



William J Taylor BA (Hons), M Soc Sc, FIPD
Chief Executive

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Ormskirk
West Lancashire
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2 February 2010

TO:

INDEPENDENT MEMBERS: **MR J CAILES (CHAIRMAN),
MR P HANMER (VICE-CHAIRMAN),
PROF. R CHESTER AND DR P HAYMAN
(1 Vacancy)**

COUNCILLORS: **MRS U ATHERLEY, P COTTERILL, S JONES AND
G M ROBERTS**

PARISH COUNCILLORS: **A CHEETHAM, R COADY AND M HAMMOND**

ALSO INVITED: **MR B WINSTANLEY, MR P ROGAN AND
MR S IBBS**

Dear Member,

A meeting of the **STANDARDS COMMITTEE** will be held in the **COUNCIL CHAMBER, 52 DERBY STREET, ORMSKIRK** on **WEDNESDAY 10 FEBRUARY 2010** at **4.00PM** at which your attendance is requested.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'W J Taylor', written over a horizontal line.

William J Taylor
Chief Executive

A G E N D A
(Open to the Public)

1. APOLOGIES

To receive any apologies for absence.

2. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

Note: No other business is permitted unless, by reason of special circumstances, which shall be specified at the meeting, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

3. DECLARATIONS OF INTEREST

If a member requires advice on Declarations of Interest, he/she is advised to contact the Council Secretary and Solicitor in advance of the meeting.

Page(s) 243 to 244

4. MINUTES

To receive as a correct record the minutes of the meeting of Standards Committee held on 27 October 2009.

Page(s) 245 to 250

5. 'ASSESSMENT MADE CLEAR'

To watch a training DVD issued by Standards for England.

6. COMPLAINTS, REVIEWS AND INVESTIGATIONS - STATISTICS

To consider and note the update from the Council Secretary and Solicitor.
Page(s) 251 to 258

7. CHARITABLE TRUSTEES AND DECLARATIONS OF INTEREST UNDER THE CODE

To note the advice issued by Standards for England. **Page(s) 259 to 262**

8. THE ROLE AND APPOINTMENT OF PARISH AND TOWN COUNCIL REPRESENTATIVES TO THE STANDARDS COMMITTEE AND THE STANDARDS COMMITTEE (ENGLAND) REGULATION 2008 (THE 2008 REGULATIONS)

To note the advice issued by Standards for England. **Page(s) 263 to 264**

9. STANDARDS COMMITTEE WORK PROGRAMME 2010/11

To consider and note the updated Work Programme. **Page(s) 265 to 266**

10. MINUTES OF SUB-COMMITTEES

To note the minutes of the following Sub-Committees:

(a) Assessment Sub-Committee - 2 December 2009 and 10 January 2010

(b) Review Sub-Committee - 1 February 2010 **Page(s) 267 to 272**

11. APPOINTMENT OF INDEPENDENT MEMBERS

To consider the report of the Council Secretary and Solicitor.

(The invited candidates will be asked to leave during this item.)

Page(s) 273 to End

We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.

FIRE EVACUATION PROCEDURE: Please see attached sheet.
MOBILE PHONES: These should be switched off at all meetings.

*For further information, please contact:-
Jacky Denning on 01695 577177 ext 5384
or email
Jacky.Denning@westlancs.gov.uk*

FIRE PRECAUTIONS ACT 1971
FIRE EVACUATION PROCEDURE FOR MEETINGS WHERE OFFICERS ARE
PRESENT
(52 DERBY STREET, ORMSKIRK)

PERSON IN CHARGE: Most Senior Officer present
FIRE MARSHAL: Member Services Officer / Lawyer
DOOR WARDEN(S) Usher / Caretaker

IF YOU DISCOVER A FIRE

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

ON HEARING THE FIRE ALARM

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **DO NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

NOTES:

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

CHECKLIST FOR PERSON IN CHARGE

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the fire marshals and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to the **WARDENCALL SECTION** in Westec House in order to ensure that a back-up call is made to the **FIRE AND RESCUE SERVICE**.

4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.
5. Ensure that the **FIRE MARSHAL** has reported to you on the results of his checks, i.e. that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the **FIRE AND RESCUE OFFICER IN CHARGE** on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

NOTE:

The Fire Alarm system will automatically call the FIRE AND RESCUE SERVICE. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

CHECKLIST FOR FIRE MARSHAL

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **FIRE MARSHAL** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

INSTRUCTIONS FOR DOOR WARDENS

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.

DECLARATION OF INTEREST - CHECKLIST FOR ASSISTANCE OF MEMBERS – 2007

Name: Councillor

Cabinet/Council/Committee:

Date:

Item No:

Item Title:

Nature of Interest:

A Member with a personal interest in any business of the Council must disclose the existence and nature of that interest at commencement or when interest apparent except:

- Where it relates to or is likely to affect a person described in 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose the existence and nature when you address the meeting on that business.
- Where it is a personal interest of the type mentioned in 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- Where sensitive information relating to it is not registered in the register, you must indicate that you have a personal interest, but need not disclose the sensitive information.

A Member with a prejudicial interest must withdraw, **either** immediately after making representations, answering questions or giving evidence where 4 below applies **or** when business is considered and must not exercise executive functions in relation to that business and must not seek to improperly influence a decision.

