

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

	<b>General (not at overview &amp; scrutiny)</b>		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 <b>because</b> it affects my financial position or the financial position of a person or body described in 8 overleaf <b>and</b> 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  <b>or</b> 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 <b>and</b> 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

**HELD: 7 APRIL 2011**  
Start: 4.30pm  
Finish: 4.55pm

### PRESENT

Independent Members: J Cailes (Chairman)  
P Hanmer (Vice Chairman)  
S Ibbs  
P Rogan  
B Winstanley

Councillors: Mrs U Atherley R Bailey  
R Pendleton

Parish Councillors: J Citarella R Coady

Officers: Director Designate (Council Secretary & Solicitor)  
Acting Borough Solicitor  
Assistant Member Services Manager

### 31. APOLOGIES

An apology for absence was received on behalf of Parish Councillor Andrew Cheetham.

### 32. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no items of urgent business.

### 33. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 34. MINUTES

RESOLVED: That the minutes of the meeting of the Standards Committee be received as a correct record and signed by the Chairman.

### 35. CONFIRMATION OF APPOINTMENT - INDEPENDENT MEMBER

The Committee was advised that at the Council Meeting held on 15 December 2010, the minutes of the meeting held on 30 November 2010 were received and the recommendation to reappoint Mr P Hanmer as an Independent Member for a future one year term of office had been approved.

RESOLVED: That the reappointment of Mr P Hanmer as Independent Member to the Standards Committee until May 2012 be noted.

**36. COMPLAINTS - STATISTICS**

The Committee was advised that two complaints had been received this year to date. The first complaint had been considered by the Assessment Sub-Committee on 6 April 2011 and the second would be dealt with by the Sub-Committee in May.

The Director Designate (Council Secretary and Solicitor) advised that as the current regime was still in place, existing procedures would continue in order to deal with these matters. She further advised that in this respect training on the Code of Conduct would be provided to new Borough Councillors in May 2011, with the updated Training Pack and existing Councillors would be welcome to attend. Bespoke training for Standards Committee Members on the Code and Local Assessment procedures to deal with any new complaints/reviews etc. would also be provided.

RESOLVED: That the latest statistics and proposed forthcoming training be noted.

**37. MAINTAINING HIGH ETHICAL STANDARDS IN LOCAL GOVERNMENT**

The Director Designate (Council Secretary and Solicitor) referred to a joint publication she had received from the Local Government Information and Development and the Association of Council Secretaries and Solicitors in respect of the future of the Standards regime which contained a summary of current proposals contained in the Localism Bill.

The Committee discussed various elements of the paper and possible timescales.

RESOLVED: That the current position be noted.

**38. WORK PROGRAMME 2011/12**

The Committee considered the Work Programme for 2011/12. The Director Designate (Council Secretary and Solicitor) advised that item 15. "Annual Meeting with the Standards Committee, the Chief Executive and Leaders of the 2 main Political Groups" would be put 'on hold' until the future of the standards regime was finalised.

RESOLVED: That the Work Programme be noted.

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CHAIRMAN



**AGENDA ITEM: 5**

**STANDARDS COMMITTEE:  
14 July 2011**

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**Report of: Director of People and Places**

**Relevant Head of Service: Acting Borough Solicitor**

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

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**SUBJECT: WELCOME TO NEW MEMBERS, APPOINTMENT OF PARISH REPRESENTATIVE AND TRAINING**

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Borough wide interest

**1.0 PURPOSE OF THE REPORT**

1.1 To welcome the new Members to the Committee, consider the appointment of a parish representative to the Standards Committee due to the vacancy that has arisen and discuss any training issues.

**2.0 RECOMMENDATIONS**

2.1 That Councillors Davis and Moran be welcomed as new Members on the Committee.

2.2 That the Director of People and Places, in consultation with the Chairman, appoint the nominee with the highest number of votes received, as Parish Representative until the Annual Meeting in May 2012, once the appointment process is complete as detailed in paragraph 3 of the report.

2.3 That the training undertaken since the last update be noted and those members of the Committee requiring further / refresher training on the Local Assessment process attend the session being held at the rise of this meeting.

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**3.0 WELCOME TO NEW MEMBERS**

3.1 Councillor appointments to the Committee are reviewed annually in accordance with Council procedures. At the Annual Council meeting held on 18 May 2011, Councillors J Davis and I Moran were appointed replacing P Cotterill, who is no longer a Member of the Council, and R Pendleton. A warm welcome is extended to these Members.

#### **4.0 PARISH REPRESENTATIVE APPOINTMENT**

- 4.1 Standards for England recommend a minimum of three parish council representatives on the Standards Committee and the Council has decided to have this number, although the legal minimum is two. This is to avoid situations where the Parish representative is conflicted out and in order to fulfil the requirement for a Parish representative to be present when considering Parish matters. The length of time they serve on the committee is currently four years. The Council determines its own recruitment process for Parish representatives, which involves Parish Councils in a fair and open manner.
- 4.2 The current four year term of office for Parish Councillor Representatives is not due to expire until the Annual Meeting of the Council in 2012. However, Parish Councillor Cheetham was elected as a Borough Councillor on 5 May 2011 and is not longer entitled to serve on the Committee as a Parish Representative.
- 4.3 All Parish Clerks have been contacted advising them of the vacancy and all, with the exception of Downholland and Newburgh have been invited to submit the name of a member they would wish to fill the vacancy on the Standards Committee by 6 September 2011. Downholland and Newburgh already have members appointed, therefore they are not able to nominate, but will be able to vote. In that invitation Parish Clerks were advised that the member nominated would be appointed until the Annual Meeting of the Council in May 2012, that he/she should not be a Borough Councillor and ideally should not be a close friend of any member or officer of the Borough Council. All nominees are required to prepare a brief personal profile.
- 4.4 Upon receipt of the nominations all Parish Clerks will be contacted again requesting their Parish Council to vote for one candidate from the list of nominees. They have been advised that the candidate with the highest number of votes would be considered for appointment to serve on the Standards Committee for 2011/2012.
- 4.5 As previously agreed, if the 3 appointed representatives are unavailable for any reason, including being conflicted out, in an emergency, a Parish representative can be appointed on a temporary basis, in the first instance by going to the other nominees put forward.
- 4.6 There is insufficient time, due to the frequency of Parish Council meetings for voting to take place in time for Council on 21 July 2011. To avoid delays in appointing a Parish Representative over the summer months I am suggesting authority be delegated to me to appoint the nominee with the highest number of votes received. This will enable a new Parish Representative to be in place at the earliest opportunity.
- 4.7 It was hoped that we would be a little clearer on the future of the Standards regime by now and in view of this we have delayed appointing a third Parish Representative. However, given that the current regime is still with the Council and should complaints be received under this process, it is important that an appropriate Standards Committee membership is in place.

## 5.0 TRAINING

5.1 One of the key roles of the Standards Committee is to ensure that Members are properly trained in the requirements of the Code of Conduct. Section 54 of the Local Government Act 2000 says the Committee is responsible for:

- (a) promoting and maintaining high standards of conduct by the Members and co-opted Members of the Authority;
- (b) assisting Members and co-opted Members of the Authority to observe the Authority's Code of Conduct;
- (c) monitoring the operation of the Authority's Code of Conduct;
- (d) advising, training or arranging to train Members and co-opted Members of the Authority on matters relating to the Authority's Code of Conduct.

5.2 Since the last update report, considered by the Committee on 3 June 2010, the following training has been provided which has been appropriately limited given the uncertain future of the Standards regime:

<b>Training Session</b>	<b>Date</b>	<b>Participants</b>	<b>Other information</b>
Visits to Borough and Parish Council meetings	Various	Standards Cttee Members	Twelve visits undertaken between June and November 2010 until the Committee decided that "such visits be suspended and further consideration be given to future visits once the Government's intention for the Standards regime becomes clear."
Induction training	9 September 2010 and 12 May 2011	New Borough Councillors	This session also included a brief overview of the Code of Conduct.
Assessment Sub-Cttee Training	4 May 2011	Members of the Assessment Sub-Cttee	Bespoke training prior to consideration of a complaint received.
Code of Conduct Training	16 May 2011	Borough Councillors	For newly elected Borough Councillors and those Members who had not received any formal training on the Code of Conduct
Review Sub-Cttee Training	26 May 2011	Members of the Review Sub-Cttee	Bespoke training prior to consideration of a review request in respect of a compliant received.

<b>Training Session</b>	<b>Date</b>	<b>Participants</b>	<b>Other information</b>
Code of Conduct Training Packs	May 2011	Borough and Parish Councillors, Members of the Standards Cttee.	The Committee agreed to defer the annual session scheduled for Nov 2010, however the Monitoring Officer provided an up-to-date training pack which was circulated to all Borough Councillors and all Pariish Councils. Copies were also provided to the members on the Standards Committee.

5.3 The Standards Committee viewed a DVD on Local Assessment in February 2010. Arrangements have been made to watch this DVD at the rise of this meeting, for those new members of the committee who would like to get a full overview of the local assessment procedure from start to finish. This session will also cover the May 2011 Training Pack in detail.

5.4 Members are of course always able to attend external training on the Code should they so wish.

5.5 I intend to organise bespoke training for Standards Committee members over the coming months and should be grateful for an indication of what is considered most helpful.

## **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 An allowance of £200 is paid to the Parish Council representatives on the Standards Committee in recognition of their role as detailed in the 'Scheme of Members Allowances'.

7.2 The costs of providing training on standards is met from existing budget provision.

## **8.0 RISK ASSESSMENT**

8.1 There are no significant management risks arising from this report and a Parish Representative should be appointed. However changes are expected with the Standards regime and members will be updated accordingly.

8.2 Training needs to be provided to comply with statutory obligations and to ensure Members are fully aware of the requirements placed upon them. This will enable them to avoid being in breach of the Code of Conduct with all the adverse consequences which would necessarily flow. Specific training for Standards Committee Members is provided to enable them to carry out their duties effectively.



