised to give it**
- **You are required by the law to do so**
- **You disclose the information to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person**
- **You make the disclosure in good faith, and in compliance with the reasonable requirements of the authority, in the public interest**

4.2 You must not do anything which would breach or cause you or your local authority to breach the provisions of the Data Protection Act 2018.

Explanatory information:

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner, for example if it relates to individuals or ongoing negotiations.

5. Disrepute

Code obligation:

5.1 You must not bring your role or local authority into disrepute.

Explanatory information:

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of the code.

6. Use of position

Code obligation:

6.1 You must not use, or attempt to use, you position improperly to the advantage or disadvantage of yourself or anyone else.

6.2 You must have regard to the obligations of your local authority under the Code of Recommended Practice on Local Authority Publicity made under the Local Government Act 1986.

Explanatory information:

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

You should also have regard to the Code of Recommended Practice on Local Authority Publicity, which requires that publicity issued by local authorities should be objective and even handed.

7. Use of local authority resources and facilities

Code obligation:

7.1 When using the council's resources, you must do so in accordance with the authority's requirements and ensure that resources are not used improperly (including improperly for political purposes)

Explanatory information:

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery

- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Decision Making

Code obligations:

8.1 You must have regard when reaching decisions, to advice provided to you by the authority's Chief Finance Officer or Monitoring Officer when they are acting in accordance with their statutory duties.

Explanatory information:

You should have regard to the advice of the statutory officers mentioned above and take this into account, even if you choose not to follow it. If you choose not to follow the advice, you should be able to provide reasons for not doing so.

9. Complying with the Code of Conduct

Code obligations:

9.1 You must undertake all relevant training about the code provided by your local authority.

9.2 You must cooperate with any investigation or other procedure carried out by your local authority in connection with an allegation of a breach of the code.

9.3 You must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or procedure in connection with an allegation of a breach of the code.

9.4 You must comply with any sanction imposed on you following a finding that you have breached the code.

Explanatory information:

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

10. Interests

Code obligations:

10.1 You must register and disclose your disclosable pecuniary interests as required by law

10.2 You must register and disclose your personal and prejudicial interests as required by appendix 3

Explanatory information:

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable.
You are personally responsible for deciding whether you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Disclosable pecuniary interests (sometimes called 'DPIs') are set out in law by the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Appendix 2 describes the provisions about disclosable pecuniary interests.

Appendix 3 is the part of the code that sets out the detailed provisions about personal and prejudicial interests that apply to councillors.

You must comply with the rules in appendix 2 and appendix 3, where they apply. If in doubt, you should always seek advice from your Monitoring Officer.

11. Gifts and hospitality

Code obligations:

11.1 You should exercise caution in accepting gifts or hospitality in circumstances where a reasonable person would conclude that the gift or hospitality was given to you because you are a councillor, or because of any role or position that you hold in the council or a political group, unless the value of the gift or hospitality is trivial.

11.2 You should exercise caution in accepting gifts or hospitality in circumstances where a reasonable person would suspect that the person giving the gift or hospitality is a person seeking to do business with the council or who may be considering applying to the council for any permission, licence or other significant advantage.

11.3 You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

Explanatory information:

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered and the reason for acceptance is given. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance. A record of hospitality accepted by the Mayor is recorded by his/her secretary in the diary of events. However, any gifts offered to the Mayor during the course of his/her duties should be recorded.

Appendix 1 – The Seven Principles of Public Life (the 'Nolan' principles)

Selflessness
Holders of public office should act solely in terms of the public interest.

Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty
Holders of public office should be truthful.

Leadership
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix 2 – Disclosable pecuniary interests ('DPIs')

General

A2.1 This appendix explains the statutory requirements of the Localism Act 2011 (Sections 29- 34) in relation to disclosable pecuniary interests (DPIs). These are enforced by criminal sanction.

A2.2 A **disclosable pecuniary interest** is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the descriptions set out at the end of this appendix.

A2.3 You must:

(i) Notify the Monitoring Officer in writing within 28 days of becoming a member, or within 28 days of any change or becoming aware of any existence of a DPI.

(ii) Make a verbal declaration (at the beginning or as soon as you become aware of your interest) of the existence and nature of any DPI at any meeting at which you are present where an item of business which affects or relates to the subject matter of the interest is under consideration.

(iii) Comply with the statutory requirements to withdraw from participating in respect of any matter in which you have a DPI and comply with the Council's Procedure Rules by leaving the room.

Dispensations

A2.4 The Audit and Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Offences

A2.5 It is a criminal offence to:

- fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election, or becoming aware of a disclosable pecuniary interest
- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the Register
- fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

A2.6 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Categories of Disclosable Pecuniary Interests (DPIs)

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses in curred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority - (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (j) if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a benefici al interest exceeds one hundredth of the total issued share capital of that class.

Appendix 3 – Personal interests and prejudicial interests

This appendix sets out requirements made by the council that form part of the code.

A3.1 Personal Interests

A3.1.1 You have a **personal interest** where a decision in relation to that business might reasonably be regarded as affecting:

(i) Your well-being or financial position of a member of your family or any person with whom you have a close association

(ii) A body of which you are a member or in a position of general control or management and have been appointed or nominated to it by your authority.

(iii) A body of which you are a member (other than another local authority) exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.

A3.1.2 You must:

(i) Notify the Monitoring Officer in writing within 28 days of becoming a member, or within 28 days of any change or becoming aware of any existence of a personal interest set out in paragraph A3.1.1 (ii) and (iii) above.

(ii) Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any personal interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.

A3.2 Prejudicial interests

A3.2.1 Your personal interests would become **prejudicial** in the following instances:

(i) Where a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest AND where that business:

(a) affects your financial position or the financial position of a person or body through whom the interest arises or
(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises.

A3.2.2 You must:

(i) Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any prejudicial interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of the interest is under consideration.

(ii) Comply with the Council's Procedure Rules by withdrawing from any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

A3.2.3 Where you have a prejudicial interest you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

A3.3 General dispensations

A3.3.1 You may attend a meeting and vote on a matter where you have an interest that relates to the functions of the authority relating to:

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease

(ii) an allowance, payment or indemnity given to members

(iii) any ceremonial honour given to members

(iv) setting council tax or a precept under the Local Government Finance Act 1992

(v) another local authority

A3.4 Sensitive interests

A3.4.1 Where you consider that disclosure of the details of a personal or prejudicial interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.