Please tick relevant boxes

Notes

| | General (not at overview & scrutiny) | | Notes |
|-------|--|--|--|
| 1. | I have a personal interest* but it is not prejudicial. | <input type="checkbox"/> | <i>You may speak and vote</i> |
| 2. | I have a personal interest* but do <u>not</u> have a prejudicial interest in the business as it relates to the functions of my Council in respect of: | | |
| (i) | Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease. | <input type="checkbox"/> | <i>You may speak and vote</i> |
| (ii) | school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends. | <input type="checkbox"/> | <i>You may speak and vote</i> |
| (iii) | Statutory sick pay where I am in receipt or entitled to receipt of such pay. | <input type="checkbox"/> | <i>You may speak and vote</i> |
| (iv) | An allowance, payment or indemnity given to Members | <input type="checkbox"/> | <i>You may speak and vote</i> |
| (v) | Any ceremonial honour given to Members | <input type="checkbox"/> | <i>You may speak and vote</i> |
| (vi) | Setting Council tax or a precept under the LGFA 1992 | <input type="checkbox"/> | <i>You may speak and vote</i> |
| 3. | I have a personal interest* and it is prejudicial because it affects my financial position or the financial position of a person or body described in 8 overleaf and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or any person or body described in 8 overleaf and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest | <input type="checkbox"/> <input type="checkbox"/> | <i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 5 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 5 below</i> |

| | | | |
|----|--|--------------------------|---|
| 4. | I have a personal and prejudicial interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose | <input type="checkbox"/> | <i>You may speak but must leave the room once you have finished and cannot vote</i> |
| 5. | A Standards Committee dispensation applies. | <input type="checkbox"/> | <i>See the terms of the dispensation</i> |

* **“Personal Interest”** in the business of the Council means either it relates to or is likely to affect:

- 8(1)(a)(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body -
- (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;
- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in your authority’s area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority’s area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority’s area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

or

A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

“a relevant person” means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 8(1)(a)(i) or (ii).

“body exercising functions of a public nature” means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13)(b) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

STANDARDS COMMITTEE

ITEM 7A

HELD: 27 OCTOBER 2009
Start: 4.30pm
Finish: 5.45pm

PRESENT:

Independent Members: J Cailes (Chairman)
P Hanmer (Vice Chairman)
R Chester
P Hayman
R Patterson

Councillors S Jones
G M Roberts

Parish Councillors R Coady
A Cheetham
M Hammond

Officers: Council Secretary & Solicitor (Mrs G Rowe)
Assistant Legal Services Manager (Mr M Jones) (for Minute No. 18)
Assistant Member Services Manager (Mrs J Denning)

In attendance: Leader, Councillor I Grant
Leader of the Opposition, Councillor P Cotterill
Chief Executive, Mr W Taylor

13. APOLOGIES

An apology for absence was received on behalf of Councillor Mrs Atherley.

14. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no items of urgent business

15. DECLARATIONS OF INTEREST

There were no declarations of interest.

16. MINUTES

RESOLVED: That the minutes of the meeting of the Standards Committee held on 14 July 2009 be approved as a correct record and signed by the Chairman.

17. COMPLAINTS, REVIEWS AND INVESTIGATIONS - STATISTICS

The Committee considered the statistics produced by the Council Secretary and Solicitor in respect of the number of complaints, reviews, investigations and hearings.

RESOLVED: That the current statistics be noted.

18. PROBITY IN PLANNING

The Committee considered the report of the Council Secretary and Solicitor which advised of the publication by the Local Government Association of an update to its guidance note "Probity in Planning".

RESOLVED: That the contents of the Local Government Association's update to its guidance note "Probity in Planning", be noted.

19. ETHICAL GOVERNANCE TOOLKIT

The Committee considered the report of the Council Secretary and Solicitor which advised of the Ethical Governance Toolkit produced by the IDeA and sought endorsement for a way forward for the Council.

RESOLVED: That, taking into account existing arrangements and how resource intensive undertaking the main elements of the Ethical Governance Toolkit could be, this matter should not be taken any further at present but the availability of the material be noted.

20. RECRUITMENT OF FUTURE INDEPENDENT MEMBERS - UPDATE

The Committee considered the report of the Council Secretary and Solicitor which provided an update in respect of the recruitment of Independent Members to the Standards Committee and the timetable for interviews.

RESOLVED: A. That the timetable for the recruitment of Independent Members to the Standards Committee, as set out in paragraph 4.1 of the report, be noted, in particular, the short listing date of 10 December 2009 and the Interview date of 14 January 2010.

B. That the Notice advertising the positions of Independent Member, attached as an Appendix to the report, be noted.

C. That it be noted that the Recruitment of Independent Members Panel is likely to consist of the Chairman and Vice-Chairman of the Standards Committee and one other Independent Member.

21. VISITS TO BOROUGH AND PARISH COUNCIL MEETINGS

The Committee considered the report of the Council Secretary and Solicitor which provided an update on visits being undertaken by Members of the Standards Committee to Borough and Parish Council meetings.

Parish Councillor Hammond advised that he had also attended Up Holland Parish Council and that he would attend Lathom Parish Council on 25 January 2010.

Parish Councillor Cheetham advised that he would attend North Meols Parish Council on 8 December 2009.

- RESOLVED:
- A. That the current position in relation to visits to Borough and Parish Council meetings as set out in paragraph 4 of the report with the addition of the visit to Up Holland Parish Council and the informal feedback from Members on their visits to date, be noted.
 - B. That Members of the Committee notify the Assistant Member Services Manager of any future visits they are able to undertake.
 - C. That the programme of visits to the remaining Parish Councils, attached as an Appendix to the report, be updated to include Borough Council meetings.

22. STANDARDS FOR ENGLAND CONFERENCE - 12 & 13 OCTOBER 2009

The Council Secretary and Solicitor referred to the two day programme of the Standards for England Conference held on 12 and 13 October 2009 and advised that information on the programme was available to access via the web page.

RESOLVED: That the two day programme be noted.

23. THE STANDARDS FORUM

The Committee considered the report of the Council Secretary and Solicitor which advised of the introduction by Standards for England of an online Standards Forum and sought agreement to provide details to Standards for England of Standards Committee members who would like to join.

- RESOLVED:
- A. That the registration of the Council Secretary and Solicitor (Monitoring Officer) as a user of the Standards Forum be noted and the Legal Services Manager (Deputy Monitoring Officer) also be registered as a user of the online Forum.
 - B. That nominations be sought from Members of the Standards Committee wishing to become 'registered users' of the on-line Forum and the details of those nominated be forwarded to Standards for England.

24. WEST LANCASHIRE AREA COMMITTEE OF PARISH AND TOWN COUNCILS - 15 OCTOBER 2009

The Council Secretary and Solicitor advised the Committee that she had made a presentation on 15 October 2009 to West Lancashire Area Committee of Parish and Town Councils followed by a question and answer session which had been well received.