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### **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**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendices:**

None





**AGENDA ITEM: 6**

**AUDIT AND GOVERNANCE  
COMMITTEE: 29 June 2011**

**STANDARDS COMMITTEE: 14 July  
2011**

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**Report of: Director of People and Places**

**Relevant Head of Service: Borough Treasurer & Acting Borough Solicitor**

**Contact for further information: Ms J Ashcroft (Extn. 2606)  
(E-mail: [julie.ashcroft@westlancs.gov.uk](mailto:julie.ashcroft@westlancs.gov.uk))**

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**SUBJECT: OFFICER CODE OF CONDUCT**

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Borough wide interest

**1.0 PURPOSE OF THE REPORT**

1.1 To enable Members to consider the reviewed and amended Officer Code of Conduct.

**2.0 RECOMMENDATIONS**

2.1 That the new Officer Code of Conduct be approved and circulated to all staff.

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**3.0 BACKGROUND**

3.1 It is good practice for Local Authorities to have an Officer Code of Conduct in place. A Model Code has been expected from the Secretary of State for all Local Authorities for quite some time but as yet this has not come to fruition and so the Council has adopted its own local framework.

3.2 The Officer Code of Conduct is an essential document in ensuring that Officers maintain the high standards required of public officials as well as protecting them from misunderstanding or criticism.

3.3 It is important therefore that Members satisfy themselves with the contents of the Code, attached at appendix 1 & 2, and ensure that it achieves these objectives.

**4.0 CURRENT POSITION**

4.1 The Officer Code of Conduct was last updated in 2005 and has worked well in practice since that time.

- 4.2 A substantial review is required at this time given a change in legislation as well as significant organisational re-structure throughout the Council.
- 4.3 The new Equality Act has come into force which the Code makes reference to and the new Bribery Act 2010 comes into effect July 2011 which will repeal the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts of 1906 and 1916. This affects the wording in terms of consequences for an Officer if they are found to have participated in any form of bribery. The version of the Code attached anticipates the change in law.
- 4.4 A new management structure has come into force across the Council which affects the roles and responsibilities of Officers and these are now clearly laid down in the Code.
- 4.5 Other sections, for example, Gifts and Hospitality, have been re-worded to provide better clarity.
- 4.6 Relevant stakeholders have been consulted on changes to the document including the Unions who have agreed the revised version.
- 4.7 This review ensures that the Code is accurate, up-to-date, fit for purpose and in line with current legislation.

## **5.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 5.1 All the activity referred to in this report is covered by existing budget provisions.

## **6.0 RISK ASSESSMENT**

- 6.1 Failure to have an accurate and up-to-date Officer Code of Conduct could potentially place individuals and the Council at risk of reputational and financial damage by not fully setting out the standards required in public life.

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### **Background Documents**

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

The Equality Act 2010  
The Bribery Act 2010

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and/or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendices**

1. Officer Code of Conduct tracked changes
2. Officer Code of Conduct final version

## **Officers' Code of Conduct**

The Code of Conduct has been updated to reflect changes in legislation etc and other references in the Notes. ~~since it was prepared in its current form in 1999.~~

Under Section 82 of the Local Government Act 2000 the Secretary of State may issue a code of conduct for employees which will automatically apply to all employees of the Council. Consultation on the Model Code was carried out in October 2004 ~~and~~ but an order is still awaited.

## **CONTENTS**

- Introduction**
- **Status of the Code**
  - **Who the Code is aimed at**
  - **Form of the Code**
1. **Standards**
  2. **Disclosure of Information**
  3. **Political Neutrality**
  4. **Relationships**
  5. **Appointment and other employment matters**
  6. **Outside commitments**
  7. **Personal Interests**
  8. **Equality Issues**
  9. **Separation of roles during tendering**
  10. **Corruption and Bribery**
  11. **Use of financial resources**
  12. **Hospitality**
  13. **Sponsorship - giving and receiving**
  14. **Use of Council facilities**
  15. **Dress Code**

## INTRODUCTION

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code provides guidance to assist employees of West Lancashire ~~District Borough~~ Council in their day-to-day work. The Code is produced in the light of the challenges that employees face in a more-commercially orientated working environment.

### Status of the Code

The Code has been adopted by ~~West Lancashire District the~~ Council and sets out the standards that apply. The aim of the Code is to lay down guidelines for employees which will help establish standards and protect employees from misunderstanding or criticism.

The Code is not intended to prohibit all social involvement with the outside world, nor would it be right to restrict private dealings between employees and any particular person or body. It is, however, important that employees judge the wisdom of their actions not by any comparison with the practices which, no doubt for good reasons, are followed in the private sector, but rather by reference to the traditional public service principles of accountability and responsibility.

The Code cannot cover all cases likely to arise in practice, but the principles certainly do. ~~At the end of the day~~Ultimately the Council relies on the integrity, common sense and professional judgement of individual employees. You should not hesitate at any time to seek advice from your Head of Service, either on the interpretation of the Code, or, when circumstances arise which it does not cover.

### Who the Code is aimed at

The Code applies to all employees under a contract of employment with the Council. Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees, acting in the course of their employment, as members of companies or voluntary organisations should also be subject to the standards within the Code.

This Code is designed to help employees maintain the standards required of public officials. ~~and~~You should be aware that actions which are clearly contrary to the Code may provide evidence which ~~would~~could be considered gross misconduct and potentially lead to disciplinary action in accordance with the Council's ~~De~~disciplinary Policy and Procedure.

### Form of the Code

The Code takes the form of a statement of the standard which applies, followed by explanatory notes on that standard. I am pleased to endorse the updated Code. Local Government has for the most parts a very good reputation and West Lancashire has been an exemplar in the way that staff go about their business in a fair, impartial and honest way. This Code of Conduct provides a very clear framework for employees to follow and ensures that we maintain our current high standards.

WILLIAM J TAYLOR MBE

## CHIEF EXECUTIVE

~~October 2005~~May 2011

### CODE OF CONDUCT

#### 1.0 Standards

- 1.1 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through the local procedure referred to below and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report any impropriety or breach of procedure using this local procedure, or where appropriate, the Council's Whistleblowing Code at Constitution 17.2.

#### Notes:

Paragraph 2.1 of Part 2 of the National Scheme of Conditions of Service for Local Government Services Employees says "Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."

Similar provisions are incorporated in the national conditions of service of Chief Officers.

#### **Local Procedure**

The employee should raise any deficiency in the provision of service with his/her immediate manager. If the circumstances inhibit reference to the immediate manager then an approach should be made to the appropriate senior manager. If the employee is not satisfied with the response then he/she should raise the matter with a more senior manager or ~~the relevant~~ Divisional Manager, Head of Service, Director and ultimately with the Chief Executive, ~~or the Deputy Chief Executive.~~

#### 2.0 Disclosure of Information

- 2.1 It is generally accepted that open government is best as is confirmed in the Freedom of Information Act 2000. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself has decided to be open about some other types of information as set out in the Council's Publication Scheme. Conversely, the Council is committed to keeping confidential matters in relation to staff and customers out of the public domain. It expects all those serving the Council to handle all individuals' personal information in a sensitive and professional manner. Employees must be aware of which information the Council is not open about, and act accordingly. Details ~~of the situation at West Lancashire District Council~~ can be found at schedule 1.

- 2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Official information which has not been made public and

is still confidential should not be disclosed to the press or made public without authority. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

#### **Notes:**

No officer shall communicate to the public the proceedings of any committee meeting, etc., nor the content of any document relating to the authority unless required by law or expressly authorised to do so.

Information concerning an officer's private affairs shall not be supplied to any person outside the service of the employing authority unless the consent of such officer is first obtained.

*The Local Government Act 1972, Section 100A - 100K* provides for public access to the meetings and documents of the Council together with additional information which it is required to publish. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.

### **3.0 Political Neutrality**

**3.1** Employees serve the Council as a whole. It follows that they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.

**3.2** Subject to the Council's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality, see the guidelines attached as schedule 2.

**3.3** Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council whilst at work and must not allow their own personal or political opinions to interfere with their work.

#### **Notes:**

*The Local Government & Housing Act 1989, Part I* - contains provisions to stop "twin-tracking" (where a senior local authority employee is also an elected member of another local authority) and to restrict the political activity of senior employees and those operating in politically sensitive areas. Local authority employees holding politically restricted posts are disqualified from membership of any local authority, other than a parish or community council, from being an MP or MEP and are subject to prescribed restrictions on their political activity.

*The Local Government Officers (Political Restriction) Regulations 1990 and the Local Government (Politically Restricted Posts) (No.2) Regulations 1990* - cover the posts which are politically restricted. The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

### **4.0 Relationships**



## 4.1 Councillors

4.1.1 Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

### Notes:

Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and the council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees and/or Cabinet.

~~Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage the relationship and prove embarrassing to other councillors and officers.~~

The law and ~~standing orders~~Officer Employment procedure rules lay down the rules for appointment, discipline and dismissal of staff. Councillors must ensure that they observe these scrupulously at all times. Special rules apply to the appointment of assistants to political groups. In all other circumstances, if Councillors are called upon to take part in appointing an officer, the only question they should consider is which candidate would best serve the whole council. They should not let their political or personal preferences influence their judgement. They should not canvass the support of colleagues for any candidate and they should resist any attempt by others to canvass theirs.

Useful reference can be made to the *Protocol on Member/Officer Relations at Constitution 16.2*

## 4.2 The local community and service users

4.2.1 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

## 4.3 Contractors

4.3.1 All relationships of a business or private nature with external contractors, or potential contractors, should be declared. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.3.2 Employees who engage or supervise contractors or have any other official relationship with contractors and who have previously had or currently have a

relationship in a private or domestic capacity with contractors, should declare that relationship.