RESOLVED: That the comments of the Council Secretary and Solicitor be noted.

25. STANDARDS COMMITTEE TRAINING

The Committee discussed the 'Refresher Training – Local Assessment Procedure' session held on 16 October 2009 which had provided an opportunity to feedback on the experience members had gained since the new regime came into force.

The Chairman referred to a flowchart which had been produced for the training session which members had found useful and easy to follow.

RESOLVED: That the flowchart be circulated to those members who were not able to attend the session.

26. STANDARDS COMMITTEE WORK PROGRAMME 2009/10

The Committee considered the revised Standards Committee Work Programme for 2009/10.

RESOLVED: That the Work Programme for 2009/10 be agreed.

27. THE IMPORTANCE OF ETHICAL GOVERNANCE AND THE STANDARDS COMMITTEE ANNUAL REPORT 2008/09 - DISCUSSION

The Committee considered the report of the Council Secretary and Solicitor which invited members to discuss with the Chief Executive, the Leader and the Leader of the Opposition (a) the importance of Ethical Governance and (b) the Standards Committee Annual Report.

The Chief Executive, Mr W Taylor, the Leader, Councillor I Grant and the Leader of the Opposition, Councillor P Cotterill, addressed the Committee and thanked members of the Committee on behalf of the Council for the work undertaken, in particular the Independent Members. Comments were raised regarding:

- The number of local assessments etc undertaken by members, which had been dealt with very efficiently, and it was hoped that lessons had been learnt from all those involved particularly in view of the significant expense the Council had been required to incur in handling this volume.
- The importance and benefit of training for all Borough and Parish Council Members.
- The Annual Report and the work undertaken during 2008/09 to endorse the importance given to ethical governance at West Lancashire and commended the Committee on their proactive approach.

RESOLVED: That the discussion be noted and the contents of the Annual Report be agreed.

28. MINUTES OF SUB-COMMITTEES

RESOLVED: That the minutes of the following Sub-Committees be noted:

- A. Consideration Sub-Committee - 24 June 2009
- B. Hearings Sub-Committee – 21 July 2009
- C. Assessment Sub-Committee – 24 July 2009
- D. Review Sub-Committee – 23 September 2009

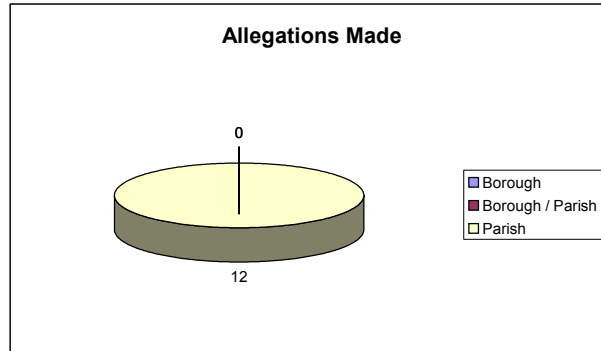
THE CHAIRMAN

Complaints to the Standards Committee 2009/2010

As at 29/01/2010

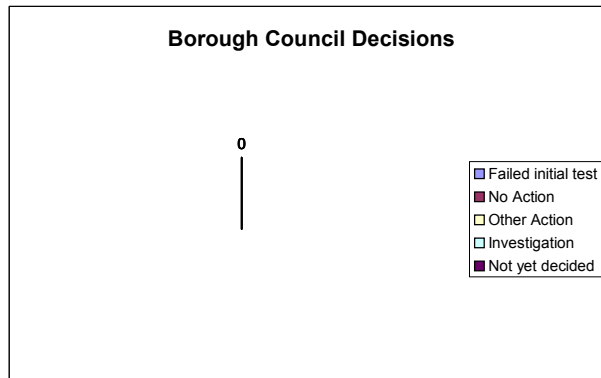
Allegations made

| | |
|------------------|-----------|
| Borough | 0 |
| Borough / Parish | 0 |
| Parish | 12 |
| Total | 12 |



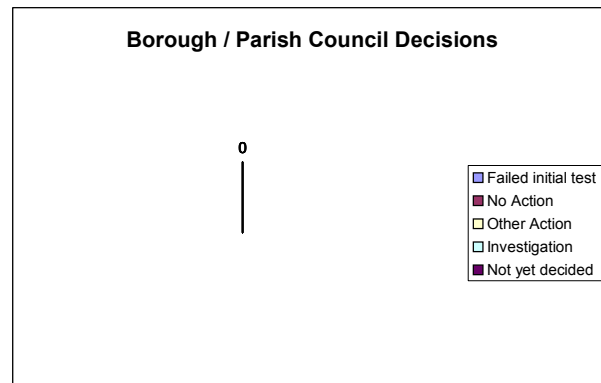
Borough Council Decisions

| | |
|---------------------|----------|
| Failed initial test | 0 |
| No Action | 0 |
| Other Action | 0 |
| Investigation | 0 |
| Not yet decided | 0 |
| Total | 0 |



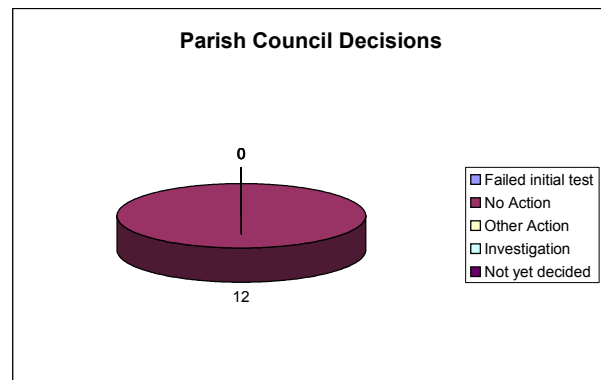
Borough / Parish Council Decisions

| | |
|---------------------|----------|
| Failed initial test | 0 |
| No Action | 0 |
| Other Action | 0 |
| Investigation | 0 |
| Not yet decided | 0 |
| Total | 0 |