**4.3.3** Declarations arising from 4.3 and 4.4 above should be made under the mechanism set out below.

**Notes:**

*Local Government Act 1972 - Section 117* - pecuniary interests - provides that if an officer knows that a contract in which he has a pecuniary interest whether direct or indirect is before the local authority, he must give notice of his interest to the authority. This does not, of course, apply to a contract with him in his own name because the authority will then know of his interest.

Employees should also abide by the following:-

- “(1) In addition to his duty under section 117 of the 1972 Act if it comes to the knowledge of any officer of the authority that he has a disclosable pecuniary interest in any contract which has been, or is proposed to be, entered into by the authority, or in some other matter which is to be considered by the council or any committee or sub-committee, and which (in either case) is not
  - (a) the contract of employment (if any) under which he serves the authority, or
  - (b) the tenancy of a dwelling or domestic garage provided by the authority, he shall as soon as practicable give notice in writing to the proper officer of the fact that he is interested therein.
- (2) For these purposes, a disclosable pecuniary interest is an interest that, if the officer were a member of the council, and if the contract or other matter were to be considered at a meeting of the council at which he were present, he would have to disclose a personal and prejudicial interest.
- (3) The Chief Executive of the Council shall record in a book to be kept for the purpose, particulars of any notice given by an officer of the council under section 117 of the Local Government Act, 1972, of a pecuniary interest in a contract, and the book shall be open during office hours to the inspection of any member of the council.
- (4) Where an officer submits a report to a meeting on a matter in which he has declared an interest under section 117 of the 1972 Act or paragraph (1), he shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report.
- (5) Where any officer advises orally a meeting of the council, the committee or a sub-committee on a contract, grant, proposed contract or other matter and has declared a pecuniary interest in that matter, whether under the requirements of section 117 of the 1972 Act, or of paragraph (1), he shall remind the meeting orally of that interest.”

The Council's Contract ~~and Financial-Procedure Rules~~ ~~set-out~~ at Constitution 12 together with EU legislation set out the Council's standards in this area.

### **Mechanism for Employees to declare any non-financial or financial interest**

A Declaration shall be made by giving notice in writing to the Chief Executive of the relationship/interest. The Chief Executive shall, via the Member Services Manager, record it in a book kept for the purpose and the book shall be open during office hours to the inspection of any member of the Council.

N.B. Financial interest includes, for example, shareholdings and offers of future employment

## **5.0 Appointment and other employment matters**

**5.1** Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

**5.2** Similarly, employees should not be involved in decisions relating to discipline, ~~promotion~~ or pay ~~adjustments~~ for any other employee who is a relative, partner, etc.,

### **Notes:**

Every candidate for any appointment under the Council shall, when making an application, disclose in writing to the ~~C~~chief ~~E~~xecutive whether to his knowledge he is related to any member of the authority or to a holder of any senior office under the authority.

Deliberate omission to make such a disclosure will disqualify the candidate, and if the omission is discovered after appointment he should be liable to dismissal. Every member and senior officer of the authority shall similarly disclose to the authority any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the ~~C~~chief ~~E~~xecutive to report to the authority or appropriate committee any such disclosure made to him.

*The Officer Employment Procedure Rules at Constitution 13* prescribe the procedure to be followed in respect of the appointment of ~~C~~chief ~~O~~fficers and their dismissal in the event of misconduct.

See also - *section 7, Local Government and Housing Act 1989* for appointment on merit and the Council's Codes of Practice on Recruitment and ~~Equal Opportunities~~ Equality in Employment, ~~as issued from time to time.~~

## **6.0 Outside commitments**

**6.1** Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their

contractual obligations and should not take outside employment which conflicts with the Council's interests.

#### **Notes:**

The Council stresses to employees of all grades that they should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, if by its nature it will come before the Council or an officer for approval, or if it makes use of material to which the employee has access by virtue of his or her position (e.g. an architect or planner who draws up plans within his or her own authority for an applicant for planning consent). It is irrelevant whether or not the work is paid.

An officer's off duty hours are his personal concern but he should not subordinate his duty to his private interests or put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business.

Officers above scale 6 shall devote their whole time service to the work of their council and shall not engage in any other business or take up any other additional appointment without the express consent of the council.

No outside work of any sort should be undertaken in the office and use of facilities e.g. telephones, internet, email or access to typists is forbidden. Employees are also advised that correspondence and incoming telephone calls related to outside work are not allowed.

#### ***Procedure for seeking permission***

The employee should complete the relevant form for the Chief Executive, Director the Deputy Chief Executive or relevant Divisional Manager, Head of Service requesting permission and giving full details of the business to be engaged in, or the additional appointment. The Chief Executive, Director the Deputy Chief Executive or relevant Divisional Manager Head of Service will consider the matter and may ask for further information. He/she will then grant or refuse permission, on the relevant form and pass a copy of the form to the Member Services Manager, who will record it in the Register of External Activity.

**6.2** Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment, as set out below.

#### **Notes:**

#### **Intellectual property**

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule, they belong to the employer. However, various acts of parliament cover different types of intellectual property.

The Council will regard intellectual property and copyright created during employment as belonging to it. If an employee wishes to use or benefit from the same, the express consent of the Chief Executive must be sought. e.g. writing for a local government journal on matters pertaining to work related issues.

## **Inventions and patents**

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after 1st June 1978 inventions are only the property of the employer if, they have been made in the course of the employees normal duties; or they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or it was made in the course of the employees duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

### **7.0 Personal Interests**

**7.1** Employees must declare any financial interests which could conflict with the Council's interests.

**7.2** Employees must declare any non-financial interests they consider could bring about conflict with the Council's interests e.g. kinship; friendship; freemasonry, membership of a society ~~or, organisation or trades union~~; involvement with a school or other organisation receiving grant aid from the authority; membership of a national health service trust board; involvement with an organisation or pressure group which may seek to influence the Council's policies.

**7.3** Declarations arising from 7.1 and 7.2 above should be made under the mechanism set out in the notes to 4.3 to 4.5 above.

### **Notes:**

See also paragraph 4 of this Code in relation to contractors and the notes thereon. These refer to areas other than contracts where pecuniary interests should be disclosed even though there is no statutory requirement.

Remuneration from a person or body which has dealings with the Council is a direct interest. If the remuneration were to be paid by the person or body to a spouse, this would be regarded as direct financial interest.

Employees should carefully consider their positions to avoid conflict of interest where either there is a direct financial interest but no contract, or they or their spouses are receiving remuneration from a person or body which is dealing with the Council.

"Remuneration" includes commission, honoraria, dividends, agency fees and interest as well as salary, wages, or fees.

There may be a conflict of interest even where no financial interest or advantage exists or accrues. This covers areas where relationships might be seen to influence judgements and convey the impression of personal motive. A simple example is where a council employee, who acts as an honorary officer of a voluntary association, is also directly

involved during the course of his or her employment with claims for grant from the association.

A good test is to ask yourself whether others would think that the interest is of a kind to make it possible that you might be acting from personal motives. Normally ordinary membership of a national organisation would not need to be declared e.g. National Trust, RSPB, Unison.

## **8.0 Equality issues**

**8.1** All employees should ensure that policies relating to equality issues as agreed by the Council are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

### **Notes:**

Please see the Council's current policies on "~~Equality and Community Cohesion – Policy Statement and Strategy for Implementation~~Approach to Equality" and "~~Equality Opportunity in Employment~~Policy" which comply with the requirements of the Equality Act 2010, together with the "Policy on dealing with complaints of bullying and harassment" available from Human Resources or on the Council's Intranet.

## **9.0 Separation of roles during tendering**

**9.1** Employees involved in the tendering process and dealing with contractors should be clear on the separation of client contractor roles within the council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

**9.2** Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

**9.3** Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

**9.4** Employees contemplating a management buy out should, as soon as they have formed a definite intent, inform the Chief Executive and withdraw from the contract awarding processes.

**9.5** Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

### **Notes:**

The Council's ~~Contract and Financial Procedure Rules~~and Financial Regulations set out at Constitution 11 and Constitution 12, together with EU legislation, set out the council's standards here.

The internal arrangements for the client and contractor functions are designed to resolve any conflict which may arise.

## 10.0 Corruption and Bribery

~~10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.~~

~~10.1 It is an offence to bribe another person i.e. promise or give a financial or other advantage to another person with the intention of inducing that person to perform improperly a function or activity. Likewise, employees are guilty of an offence if they agree to receive or accept a financial or other advantage intending that in consequence a function or activity should be performed improperly~~

### Notes:

Employees should be extremely cautious when, in a private capacity, they use the services of persons or bodies which they know to have dealings with the Council. It may sometimes be difficult to find persons or bodies which are not dealing with an Authority the size of West Lancashire and employees may often have such dealings without knowing of the relationship with the Council.

- (a) Goods or services for private use may be bought from persons or bodies trading with the council, providing the price offered is readily available to the general public either directly or by way of a recognised trading organisation or discount scheme.
- (b) Where however an employee has good reason to believe, that an offer of preferential terms, might in fact be a specific inducement in the form of either goods or services, to promote a person's or body's interest, he or she should decline to have such dealings. An employee should not use his or her position with the council to obtain a discount. Purchase of goods and services at discounted rates under a scheme or arrangement which applies to members of trade unions or employees as a whole are excluded from this paragraph.
- (c) Employees should avoid contact with persons or bodies engaged in "pressure selling" where personal inducements are offered in return for orders. The proper action is for the employee concerned to report the matter to the Chief Executive, ~~Director Deputy Chief Executive~~ or relevant ~~Divisional Manager~~ Head of Service immediately.

To avoid any suggestion of restraint of trade and unfair discrimination against any particular person or body, employees involved should always explain diplomatically the dangers to both parties inherent in such preferential offers.