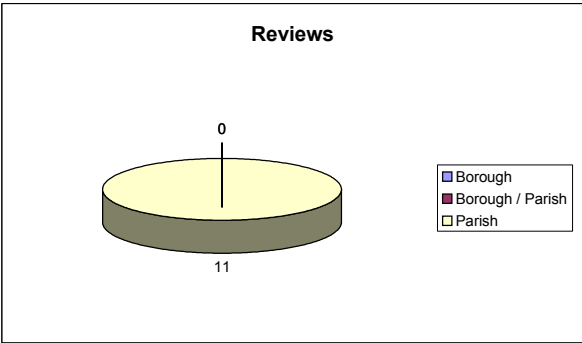
Parish Council Decisions

| | |
|---------------------|-----------|
| Failed initial test | 0 |
| No Action | 12 |
| Other Action | 0 |
| Investigation | 0 |
| Not yet decided | 0 |
| Total | 12 |



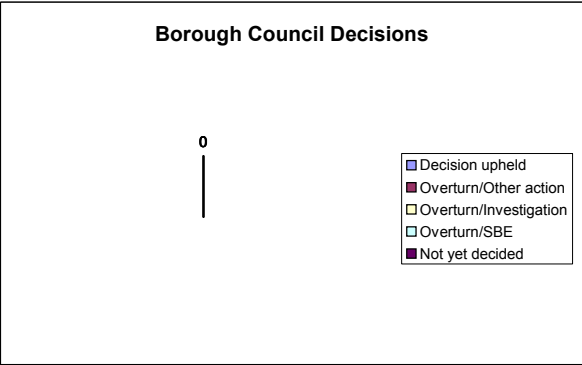
Reviews

| | |
|------------------|-----------|
| Borough | 0 |
| Borough / Parish | 0 |
| Parish | 11 |
| Total | 11 |



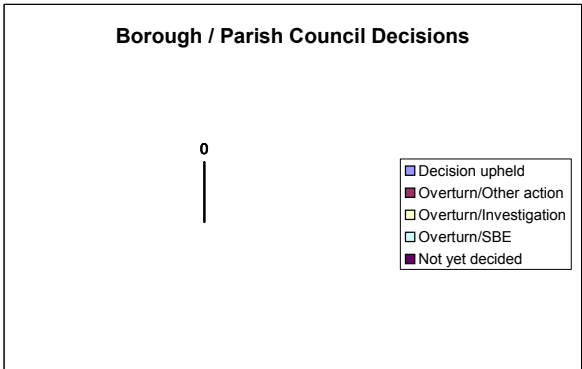
Borough Council Decisions

| | |
|------------------------|----------|
| Decision upheld | 0 |
| Overturn/Other action | 0 |
| Overturn/Investigation | 0 |
| Overturn/SBE | 0 |
| Not yet decided | 0 |
| Total | 0 |



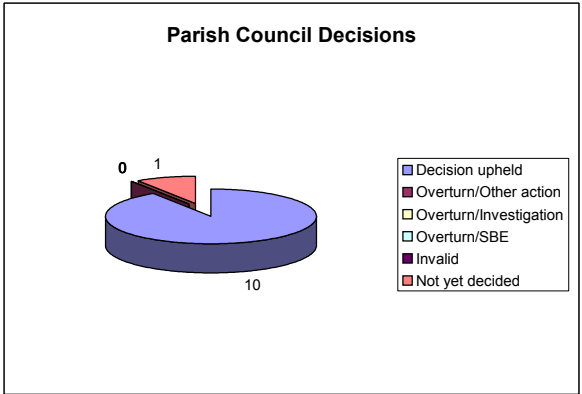
Borough / Parish Council Decisions

| | |
|------------------------|----------|
| Decision upheld | 0 |
| Overturn/Other action | 0 |
| Overturn/Investigation | 0 |
| Overturn/SBE | 0 |
| Not yet decided | 0 |
| Total | 0 |



Parish Council Decisions

| | |
|------------------------|-----------|
| Decision upheld | 10 |
| Overturn/Other action | 0 |
| Overturn/Investigation | 0 |
| Overturn/SBE | 0 |
| Invalid | 0 |
| Not yet decided | 1 |
| Total | 11 |



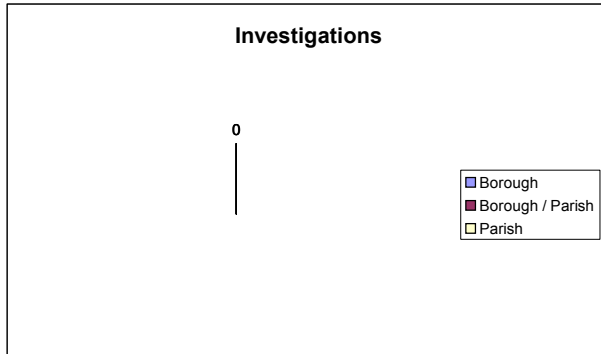
West Lancashire Borough Council

Investigations - Standards Committee 2009/2010

As at 20/05/2009

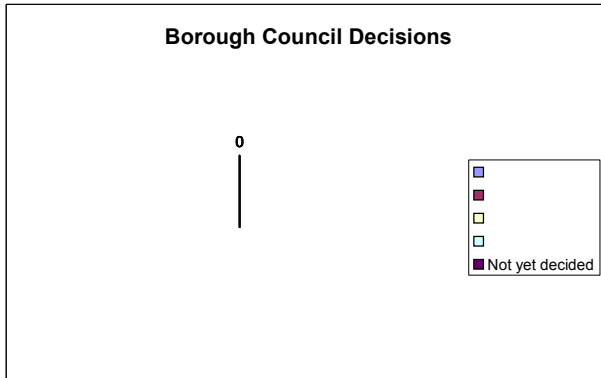
Investigations

| | |
|------------------|---|
| Borough | 0 |
| Borough / Parish | 0 |
| Parish | 0 |
| Total | 0 |



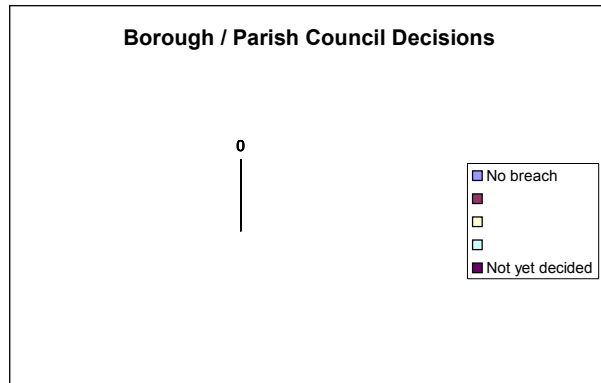
Borough Council Decisions

| | |
|-----------------|---|
| | 0 |
| | 0 |
| | 0 |
| | 0 |
| Not yet decided | 0 |
| Total | 0 |



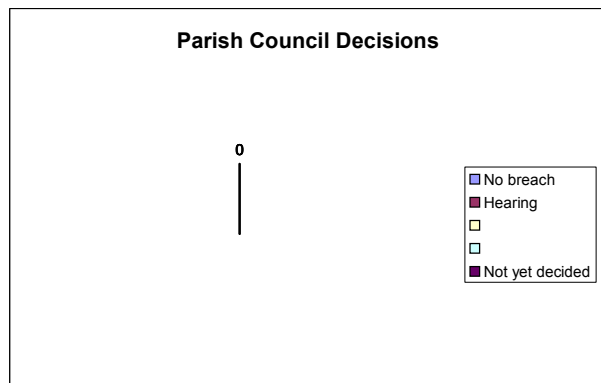
Borough / Parish Council Decisions

| | |
|-----------------|---|
| No breach | 0 |
| | 0 |
| | 0 |
| | 0 |
| Not yet decided | 0 |
| Total | 0 |



Parish Council Decisions

| | |
|-----------------|---|
| No breach | 0 |
| Hearing | 0 |
| | 0 |
| | 0 |
| Not yet decided | 0 |
| Total | 0 |



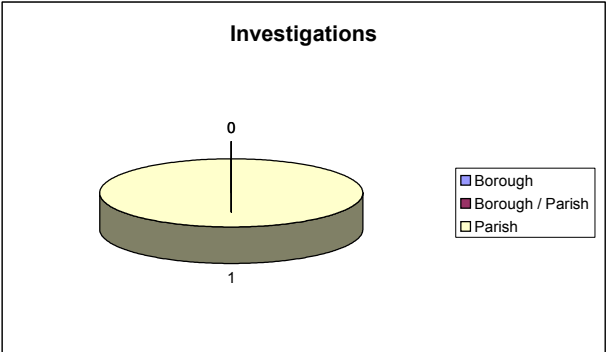
West Lancashire Borough Council

Hearings - Standards Committee 2009/2010

As at 13/10/2009

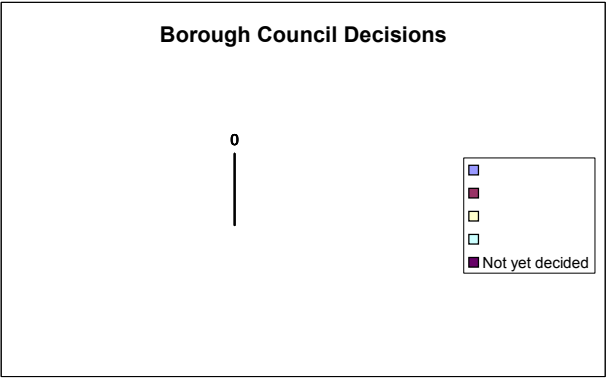
Hearings

| | |
|------------------|---|
| Borough | 0 |
| Borough / Parish | 0 |
| Parish | 1 |
| Total | 1 |



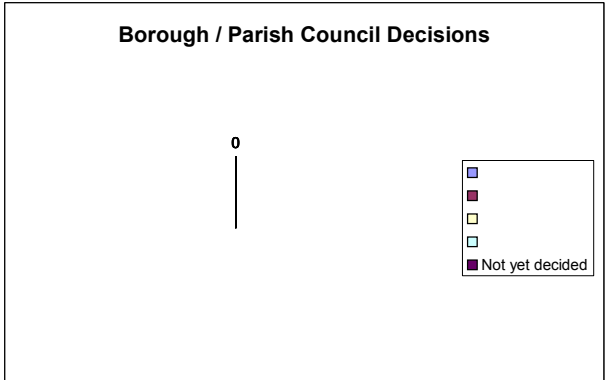
Borough Council Decisions

| | |
|-----------------|---|
| | 0 |
| | 0 |
| | 0 |
| | 0 |
| Not yet decided | 0 |
| Total | 0 |



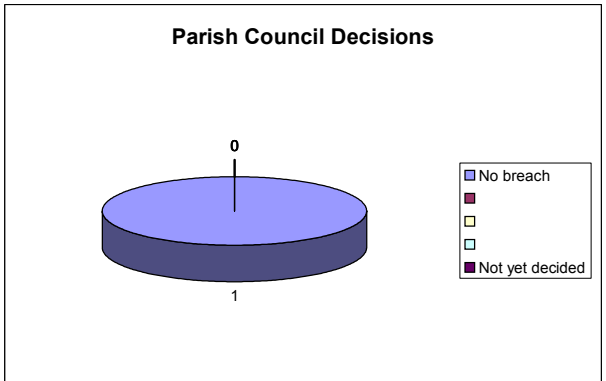
Borough / Parish Council Decisions

| | |
|-----------------|---|
| | 0 |
| | 0 |
| | 0 |
| | 0 |
| Not yet decided | 0 |
| Total | 0 |



Parish Council Decisions

| | |
|-----------------|---|
| No breach | 1 |
| | 0 |
| | 0 |
| | 0 |
| Not yet decided | 0 |
| Total | 1 |



CHARITABLE TRUSTEES AND DECLARATIONS OF INTEREST UNDER THE CODE

(Advice received from Standards for England – 26 January 2010)

Introduction

This guide is aimed at councillors who are trustees of charitable organisations. It explains the different types of charities that you may be involved in. It also aims to provide you with a better understanding of your role so that you know when to register and declare your interest under the Code of Conduct.