The procedures by which the Council selects developers or consultants for schemes and for the supply of goods are clearly defined in the Council's Contract ~~and Financial~~ Procedure Rules and Financial Regulations, ~~set out~~ at Constitution 11 and 12, and are publicly known.



See also paragraph 4 of this Code in relation to contractors and paragraph 7 of this code in relation to personal interests and the notes thereon.

*Local Government Act 1972* - Section 117(2) - forbids an officer “under cover of his office or employment” to accept “any fee or reward” whatsoever other than proper remuneration.

~~Under the *Prevention of Corruption Acts, 1906 and 1916*, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:~~

~~—doing, or refraining from doing, anything in their official capacity: or~~

~~—showing favour or disfavour to any person in their official capacity.~~

~~Under the *Prevention of Corruption Act 1916*, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the Courts to have been received corruptly unless the employee proves to the contrary.~~

~~Under the *Bribery Act 2010* it is an offence for employees to be bribed and consequently perform a function or activity improperly or to bribe another person to perform improperly.~~

~~See also the *Public Bodies Corrupt Practices Act 1889*.~~

See also paragraph 12 of this Code in relation to hospitality and gifts and the notes thereon and paragraph 13 in relation to sponsorship.

## **11.0 Use of financial resources**

**11.1** Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value to the local community and to avoid legal challenge to the Council.

### **Notes:**

See the Council’s *Financial ~~Procedure Rules~~ Regulations* at Constitution 11. See also the local procedure provided at Paragraph 1.

## **12.0 Hospitality and Gifts**

**12.1** Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded, see the procedures and standards attached at schedule 3.

**12.2** When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards as set out in schedule 3, operating within the Council.

**12.3** When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.



- 12.4** Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where attendance has been authorised and provided any purchasing decisions are not compromised.
- 12.5** Employees should not accept significant personal gifts from contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries etc., see schedule 3 as to the principles to be applied here.

**Notes:**

Contract Procedure Rule 14(iv) provides “There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor), or if in relation to any contract with the Council, the Contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889-1916, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.”

**13.0 Sponsorship - Giving and Receiving**

- 13.1** Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2** Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure of any such interest through the mechanism set out in the notes to 4.3 - 4.5 above. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

**14.0 Use of Council Facilities**

- 14.1** Employees of the Council are provided with facilities including office equipment, and secretarial services etc., to use in carrying out their official duties only.
- 14.2** The use of computer facilities is governed by the Council’s IT Security Policy.
- 14.3** Telephones may be used, on occasions, by employees for private local calls if it is not practicable to make such calls out of office hours. The use of mobile

telephones should similarly be restricted and should not be used during working hours for general conversation.

- 14.4** Employees of the Council are generally not entitled to free or concessionary use of Council owned facilities such as sports centre, public halls etc, except where this is specifically required as part of their employment, in order to maintain fitness or competence (e.g. pool attendants) or a specific scheme has been agreed.

## **15.0 Dress Code**

- 15.1** Many eEmployees will come into contact with the public each day and a smart appearance and courteous, helpful manner is essential. Personal hygiene is also an important factor. Certain employees are provided with appropriate clothing or protective equipment to ensure the proper performance of their duties. Other employees must wear a uniform as a condition of employment e.g. ReceptionistsCustomer Services.

**SCHEDULE 1**  
(Paragraph 2.1)

## **INFORMATION THE COUNCIL IS OR IS NOT OPEN ABOUT**

In certain circumstances employees may have a legal or professional duty to disclose information to a third party (e.g. in the course of legal proceedings).

In addition, the following should be taken into account:-

- (a) Information should not be released to the media by individual employees except where they have been appointed or authorised for a specific purpose.
- (b) Information which is confidential should not be disclosed to third parties except in response to a request from (i) an approved source e.g. Inland Revenue, Departments ~~of Health and Social Security~~for Work and Pensions or (ii) Bank Managers or Building Society Managers (where authorised)
- (c) Employees are not encouraged, when acting in a private capacity, to comment publicly on the Council's policies or a specific decision. However, in circumstances where employees find it necessary to make public comment, they are expected to exercise prudence, discretion and to properly recognise the fact that the Council is their employer. It is recognised that there will be grounds for such comment in exceptional cases e.g.
  - (i) recognised trade union officials issuing statements on behalf of their trade union, commenting on a matter relating to the Council.
  - (ii) statements made by staff acting as officials of bodies such as parish councils or community associations.
- (d) Advance knowledge of any impending council decision, particularly those relating to investment decisions or proposed developments, should not be used to further private interest.
- (e) All employees should be circumspect in what is said outside the office about matters going on inside it.

- Note 1.** The requirements of the Data Protection and Freedom of Information Acts should be taken into account in respect of the above and advice sought from the appropriate officer.
2. Please do not hesitate to seek advice in this area, either from the Chief Executive, Director, your Divisional Manager~~relevant Head of Service~~ or ~~the Legal Services Manager~~Legal Services should issues of confidentiality arise.

Please also see Constitution 6 Access to Information Procedure Rules.

**SCHEDULE 2**  
(Paragraph 3.2)

**GUIDELINES ON THE CIRCUMSTANCES IN WHICH EMPLOYEES MAY ADVISE POLITICAL GROUPS AND WHETHER SUCH ADVICE IS CONFIDENTIAL TO THAT GROUP**

1. Please see paragraphs 3 and 5 of the Convention for the Management of Council Business at Constitution 18.
2. Advice to all Council members must be even handed. If the advice of officers is sought by and offered to a particular group on the Council, consideration must be given as to whether or not similar facilities should be afforded to other groups of members.

# PROCEDURES FOR AUTHORISING AND RECORDING ACCEPTED OFFERS OF HOSPITALITY AND GIFTS, AND STANDARDS AND PRINCIPLES IN RESPECT OF THE SAME

## 1.0 Hospitality

1.1 ~~A reasonable amount of hospitality is a normal part of the courtesies of public life creating contacts that can aid the Council's interests. Contacts established socially can be helpful in the Council's interests. It is therefore appropriate, in certain circumstances, for employees to accept invitations for social involvement with persons or bodies, including those who have or who may seek to have business dealings with the Council. At the same time, it is very easy for such~~ However, it is important that attendance at any event or activity does not create an appearance of improper influence thus undermining public confidence.

~~involvement to be misconstrued as providing an opportunity to bring about undue influence and there will, therefore, be occasions when hospitality should be declined.~~

1.2 Where hospitality ~~in various forms~~ is offered to employees as official representatives of the Council, it may will normally be authorised where it ~~is on a scale~~ appears appropriate and to the circumstances, not extravagant, and it appears reasonable to accept. ~~Where however,~~ However, when hospitality is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. ~~It is important to avoid any suggestion of improper influence. Whether to accept an offer or not is often a question of judgement and the following checklist should help Officers to decide:~~

- Is the donor or event significant in the community or in the Council's area?
- Are you expected to attend because of your position in the community or Council?
- Will the event be attended by others of a similar position?
- What is the motivation behind the invitation?
- Would acceptance of the invitation be in any way inappropriate of place you under pressure in relation to any current or future issue involving the Council?
- Could you justify your attendance to the Council, press or public?
- Does the extent of the hospitality seem reasonable and appropriate and do you feel comfortable with the decision?

~~Again, it is a matter of judgement and the~~ The following examples of acceptable and unacceptable hospitality are intended to give general advice only. ~~This list cannot and must not~~ be construed as being exhaustive.

## 1.3 Acceptable Hospitality

- (a) An invitation to a society, institute or other dinner or function, related to local government, where the employee represents the Council or attends by virtue of his or her professional position.
- (b) An invitation to a trade fair or similar event where there is a general invitation to customers.

(c) Drinks and food provided in the course of normal business, for example lunch at a Contractor's expense during a meeting or event.

#### 1.4 Unacceptable Hospitality

- (a) The offer of a free or subsidised holiday
- (b) The offer of free or subsidised hotel accommodation, theatre tickets or tickets for a sporting event.
- (c) The offer of free or subsidised use of a flat or hotel suite.
- (d) The offer of free or subsidised membership of clubs e.g. leisure club, golf club etc.

1.5 It is generally more acceptable to join in hospitality offered to a group, than to accept something unique to an individual. When a particular person or body has a matter currently in issue with the Council (e.g. an arbitration arising from a contract or a development proposal) an offer of hospitality should clearly be refused even if, in normal times, it would be acceptable.

#### 2.0 Gifts

2.1 There are two considerations when gifts are ~~concerned~~ offered: the nature of the gift in terms of value; and, the motivation of the giver. Most organisations, as part of their normal commercial activity, distribute gifts which range from the promotional e.g. calendars, diaries, etc., to the more expensive e.g. wines and spirits. The more expensive gifts are obviously distributed where they will have the greater specific impact. All this is often commonplace and acceptable conduct in the private sector, but the requirements of the public sector are very different.

2.2 Employees should refuse any personal gift offered to them by any person or body who has or seeks dealings with the Council. The exceptions to this are:-

- (a) modest promotional material of low value such as calendars and diaries which are, in many cases, unsolicited and simply delivered by post. Even here, however, employees should use judgement and more expensive commercial items should be refused or returned.
- (b) small gifts of a token value, given on the conclusion of a courtesy visit to a factory or other premises, of a sort normally given by that person or body.
- (c) a small gift of token value, where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council, but merely wishes to express thanks for advice, help or co-operation received.

2.3 ~~From time to time employees may find themselves in a position where they have to~~ When a gift has to be refused and/or returned gifts. This requires diplomatic handling this should be done with tact and courtesy so as not to cause offence. ~~and employees should not behave in ways which donors of gifts might regard as impolite, or unnecessarily critical of a recognised private sector practice.~~

2.4 It is sometimes acceptable to the giver, for a gift which in other circumstances would be refused as in 2.3 above, to be donated instead to charity. An arrangement of this sort should only be made with the approval of the Chief Executive, Director or relevant Divisional ManagerHead of Service.