Any mention of a charitable organisation in this guide refers to a registered charity or an unregistered body which is directed to charitable purposes.

Understanding your charity

There are two main types of charities, incorporated charities and unincorporated charities.

An **incorporated charity** is a corporate body which has a legal existence that is separate from the individual persons that form it.

Most incorporated charities are limited companies registered with Companies House and the Charities Commission.

An **unincorporated charity** may be a 'trust' or 'association'.

An unincorporated charity cannot itself 'hold' the legal title to land or other forms of investment because it has no separate legal status. For this reason, its land or investments will be held on its behalf by:

- individuals or an incorporated body known as a custodian trustee
- a holding trustee or
- a nominee.

Appointment

A charity's governing document sets out your charity's purposes and how it is to be administered. It will also, usually, set out how trustees are to be appointed which can vary according to the individual charity.

The governing document may be:

- a trust deed
- a constitution
- memorandum and articles of association **or**
- another document.

A trustee can be appointed directly by a charitable organisation or nominated by their local authority. He or she may be appointed to manage the charity or to only hold the title to the charity's land or investments. It is important to understand your role as a trustee in order to understand if you have an interest to register.

Charity trustees

Charity trustees serve on the governing body of a charity. They may be known as trustees, directors, board members, governors or committee members, or they may be referred to by some other title. For example, some charity trustees are known as 'officers' and have special responsibilities such as chair, treasurer or ex-officio trustee. An 'ex-officio trustee' is a type of charity trustee who is in that position because of their office, such as the mayor of a town or the head teacher of a school.

Whatever their title the principles and main duties of a charity trustee are the same. Charity trustees have and must accept ultimate responsibility for directing the affairs of a charity. They must ensure that it is solvent, well-run, and delivers the charitable outcomes for which it has been set up, for the benefit of the public. To act outside of their powers is a breach of trust.

Nominated trustee

Sometimes an individual is nominated by an organisation to be a charity trustee. For instance, a local authority may nominate its councillors onto the governing body of a charity that operates in its area and for which it has provided funding. Despite being appointed in a different way, nominated trustees (sometimes known as representative) have the same legal duties and responsibilities as any other charity trustee.

Other types of Trustee

There are three types of trustees who only hold the charity's land or investment; a custodian trustee, a holding trustee and a nominee.

A **custodian trustee** is a corporation, such as the treasury solicitor, limited companies, health authorities, local authorities or other types of organisations, whose main function is to hold the legal title to all investments and property on behalf of the charity. Note that an individual can never be one.

A **holding trustee** and a **nominee** can either be an **individual** or a **corporation**. They too hold the legal title to a charity's property or investments on behalf of the charity.

Corporate trustees

A corporate trustee is a corporation such as a local authority which has itself been appointed to act as a trustee of a charity. It may be appointed as a charity trustee or custodian trustee (holding trustee or a nominee) or both.

A local authority may act as the custodian trustee only if the charity is for the benefit of the people living in the whole or part of its area, and not an ecclesiastical charity or a local charity for the relief of poverty. For example, parish councils are often appointed custodian trustees of charitable village halls, recreation grounds and youth clubs.

If the corporation is appointed as a charity trustee it may be a "trustee for all purposes" acting on its own (a sole trustee) or one of a number on a body of charity trustees (a joint trustee). A corporation does not itself need to be charitable to be a trustee of the charity.

Many local authorities act as sole trustees of local charities – especially charities for recreational or educational purposes. This means the local authority as a corporate body both holds the property and oversees its application as a charity trustee.

If a local authority is itself the charity trustee, it decides within the scope of local government law, what structures should be used to reach decisions in its name as a charity trustee. For example, it may decide all the decisions are to be reached by the council or it may decide to delegate the decisions to a separate management committee. Whatever the structure employed, the individual councillors concerned are not themselves charity trustees and are not required to register their role in relation to the charity in their register of interests. When making charity decisions at the council or management committee meetings, they must only act in the best interests of the charity and independently of their local authority interests.

What personal interests should I register?

The Code of Conduct says you have a personal interest in any business of your authority where it relates to or is likely to affect an interest that you must register.

You must register your membership or position of control or management in:

- any body to which you are appointed or nominated by your authority
- any body directed to charitable purposes

If you are a charity trustee, you must always register your interest in the charity whether you are appointed directly by the charity or nominated by your local authority. This is because you are a member and in a position of management over the charity.

An example of this would be paying the charity's employees or making decisions on the organisation direction.

Are there circumstances when I do not have to register a personal interest?

Yes there are. A holding trustee or nominee who only holds the charity's land or investment will not have a personal interest and will not need to register an interest. This is because he or she will not be a member of the charity nor in a position of general control or management. This type of trustee can only act on the lawful instructions of the charity trustees and in accordance with any provisions contained in the governing document.

Please note: Holding the legal title to a charity's property is usually all that holding trustees do. However, occasionally a charity's governing document may confer additional powers and responsibilities on a holding trustee. If you are a holding trustee who has any decision-making powers in the way the affairs of the charity are managed – either solely or together with other trustees you will be acting as a charity trustee and must register your interest as explained above.

If you do not have any of these decision-making powers, then you will not need to register your interest as an individual holding trustee.

Personal interests that affect your well-being or financial position

It is important to remember that even when your role does not give rise to an interest that needs to be registered it may still be a personal interest that you need to declare. This is because a decision in relation to the business of your authority which relates or affects the charity might reasonably be regarded as affecting your well-being or financial position more than it would affect the majority of inhabitants of the ward or electoral division or authority's area affected by the decision.

For example, you might have a personal interest if you are on a local authority's management committee, a trustee of a non-charitable trust, or a holding trustee or nominee.

Case Example

Haven Parish Council (“council”) is the custodian trustee of Haven Village Hall. Councillor Jones is a parish council member and has been appointed by the Council to the governing body of the Village Hall Trust (“Charity Trustee”). The village hall is in need of repairs and the Charity Trustee applies for a council grant for the repairs. The council meets to consider the surveyors report and agree the funding. Does Councillor Jones need to declare any interest at the meeting?

- As a custodian trustee the council holds the legal title to the Haven Village Hall. The council will be able to act as a custodian trustee if the charity is for the benefit of the people living in the whole or part of its area. However the council can only act on the lawful instructions of the charity trustees of the Village Hall Trust. The council itself is not a charity trustee.
- Councillor Jones has been nominated on to the governing body of the Village Hall Trust by the council. Whether appointed directly by the trust or nominated by the council, Councillor Jones is a charity trustee. He must register this interest because he is a member and in a position of general control or management of a body to which he has been nominated by the council and also as it is a body which is directed to charitable purposes.
- When the matter relating to the grant application comes before the council, Councillor Jones will have a personal interest which he has registered and he must declare this interest at the meeting.
- As the matter affects the financial position of the trust, Councillor Jones may also need to declare a prejudicial interest and withdraw from the room if in his view an objective person would consider his interest as so significant that it is likely to prejudice his judgment of the public interest.

THE ROLE AND APPOINTMENT OF PARISH AND TOWN COUNCIL REPRESENTATIVES TO THE STANDARDS COMMITTEE AND THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008 (THE 2008 REGULATIONS)

(Advice received from Standards for England – 10 February 2010)

Paragraph 4(2) of the 2008 Regulations states that, 'where an authority is a responsible authority, it must ensure that at least two members of the standards committee are members of parish councils for which it is responsible, who are not also members of the responsible authority.'

Paragraph 7(4) of the 2008 Regulations states that, 'where a meeting of a standards committee, or sub-committee of a standards committee, is convened to discharge any function specified... relating to a member or former member of a parish council, no decision may be taken unless at least one member of a parish council for which the authority is the responsible authority, is present when such matters are being considered.'

The role of parish representatives

Parish representatives can be involved in any case being considered by the standards committee. However, the 2008 Regulations make it a requirement that any sub-committee or standards committee meeting that makes any decision on a case concerning a parish councillor has to have a parish representative.

Having a parish representative on cases about parish or town councillors ensures that the standards committee has a member with experience and understanding of local councils. They also bring with them knowledge about local issues which is helpful when assessing parish cases.

The best structure for a responsible authority's standards committee

Although the legislation states that a standards committee of a responsible authority must have at least two members that are parish councillors, Standards for England recommends they have three and that at least two are from different parish councils.

Why is it important to have three parish representatives?

Having three parish representatives on the standards committee of an authority will ensure that cases concerning parishes can be considered and dealt with in a timely manner. It ensures there are sufficient parish representatives to hear a case at all stages; even in the instance where one of the representatives is conflicted out, sick, on leave or otherwise unavailable.

In cases where a standards committee only has one parish representative who is conflicted out of dealing with a case, the authority will have to appoint a new parish representative before continuing with the case. The 2008 Regulations do not make it possible to borrow a parish representative in the way they do independent members.

Appointment of parish representative

Your authority must decide how to recruit and appoint parish or town council representatives. Your parish and town council representative should have the trust of town and parish councils in your area, so you should involve them in the selection procedure.

If you are finding it difficult to find a parish or town council representative, your local county association of local councils may be able to help you. For example, the county association may be able to give you a list of possible candidates. They may also be prepared to conduct an election process for you.

This process should receive the support of the parish and town councils in the area and show that you want to appoint standards committee members in a fair and open way.

Note: Not every parish or town council in a district area has to have an appointed standards committee member.

Standards Committee Work Programme 2010/11 – 10 February 2010

| | Timescale | Progress |
|--|----------------------|-----------------|
| 1 Lessons to be learned from reported complaints/monitoring of compliance with the Code | As and when required | On going |
| 2 New/Revised Protocols | As and when required | On going |
| 3 Annual Monitoring of Training Report | Summer 2010 | |
| 4 Code of Conduct Seminar for Officers, Borough and Parish Councillors (Press Release to be issued – Details on website) | November 2010 | |
| 5 Report on Annual Standards for England Conference (Para for 7 Days) | November 2010 | |
| 6 Update on visits by individual Members to Borough and Parish Council Meetings (Press Release to be issued and put on website) | Autumn 2010 | |
| 7 Update on Whistleblowing Code | Spring 2010 | |
| 8 Hearings and Investigations | As and when required | On going |
| 9 Consideration of applications for dispensations | As and when required | On going |
| 10 Monitoring Officer meeting with Parish Clerks to discuss Standards regime | Summer 2010 | |

| | Timescale | Progress |
|---|------------------|-----------------|
| 11 Standards Committee annual meeting inviting Parish Clerks and Parish Chairman to discuss Code (Press Release to be issued) | Summer 2010 | |
| 12 Standards Committee – Annual Report | May 2010 | |
| 13 Annual Meeting Standards Committee and the Chief Executive and Leaders of 2 Political Groups to discuss importance of ethical governance and Annual Report (Press Release to be issued and Para for 7 Days and on website explaining how much the Chief Executive and Leader support and encourage high ethical standards) | Autumn 2010 | |
| 14 Consider involvement of the Standards Committee in the Officer Code and Political Restrictions | Spring 2010 | |
| 15 Look at conducting research in relation to opinions of conduct in West Lancashire | Spring 2010 | |
| 16 Look at the potential involvement of the Standards Committee in complaints handling and review of Ombudsman decisions | Autumn 2010 | |
| 17 Local Filter - implementation | Continuing | Ongoing |

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 2 DECEMBER 2009
Start: 10.30am
Finish: 11.05am

PRESENT:

Members: Independent Member Mr P Hanmer (Chairman for the meeting)
Councillor S Jones
Parish Councillor R Coady

Officers: Assistant Legal Services Manager (Mr M Jones)
Assistant Member Services Manager (Mrs J Denning)

1. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr P Hanmer be appointed Chairman for the meeting.

2. APOLOGIES

There were no apologies for absence.

3. MEMBERSHIP OF THE COMMITTEE

There were no changes to the membership of the sub-committee.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/46

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject members.