### 3.0 Register of Accepted Offers of Hospitality and Gifts

3.1 All offers of hospitality which an employee wishes~~decides~~ to accept; other than hospitality of a nominal value only (e.g. an offer of a drink following a site visit or an invitation to a working lunch of a modest standard provided to allow the parties to discuss business) or hospitality arising as part of an authorised conference or course; should be reported to the Chief Executive, Director~~Deputy Chief Executive~~ or relevant Divisional ManagerHead of Service, in writing, on the relevant form, with the employees detailed comments as to why it would be appropriate to accept the same. The Chief Executive, Director~~Deputy Chief Executive~~ or Divisional ManagerHead of Service will then make a decision whether or not to authorise acceptance of the offer in line with the standards set out above and endorse the form accordingly. If acceptance is authorised the employee should forward the form to the Member Services Manager so that the same can be recorded in the Register of hospitality and gifts.

3.2 The Chief Executive, Director~~the Deputy Chief Executive~~ or relevant Divisional ManagerHead of Service and the Member Services Manager should be advised of all gifts accepted in accordance with the principles referred to above, other than those of modest promotional material of low value such as calendars and diaries, by completing the relevant form, so that the details can be included in the Register.





## **Officers' Code of Conduct**

The Code of Conduct has been updated to reflect changes in legislation etc and other references in the Notes.

Under Section 82 of the Local Government Act 2000 the Secretary of State may issue a code of conduct for employees which will automatically apply to all employees of the Council. Consultation on the Model Code was carried out in October 2004 but an order is still awaited.

### **CONTENTS**

- Introduction**
- Status of the Code
  - Who the Code is aimed at
  - Form of the Code
1. **Standards**
  2. **Disclosure of Information**
  3. **Political Neutrality**
  4. **Relationships**
  5. **Appointment and other employment matters**
  6. **Outside commitments**
  7. **Personal Interests**
  8. **Equality Issues**
  9. **Separation of roles during tendering**
  10. **Corruption and Bribery**
  11. **Use of financial resources**
  12. **Hospitality**
  13. **Sponsorship - giving and receiving**
  14. **Use of Council facilities**
  15. **Dress Code**

## **INTRODUCTION**

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code provides guidance to assist employees of West Lancashire Borough Council in their day-to-day work. The Code is produced in the light of the challenges that employees face in a commercially orientated working environment.

### **Status of the Code**

The Code has been adopted by the Council and sets out the standards that apply. The aim of the Code is to lay down guidelines for employees which will help establish standards and protect employees from misunderstanding or criticism.

The Code is not intended to prohibit all social involvement with the outside world, nor would it be right to restrict private dealings between employees and any particular person or body. It is, however, important that employees judge the wisdom of their actions not by any comparison with the practices which, no doubt for good reasons, are followed in the private sector, but rather by reference to the traditional public service principles of accountability and responsibility.

The Code cannot cover all cases likely to arise in practice, but the principles certainly do. Ultimately the Council relies on the integrity, common sense and professional judgement of individual employees. You should not hesitate at any time to seek advice from your Head of Service either on the interpretation of the Code, or, when circumstances arise which it does not cover.

### **Who the Code is aimed at**

The Code applies to all employees under a contract of employment with the Council. Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees, acting in the course of their employment, as members of companies or voluntary organisations should also be subject to the standards within the Code.

This Code is designed to help employees maintain the standards required of public officials. You should be aware that actions which are clearly contrary to the Code may provide evidence which could be considered gross misconduct and potentially lead to disciplinary action in accordance with the Council's Disciplinary Policy and Procedure.

### **Form of the Code**

The Code takes the form of a statement of the standard which applies, followed by explanatory notes on that standard. I am pleased to endorse the updated Code. Local Government has for the most parts a very good reputation and West Lancashire has been an exemplar in the way that staff go about their business in a fair, impartial and honest way. This Code of Conduct provides a very clear framework for employees to follow and ensures that we maintain our current high standards.

WILLIAM J TAYLOR MBE

**CHIEF EXECUTIVE**

May 2011

## CODE OF CONDUCT

### 1.0 Standards

1.1 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through the local procedure referred to below and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report any impropriety or breach of procedure using this local procedure, or where appropriate, the Council's Whistleblowing Code at Constitution 17.2.

#### Notes:

Paragraph 2.1 of Part 2 of the National Scheme of Conditions of Service for Local Government Services Employees says "Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."

Similar provisions are incorporated in the national conditions of service of Chief Officers.

#### *Local Procedure*

The employee should raise any deficiency in the provision of service with his/her immediate manager. If the circumstances inhibit reference to the immediate manager then an approach should be made to the appropriate senior manager. If the employee is not satisfied with the response then he/she should raise the matter with a more senior manager or relevant Head of Service, Director and ultimately with the Chief Executive.

### 2.0 Disclosure of Information

2.1 It is generally accepted that open government is best as is confirmed in the Freedom of Information Act 2000. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself has decided to be open about some other types of information as set out in the Council's Publication Scheme. Conversely, the Council is committed to keeping confidential matters in relation to staff and customers out of the public domain. It expects all those serving the Council to handle all individuals' personal information in a sensitive and professional manner. Employees must be aware of which information the Council is not open about, and act accordingly. Details can be found at schedule 1.

2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Official information which has not been made public and is still confidential should not be disclosed to the press or made public without authority. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

## **Notes:**

No officer shall communicate to the public the proceedings of any committee meeting, etc., nor the content of any document relating to the authority unless required by law or expressly authorised to do so.

Information concerning an officer's private affairs shall not be supplied to any person outside the service of the employing authority unless the consent of such officer is first obtained.

*The Local Government Act 1972, Section 100A - 100K* provides for public access to the meetings and documents of the Council together with additional information which it is required to publish. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.

### **3.0 Political Neutrality**

**3.1** Employees serve the Council as a whole. It follows that they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.

**3.2** Subject to the Council's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality, see the guidelines attached as schedule 2.

**3.3** Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council whilst at work and must not allow their own personal or political opinions to interfere with their work.

## **Notes:**

*The Local Government & Housing Act 1989, Part I* - contains provisions to stop "twin-tracking" (where a senior local authority employee is also an elected member of another local authority) and to restrict the political activity of senior employees and those operating in politically sensitive areas. Local authority employees holding politically restricted posts are disqualified from membership of any local authority, other than a parish or community council, from being an MP or MEP and are subject to prescribed restrictions on their political activity.

*The Local Government Officers (Political Restriction) Regulations 1990 and the Local Government (Politically Restricted Posts) (No.2) Regulations 1990* - cover the posts which are politically restricted. The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

### **4.0 Relationships**

#### **4.1 Councillors**

**4.1.1** Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to

carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

**Notes:**

Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and the council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees and/or Cabinet.

The law and Officer Employment procedure rules lay down the rules for appointment, discipline and dismissal of staff. Councillors must ensure that they observe these scrupulously at all times. Special rules apply to the appointment of assistants to political groups. In all other circumstances, if Councillors are called upon to take part in appointing an officer, the only question they should consider is which candidate would best serve the whole council. They should not let their political or personal preferences influence their judgement. They should not canvass the support of colleagues for any candidate and they should resist any attempt by others to canvass theirs.

Useful reference can be made to the *Protocol on Member/Officer Relations at Constitution 16.2*

## **4.2 The local community and service users**

**4.2.1** Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

## **4.3 Contractors**

**4.3.1** All relationships of a business or private nature with external contractors, or potential contractors, should be declared. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

**4.3.2** Employees who engage or supervise contractors or have any other official relationship with contractors and who have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship.

**4.3.3** Declarations arising from 4.3 and 4.4 above should be made under the mechanism set out below.

**Notes:**

*Local Government Act 1972 - Section 117 - pecuniary interests* - provides that if an officer knows that a contract in which he has a pecuniary interest whether direct or indirect is before the local authority, he must give notice of his interest to the authority. This does

not, of course, apply to a contract with him in his own name because the authority will then know of his interest.

Employees should also abide by the following:-

- “(1) In addition to his duty under section 117 of the 1972 Act if it comes to the knowledge of any officer of the authority that he has a disclosable pecuniary interest in any contract which has been, or is proposed to be, entered into by the authority, or in some other matter which is to be considered by the council or any committee or sub-committee, and which (in either case) is not
  - (a) the contract of employment (if any) under which he serves the authority, or
  - (b) the tenancy of a dwelling or domestic garage provided by the authority, he shall as soon as practicable give notice in writing to the proper officer of the fact that he is interested therein.
- (2) For these purposes, a disclosable pecuniary interest is an interest that, if the officer were a member of the council, and if the contract or other matter were to be considered at a meeting of the council at which he were present, he would have to disclose a personal and prejudicial interest.
- (3) The Chief Executive of the Council shall record in a book to be kept for the purpose, particulars of any notice given by an officer of the council under section 117 of the Local Government Act, 1972, of a pecuniary interest in a contract, and the book shall be open during office hours to the inspection of any member of the council.
- (4) Where an officer submits a report to a meeting on a matter in which he has declared an interest under section 117 of the 1972 Act or paragraph (1), he shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report.
- (5) Where any officer advises orally a meeting of the council, the committee or a sub-committee on a contract, grant, proposed contract or other matter and has declared a pecuniary interest in that matter, whether under the requirements of section 117 of the 1972 Act, or of paragraph (1), he shall remind the meeting orally of that interest.”

*The Council's Contract Procedure Rules at Constitution 12* together with EU legislation set out the Council's standards in this area.

### ***Mechanism for Employees to declare any non-financial or financial interest***

A Declaration shall be made by giving notice in writing to the Chief Executive of the relationship/interest. The Chief Executive shall, via the Member Services Manager, record it in a book kept for the purpose and the book shall be open during office hours to the inspection of any member of the Council.