**STANDARDS COMMITTEE
(ASSESSMENT SUB-COMMITTEE)**

HELD: 18 JANUARY 2010
Start: 4.00pm
Finish: 4.20pm

PRESENT:

Members: Independent Member Mr P Hanmer (Chairman for the meeting)
Councillor S Jones
Parish Councillor M Hammond

Officers: Council Secretary and Solicitor (Mrs G Rowe)
Assistant Member Services Manager (Mrs J Denning)

1. APPOINTMENT OF CHAIRMAN

RESOLVED: That Independent Member Mr P Hanmer be appointed Chairman for the meeting.

2. APOLOGIES

An apology for absence was received on behalf of Councillor T Rice.

3. MEMBERSHIP OF THE COMMITTEE

Members noted the change to the membership of the sub-committee of Councillor Jones for Councillor Rice.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/47

The Sub-Committee considered the report of the Council Secretary and Solicitor to decide whether any action should be taken on a complaint she had received, attached at Appendix 1 to the report, in respect of potential breach of the Code of Conduct.

The Sub-Committee considered the Pre-Assessment report attached at Appendix 2 to the report and the recommendations contained therein.

RESOLVED: A. That the decision notice now agreed be issued.

B. That a written summary of the allegation be provided to the subject members.

**STANDARDS COMMITTEE
(REVIEW SUB COMMITTEE)**

HELD: 1 FEBRUARY 2010

Start: 10.00am

Finish 10.25am

PRESENT:

Members: Independent Member Dr P Hayman
Councillor P Cotterill
Parish Councillor M Hammond

Officers: Legal Services Manager (Mr T Broderick)
Principal Member Services Officer (Mrs S Griffiths)

6. APPOINTMENT OF CHAIRMAN

RESOLVED: That Dr P Hayman be appointed Chairman for the meeting.

8. APOLOGIES

There were no apologies for absence.

8. MEMBERSHIP OF THE SUB-COMMITTEE

There were no changes to the Membership of the Sub-Committee.

9. DECLARATIONS OF INTEREST

There were no declarations of interest.

10. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT LG5/46

The Review Sub-Committee considered the report of the Council Secretary and Solicitor to review a decision of the Assessment Sub-Committee taken on 2 December 2009 when no findings of fact were made.

The Sub-Committee also considered the review report at Appendix 5 and the recommendations therein.

RESOLVED: A. That the original decision of the Assessment Sub-Committee in relation to the allegation be upheld.

B. That the Review Decision Notice now agreed be issued.



AGENDA ITEM: 11

**STANDARDS COMMITTEE:
10 February 2010**

COUNCIL: 24 February 2010

Report of: Council Secretary and Solicitor

**Contact for further information: Mrs J Denning (Extn 5384)
(E-mail: jacky.denning@westlancs.gov.uk)**

SUBJECT: STANDARDS COMMITTEE - APPOINTMENT OF INDEPENDENT MEMBERS

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To appoint Independent Members to the Standards Committee.

2.0 RECOMMENDATION TO STANDARDS COMMITTEE

2.1 That the recommendation of the Recruitment of Independent Members Panel held on 14 January 2010, as detailed in paragraph 5.1 of the report, be endorsed.

3.0 RECOMMENDATIONS TO COUNCIL

3.1 That the following candidates be appointed as Independent Members of the Standards Committee for the term of office stated:

A. Mr Peter Rogan with effect from 25 February 2010 until the Annual Meeting of the Council in 2014.

B. Mr Stuart Ibbs and Mr Ben Winstanley with effect from the Annual Meeting of the Council in May 2010 until the Annual Meeting of the Council in 2014.

3.2 That Prof. Roy Chester and Dr Peter Hayman be thanked for their service on the Standards Committee.

4.0 INDEPENDENT MEMBERS

4.1 The Council appoints 5 Independent members to its Standards Committee, using a statutory procedure. Current terms of office and details of when members were first appointed are as follows:

Appointed until Annual Meeting in:

| | |
|--------------------------------|------|
| Mr John Cailes (Chairman) | 2012 |
| Mr Paul Hanmer (Vice-Chairman) | 2011 |
| Prof. Roy Chester | 2010 |
| Dr. Peter Hayman | 2010 |
| Vacancy | |

- 4.2 The Term of office for Independent Members, Prof Roy Chester and Dr Peter Hayman are due to expire at the Annual Meeting of the Council in May 2010. A vacancy has also arisen following the resignation of Mr Robert Patterson on 28 October 2009.

5.0 RECRUITMENT PROCESS

- 5.1 The recruitment process started in October 2009 when an advert was placed in the newspaper. Seven application forms were received and these were shortlisted to three Candidates at a meeting of the Appointment of Independent Members Panel in December 2009. The Panel consisted of 3 Independent Members, Mr J Cailes, Mr P Hanmer and Dr P Hayman. The three candidates were interviewed at a meeting of the Panel in January 2010 which decided:

“That Council be recommended to appoint the following candidates as Independent Members of the Standards Committee for the term of office stated:

- A. Mr Peter Rogan with effect from 25 February 2010 until the Annual Meeting of the Council in 2014.
- B. Mr Stuart Ibbs and Mr Ben Winstanley with effect from the Annual Meeting of the Council in May 2010 until the Annual Meeting of the Council in 2014.”

- 5.2 The Standards Committee previously agreed that, it would be helpful to start the recruitment process early, with a view to Council making the appointments in February to take effect from May 2010. This would enable training and mentoring to take place between February and May so that new Independent Members could take up their roles effectively in the new municipal year when the relevant terms of office of the two existing Independent Members expired.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 Promotion of high ethical standards at a local level assists in demonstrating that the Council is an ethical organisation.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 Allowances are paid to the following Independent Members of the Standards Committee in recognition of their respective roles and are covered in existing budgets as follows:

| | |
|---------------|----------------|
| Chairman | £600 per annum |
| Vice Chairman | £400 per annum |

Independent Member

£200 per annum

8.0 RISK ASSESSMENT

- 8.1 There are no significant management risks arising from this report as the statutory processes and guidelines for the recruitment of Independent Members have been followed. Independent Members are required to enable the Council's legal obligations under the Standards regime to be met.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

None.