N.B. Financial interest includes, for example, shareholdings and offers of future employment

## **5.0 Appointment and other employment matters**

- 5.1** Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 5.2** Similarly, employees should not be involved in decisions relating to discipline or pay for any other employee who is a relative, partner, etc.,

### **Notes:**

Every candidate for any appointment under the Council shall, when making an application, disclose in writing to the Chief Executive whether to his knowledge he is related to any member of the authority or to a holder of any senior office under the authority.

Deliberate omission to make such a disclosure will disqualify the candidate, and if the omission is discovered after appointment he should be liable to dismissal. Every member and senior officer of the authority shall similarly disclose to the authority any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the Chief Executive to report to the authority or appropriate committee any such disclosure made to him.

*The Officer Employment Procedure Rules at Constitution 13* prescribe the procedure to be followed in respect of the appointment of Chief Officers and their dismissal in the event of misconduct.

See also - *section 7, Local Government and Housing Act 1989* for appointment on merit and the Council's Codes of Practice on Recruitment and Equality in Employment.

## **6.0 Outside commitments**

- 6.1** Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

### **Notes:**

The Council stresses to employees of all grades that they should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, if by its nature it will come before the Council or an officer for approval, or if it makes use of material to which the employee has access by virtue of his or her position (e.g. an architect or planner who draws up plans within his or her own authority for an applicant for planning consent). It is irrelevant whether or not the work is paid.

An officer's off duty hours are his personal concern but he should not subordinate his duty to his private interests or put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking

additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business.

Officers above scale 6 shall devote their whole time service to the work of their council and shall not engage in any other business or take up any other additional appointment without the express consent of the council.

No outside work of any sort should be undertaken in the office and use of facilities e.g. telephones, internet, email or access to typists is forbidden. Employees are also advised that correspondence and incoming telephone calls related to outside work are not allowed.

### ***Procedure for seeking permission***

The employee should complete the relevant form for the Chief Executive Director or relevant Head of Service requesting permission and giving full details of the business to be engaged in, or the additional appointment. The Chief Executive Director or Head of Service will consider the matter and may ask for further information. He/she will then grant or refuse permission, on the relevant form and pass a copy of the form to the Member Services Manager, who will record it in the Register of External Activity.

**6.2** Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment, as set out below.

### **Notes:**

#### **Intellectual property**

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule, they belong to the employer. However, various acts of parliament cover different types of intellectual property.

The Council will regard intellectual property and copyright created during employment as belonging to it. If an employee wishes to use or benefit from the same, the express consent of the Chief Executive must be sought. e.g. writing for a local government journal on matters pertaining to work related issues.

#### **Inventions and patents**

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after 1st June 1978 inventions are only the property of the employer if, they have been made in the course of the employees normal duties; or they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or it was made in the course of the employees duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

### **7.0 Personal Interests**



- 7.1** Employees must declare any financial interests which could conflict with the Council's interests.
- 7.2** Employees must declare any non-financial interests they consider could bring about conflict with the Council's interests e.g. kinship; friendship; freemasonry, membership of a society or organisation; involvement with a school or other organisation receiving grant aid from the authority; membership of a national health service trust board; involvement with an organisation or pressure group which may seek to influence the Council's policies.
- 7.3** Declarations arising from 7.1 and 7.2 above should be made under the mechanism set out in the notes to 4.3 to 4.5 above.

**Notes:**

See also paragraph 4 of this Code in relation to contractors and the notes thereon. These refer to areas other than contracts where pecuniary interests should be disclosed even though there is no statutory requirement.

Remuneration from a person or body which has dealings with the Council is a direct interest. If the remuneration were to be paid by the person or body to a spouse, this would be regarded as direct financial interest.

Employees should carefully consider their positions to avoid conflict of interest where either there is a direct financial interest but no contract, or they or their spouses are receiving remuneration from a person or body which is dealing with the Council.

"Remuneration" includes commission, honoraria, dividends, agency fees and interest as well as salary, wages, or fees.

There may be a conflict of interest even where no financial interest or advantage exists or accrues. This covers areas where relationships might be seen to influence judgements and convey the impression of personal motive. A simple example is where a council employee, who acts as an honorary officer of a voluntary association, is also directly involved during the course of his or her employment with claims for grant from the association.

A good test is to ask yourself whether others would think that the interest is of a kind to make it possible that you might be acting from personal motives. Normally ordinary membership of a national organisation would not need to be declared e.g. National Trust, RSPB, Unison.

**8.0 Equality issues**

- 8.1** All employees should ensure that policies relating to equality issues as agreed by the Council are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

**Notes:**

Please see the Council's current policies on "*Approach to Equality*" and "*Equality in Employment Policy*" which comply with the requirements of the Equality Act 2010, together with the "*Policy on dealing with complaints of bullying and harassment*" available from Human Resources or on the Council's Intranet.

## **9.0 Separation of roles during tendering**

- 9.1** Employees involved in the tendering process and dealing with contractors should be clear on the separation of client contractor roles within the council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2** Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3** Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4** Employees contemplating a management buy out should, as soon as they have formed a definite intent, inform the Chief Executive and withdraw from the contract awarding processes.
- 9.5** Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

### **Notes:**

The Council's *Contract Procedure Rules and Financial Regulations at Constitution 11 and Constitution 12*, together with EU legislation, set out the council's standards here.

The internal arrangements for the client and contractor functions are designed to resolve any conflict which may arise.

## **10.0 Corruption and Bribery**

- 10.1** It is an offence to bribe another person i.e. promise or give a financial or other advantage to another person with the intention of inducing that person to perform improperly a function or activity. Likewise, employees are guilty of an offence if they agree to receive or accept a financial or other advantage intending that in consequence a function or activity should be performed improperly

### **Notes:**

Employees should be extremely cautious when, in a private capacity, they use the services of persons or bodies which they know to have dealings with the Council. It may sometimes be difficult to find persons or bodies which are not dealing with an Authority the size of West Lancashire and employees may often have such dealings without knowing of the relationship with the Council.

- (a) Goods or services for private use may be bought from persons or bodies trading with the council, providing the price offered is readily available to the general public either directly or by way of a recognised trading organisation or discount scheme.
- (b) Where however an employee has good reason to believe, that an offer of preferential terms, might in fact be a specific inducement in the form of either goods or services, to promote a person's or body's interest, he or she should decline to have such dealings. An employee should not use his or her position with the council to obtain a discount. Purchase of goods and services at discounted rates under a scheme or arrangement which applies to members of trade unions or employees as a whole are excluded from this paragraph.
- (c) Employees should avoid contact with persons or bodies engaged in "pressure selling" where personal inducements are offered in return for orders. The proper action is for the employee concerned to report the matter to the Chief Executive Director or relevant Head of Service immediately.

To avoid any suggestion of restraint of trade and unfair discrimination against any particular person or body, employees involved should always explain diplomatically the dangers to both parties inherent in such preferential offers.

The procedures by which the Council selects developers or consultants for schemes and for the supply of goods are clearly defined in the Council's Contract Procedure Rules and Financial Regulations at Constitution 11 and 12, and are publicly known.

See also paragraph 4 of this Code in relation to contractors and paragraph 7 of this code in relation to personal interests and the notes thereon.

*Local Government Act 1972* - Section 117(2) - forbids an officer "under cover of his office or employment" to accept "any fee or reward" whatsoever other than proper remuneration.

Under the *Bribery Act 2010* it is an offence for employees to be bribed and consequently perform a function or activity improperly or to bribe another person to perform improperly.

See also paragraph 12 of this Code in relation to hospitality and gifts and the notes thereon and paragraph 13 in relation to sponsorship.

## **11.0 Use of financial resources**

**11.1** Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value to the local community and to avoid legal challenge to the Council.

### **Notes:**

See the Council's *Financial Regulations at Constitution 11*. See also the local procedure provided at Paragraph 1.

## **12.0 Hospitality and Gifts**

**12.1** Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend

purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded, see the procedures and standards attached at schedule 3.

- 12.2** When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards as set out in schedule 3, operating within the Council.
- 12.3** When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 12.4** Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where attendance has been authorised and provided any purchasing decisions are not compromised.
- 12.5** Employees should not accept significant personal gifts from contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries etc., see schedule 3 as to the principles to be applied here.

#### **Notes:**

Contract Procedure Rule 14(iv) provides “There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor), or if in relation to any contract with the Council, the Contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889-1916, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.”

#### **13.0 Sponsorship - Giving and Receiving**

- 13.1** Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2** Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure of any such interest through the mechanism set out in the notes to 4.3 - 4.5 above. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community,

employees should ensure that impartial advice is given and that there is no conflict of interest involved.

#### **14.0 Use of Council Facilities**

- 14.1** Employees of the Council are provided with facilities including office equipment, and secretarial services etc., to use in carrying out their official duties only.
- 14.2** The use of computer facilities is governed by the Council's IT Security Policy.
- 14.3** Telephones may be used, on occasions, by employees for private local calls if it is not practicable to make such calls out of office hours. The use of mobile telephones should similarly be restricted and should not be used during working hours for general conversation.
- 14.4** Employees of the Council are generally not entitled to free or concessionary use of Council owned facilities such as sports centre, public halls etc, except where this is specifically required as part of their employment, in order to maintain fitness or competence (e.g. pool attendants) or a specific scheme has been agreed.

#### **15.0 Dress Code**

- 15.1** Many employees will come into contact with the public each day and a smart appearance and courteous, helpful manner is essential. Personal hygiene is also an important factor. Certain employees are provided with appropriate clothing or protective equipment to ensure the proper performance of their duties. Other employees must wear a uniform as a condition of employment e.g. Customer Services.

**SCHEDULE 1**  
(Paragraph 2.1)

**INFORMATION THE COUNCIL IS OR IS NOT OPEN ABOUT**

In certain circumstances employees may have a legal or professional duty to disclose information to a third party (e.g. in the course of legal proceedings).

In addition, the following should be taken into account:-

- (a) Information should not be released to the media by individual employees except where they have been appointed or authorised for a specific purpose.
- (b) Information which is confidential should not be disclosed to third parties except in response to a request from (i) an approved source e.g. Inland Revenue, Departments for Work and Pensions or (ii) Bank Managers or Building Society Managers (where authorised)
- (c) Employees are not encouraged, when acting in a private capacity, to comment publicly on the Council's policies or a specific decision. However, in circumstances where employees find it necessary to make public comment, they are expected to exercise prudence, discretion and to properly recognise the fact that the Council is their employer. It is recognised that there will be grounds for such comment in exceptional cases e.g.
  - (i) recognised trade union officials issuing statements on behalf of their trade union, commenting on a matter relating to the Council.
  - (ii) statements made by staff acting as officials of bodies such as parish councils or community associations.
- (d) Advance knowledge of any impending council decision, particularly those relating to investment decisions or proposed developments, should not be used to further private interest.
- (e) All employees should be circumspect in what is said outside the office about matters going on inside it.

- Note 1.** The requirements of the Data Protection and Freedom of Information Acts should be taken into account in respect of the above and advice sought from the appropriate officer.
2. Please do not hesitate to seek advice in this area, either from the Chief Executive, Director, relevant Head of Service or Legal Services should issues of confidentiality arise.

Please also see Constitution 6 Access to Information Procedure Rules.

**SCHEDULE 2**  
(Paragraph 3.2)

**GUIDELINES ON THE CIRCUMSTANCES IN WHICH EMPLOYEES MAY ADVISE POLITICAL GROUPS AND WHETHER SUCH ADVICE IS CONFIDENTIAL TO THAT GROUP**

1. Please see paragraphs 3 and 5 of the Convention for the Management of Council Business at Constitution 18.
2. Advice to all Council members must be even handed. If the advice of officers is sought by and offered to a particular group on the Council, consideration must be given as to whether or not similar facilities should be afforded to other groups of members.

**SCHEDULE 3**  
(Clauses 12 and 13)

**PROCEDURES FOR AUTHORISING AND RECORDING ACCEPTED OFFERS OF HOSPITALITY AND GIFTS, AND STANDARDS AND PRINCIPLES IN RESPECT OF THE SAME**

**1.0 Hospitality**

- 1.1 A reasonable amount of hospitality is a normal part of the courtesies of public life creating contacts that can aid the Council's interests. However, it is important that attendance at any event or activity does not create an appearance of improper influence thus undermining public confidence.
- 1.2 Where hospitality is offered to employees as official representatives of the Council, it will normally be authorised where it appears appropriate and reasonable to accept. However, when hospitality is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. Whether to accept an offer or not is often a question of judgement and the following checklist should help Officers to decide:
- Is the donor or event significant in the community or in the Council's area?
  - Are you expected to attend because of your position in the community or Council?
  - Will the event be attended by others of a similar position?
  - What is the motivation behind the invitation?
  - Would acceptance of the invitation be in any way inappropriate of place you under pressure in relation to any current or future issue involving the Council?
  - Could you justify your attendance to the Council, press or public?
  - Does the extent of the hospitality seem reasonable and appropriate and do you feel comfortable with the decision?

The following examples of acceptable and unacceptable hospitality are intended to give general advice only and must not be construed as being exhaustive.



### 1.3 **Acceptable Hospitality**

- (a) An invitation to a society, institute or other dinner or function, related to local government, where the employee represents the Council or attends by virtue of his or her professional position.
- (b) An invitation to a trade fair or similar event where there is a general invitation to customers.
- (c) Drinks and food provided in the course of normal business, for example lunch at a Contractor's expense during a meeting or event.

### 1.4 **Unacceptable Hospitality**

- (a) The offer of a free or subsidised holiday
- (b) The offer of free or subsidised hotel accommodation, theatre tickets or tickets for a sporting event.
- (c) The offer of free or subsidised use of a flat or hotel suite.
- (d) The offer of free or subsidised membership of clubs e.g. leisure club, golf club etc.

1.5 It is generally more acceptable to join in hospitality offered to a group, than to accept something unique to an individual. When a particular person or body has a matter currently in issue with the Council (e.g. an arbitration arising from a contract or a development proposal) an offer of hospitality should clearly be refused even if, in normal times, it would be acceptable.

## 2.0 **Gifts**

2.1 There are two considerations when gifts are offered: the nature of the gift in terms of value; and, the motivation of the giver. Most organisations, as part of their normal commercial activity, distribute gifts which range from the promotional e.g. calendars, diaries, etc., to the more expensive e.g. wines and spirits. The more expensive gifts are obviously distributed where they will have the greater specific impact. All this is often commonplace and acceptable conduct in the private sector, but the requirements of the public sector are very different.

2.2 Employees should refuse any personal gift offered to them by any person or body who has or seeks dealings with the Council. The exceptions to this are:-

- (a) modest promotional material of low value such as calendars and diaries which are, in many cases, unsolicited and simply delivered by post. Even here, however, employees should use judgement and more expensive commercial items should be refused or returned.
- (b) small gifts of a token value, given on the conclusion of a courtesy visit to a factory or other premises, of a sort normally given by that person or body.
- (c) a small gift of token value, where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council,

but merely wishes to express thanks for advice, help or co-operation received.

- 2.3 When a gift has to be refused and/or returned this should be done with tact and courtesy so as not to cause offence.
- 2.4 It is sometimes acceptable to the giver, for a gift which in other circumstances would be refused as in 2.3 above, to be donated instead to charity. An arrangement of this sort should only be made with the approval of the Chief Executive, Director or relevant Head of Service.

### **3.0 Register of Accepted Offers of Hospitality and Gifts**

- 3.1 All offers of hospitality which an employee decides to accept; other than hospitality of a nominal value only (e.g. an offer of a drink following a site visit or an invitation to a working lunch of a modest standard provided to allow the parties to discuss business) or hospitality arising as part of an authorised conference or course; should be reported to the Chief Executive Director or relevant Head of Service, in writing, on the relevant form, with the employees detailed comments as to why it would be appropriate to accept the same. The Chief Executive Director or Head of Service will then make a decision whether or not to authorise acceptance of the offer in line with the standards set out above and endorse the form accordingly. If acceptance is authorised the employee should forward the form to the Member Services Manager so that the same can be recorded in the Register of hospitality and gifts.
- 3.2 The Chief Executive Director or relevant Head of Service and the Member Services Manager should be advised of all gifts accepted in accordance with the principles referred to above, other than those of modest promotional material of low value such as calendars and diaries, by completing the relevant form, so that the details can be included in the Register.



**AGENDA ITEM: 7**

**STANDARDS COMMITTEE:  
14 JULY 2011**

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**Report of: Director of People and Places**

**Relevant Head of Service: Acting Borough Solicitor**

**Contact for further information: Mr T. Broderick  
(E-mail: [terry.broderick@westlancs.gov.uk](mailto:terry.broderick@westlancs.gov.uk))**

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**SUBJECT: BRIBERY ACT 2010**

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Wards affected: Borough Wide

**1.0 PURPOSE OF THE REPORT**

1.1 To advise of the impact of the Bribery Act 2010 (the Act) and propose procedures to give effect to its requirements within the Council.

**2.0 RECOMMENDATION**

2.1 That the contents of the report be noted.

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**3.0 BACKGROUND**

3.1 The Act received Royal assent on the 8<sup>th</sup> April 2010 and is due to come into force on the 1<sup>st</sup> July 2011.

3.2 The Act makes significant changes to the law on bribery aiming to provide a more effective legal framework to combat bribery in the public or private sectors. The Act essentially creates four offences.

- Offering/promising/giving of a bribe
- Agreeing to/receiving/accepting a financial or other bribe
- Bribery of a foreign public official.
- Failure of an organisation<sup>(1)</sup> to prevent a bribe being paid for or on its behalf.

3.3 The introduction of the “corporate offence” is significant. A “reverse burden of proof” applies, meaning that the organisation will be liable to criminal prosecution for the actions of employees involved in bribery, whether or not they were aware of it, unless it can show it had “adequate procedures” in place to

prevent bribery occurring. This obligation would extend to employees, contractors and agents.

3.4 Conviction in the Crown Court of any of the offences carries the punishment of an unlimited fine and/or up to ten years imprisonment. The corporate offence is subject to a penalty of an unlimited fine. In addition the court can impose confiscation and recovery orders under the Proceeds of Crime Act 2002.

3.5 The establishing of an adequate procedures defence (to the corporate offence) is problematical, although Guidance issued by the Secretary of State sets out six guiding principles to assist organisations in ensuring adequate procedures are in place. The principles are:

- There must be a corruption risk assessment carried out
- Top level commitment must be proved and an organisation must make a clear and unambiguous commitment to establishing a culture in which bribery is unacceptable.
- Good due diligence should be carried out – the organisation must be able to demonstrate it knows who it does business with.
- Clear practical and accessible policies and procedures need to be in place
- Policies and procedures must be effectively implemented
- Monitoring and review of the effectiveness of anti-bribery controls with the consideration of the need for external audit.

<sup>(1)</sup> Although aimed at commercial organisations it is apparent that the definitions in the Act are sufficiently broad to cover the Council.

3.6 The Council can take comfort from the comprehensive measures it already has in place. These include the matters mentioned at both paragraphs 5.4 and 5.5 below. That said, there is no room for complacency.

#### **4.0 ISSUES**

4.1 The principal issue facing the Council is to avoid bribery occurring. Where such activity cannot reasonably be prevented by the contracts and procedures in place, the Council is to ensure that it has done all it reasonably can in terms of addressing the requirements of the six principles set out above and, therefore, may rely upon the defence highlighted.

#### **5.0 ACTION TO BE TAKEN**

5.1 In accordance with the guiding principles the Council needs to take some action, as detailed below.

5.2 Corruption Risk Assessment – A corruption risk assessment is/to be maintained and updated on an annual basis. The Borough Treasurer would settle the Corruption Risk Assessment, involving colleagues through the Risk Coordinators as appropriate. The document will be reviewed as part of the risk management processes the council has in place. This will be picked up in terms of any

necessary audit activity by the Internal Audit Manager's anti- fraud work in the Audit Plan.

- 5.3 Top level commitment – this is demonstrated by the Council's Anti-Fraud and Corruption Policy, updated earlier this year. The Anti Fraud and Corruption Policy caters for not only officers but other persons who may be covered by a potential offence under the Act, i.e. contractors, agents and partners.
- 5.4 The Council applies due diligence procedures, taking a proportionate and risk based approach in respect of those persons who perform or are to perform services for or on behalf of the Council, in order to mitigate identified bribery risks. The controls the Council has in place include:
- Contracts Register
  - Public reporting all payments over £500
  - Internal/External audit work
  - Contract Procedure Rules
  - Financial regulations
  - Management reports
  - Procurement Practice Notes for officers
- 5.5 Proportionate procedures – the Council has in place procedures to prevent bribery by persons associated with it. These are proportionate to the bribery risks it faces and to the nature, scale and complexity of the Council's activities. These are contained within various documents which include:-
- The Anti Fraud and Corruption Policy
  - The Anti Money Laundering Policy
  - Officer Code of Conduct – including declarations of interest and hospitality
- and the policies and procedures referred to in the previous paragraph. These various policies have or will be updated upon review to accord with the Act.
- 5.6 In order to address the risk of contractors, agents or partners creating a risk for the Council, suitable contract or other documentation (e.g. Service Level Agreement's, terms of reference) will specifically identify the issues created by the Act.
- 5.7 A model contract clause has been developed and can be suitably adapted for use in future documents engaging agents/partners etc.
- 5.8 The Anti Fraud and Corruption Policy is the best fit for incorporating the necessary changes to reflect the Act's requirements. The Borough Treasurer has delegated authority in place to amend this Policy in consultation with the relevant Portfolio Holder. Relatively minor changes are necessary to achieve compliance, which will be submitted to the Audit and Governance Committee as the body charged with responsibility for monitoring the Policy.
- 5.9 Contract Procedure Rules (CPR) will also be updated and be submitted to Cabinet for approval, however most aspects of the Act have already been

anticipated within the current version. In the interim a guidance note will be prepared and circulated to staff to clarify any potential areas of misunderstanding.

- 5.10 Communication – the Council’s policies and procedures are embedded and understood throughout the Council by internal and external communication measures, including training proportionate to the risks faced. Regular reminders will be sent to staff and Members from the Acting Borough Solicitor about responsibilities and ensuring that they declare interests, gifts and hospitality both offered and received. An annual reminder to staff to complete the declarations would be a useful development. The implications of the Act and responsibilities of staff and Members will be highlighted both through email communications and the use of the Intranet facilities.
- 5.11 Monitoring and Review – in accordance with arrangements in place via the Audit and Governance Committee, the review and monitoring of the Council’s activity in relation to prevention of bribery can sufficiently be monitored by both the activities of the Audit Manager and the overseeing of this via Audit and Governance’s review of the Anti Fraud and Corruption Policy. The Anti Fraud and Corruption Policy will be updated to include further bribery provisions as detailed above in paragraph 5.8. This will be considered each year in accordance with practice for review of the Anti Fraud and Corruption Policy.

## **6.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 6.1 There are no significant financial and resource implications arising from the implementation of measures arising out of the Act. None adherence to the requirements of the Act would give rise to a potential of an unlimited fine for the Council along with considerable reputational loss.

## **7.0 RISK ASSESSMENT**

- 7.1 The Council has in place appropriate policies and procedures to meet the obligations under the Act which only require minor amendments to ensure it has sufficient protection as an organisation to defend any claim against it of bribery, including proceedings. The consequences of not maintaining those procedures or falling short on their implementation could result in the penalties mentioned in the paragraph immediately above.

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### **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**

The decision does not have any direct impact on members of the public, employees, elected members and/or stakeholders. Therefore no Equality Impact Assessment is required.

## **Appendices**

None.





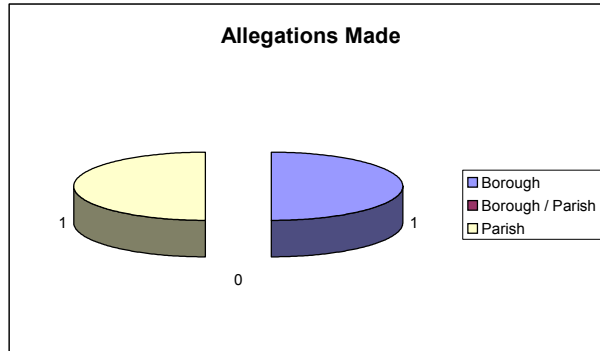
**West Lancashire Borough Council**

**Complaints to the Standards Committee 2011 / 2012**

**As at 06/07/2011**

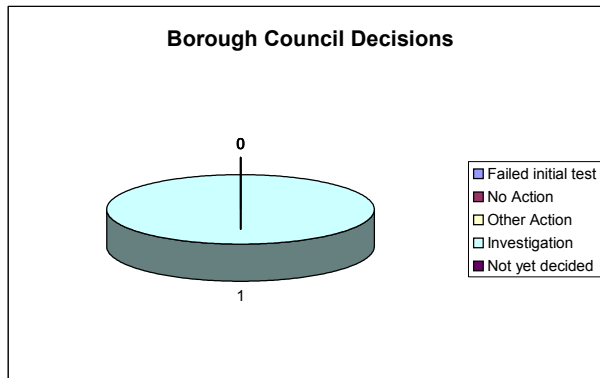
**Allegations made**

Borough	1
Borough / Parish	0
Parish	1
<b>Total</b>	<b>2</b>



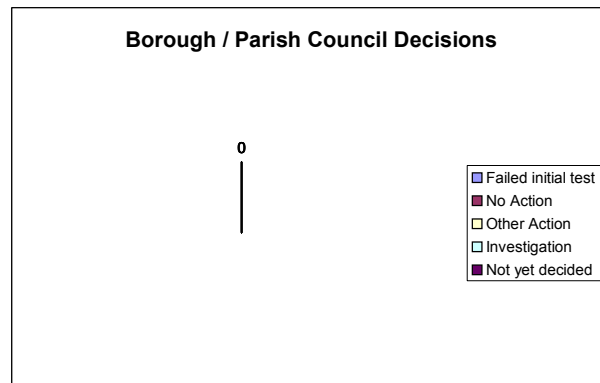
**Borough Council Decisions**

Failed initial test	0
No Action	0
Other Action	0
Investigation	1
Not yet decided	0
<b>Total</b>	<b>1</b>



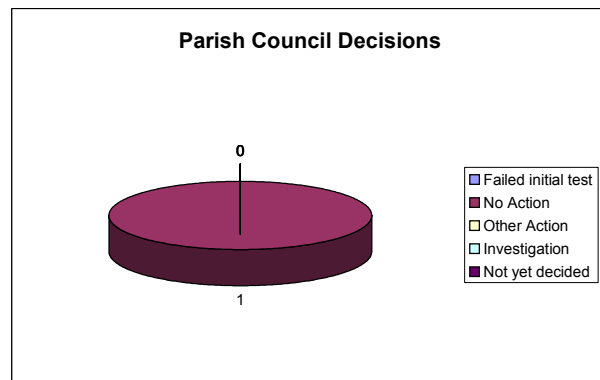
**Borough / Parish Council Decisions**

Failed initial test	0
No Action	0
Other Action	0
Investigation	0
Not yet decided	0
<b>Total</b>	<b>0</b>



**Parish Council Decisions**

Failed initial test	0
No Action	1
Other Action	0
Investigation	0
Not yet decided	0
<b>Total</b>	<b>1</b>





**ASSESSMENT SUB-COMMITTEE**

**HELD: 6 APRIL 2011**  
Start: 2.30pm  
Finish: 3.05pm

**PRESENT:**

Independent Member: J Cailes (Chairman)

Councillor: R Pendleton

Parish Councillor: A Cheetham

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

**1. APPOINTMENT OF CHAIRMAN**

RESOLVED: That Independent Member, Mr J Cailes, be appointed Chairman for the meeting.

**2. APOLOGIES**

There were no apologies for absence.

**3. MEMBERSHIP OF THE SUB-COMMITTEE**

There were no changes to the membership.

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**5. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/50**

The Sub-Committee considered the report of the Director Designate (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 member.



## **ASSESSMENT SUB-COMMITTEE**

**HELD: 4 MAY 2011**

Start: 11.00am

Finish: 11.45am

### **PRESENT:**

Independent Members: P Hanmer  
P Rogan

Councillors: R Pendleton

Officers: Acting Borough Solicitor (Mr T Broderick)  
Assistant Member Services Manager (Mrs J Denning)

### **6. APPOINTMENT OF CHAIRMAN**

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

### **7. APOLOGIES**

There were no apologies for absence.

### **8. MEMBERSHIP OF THE SUB-COMMITTEE**

There were no changes to the membership.

### **9. DECLARATIONS OF INTEREST**

Councillor Pendleton advised that he had been present at the meeting of the Planning Committee held on 10 March 2011.

### **10. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/51**

The Acting Borough Solicitor referred to the Local Assessment Procedures and described the steps the Sub-Committee were required to take in order to make a decision.

The Sub-Committee considered the report of the Acting Borough 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. Members noted the receipt of the e-mail attached at Appendix 3, which was not be taken into account when making the decision.

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

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



**PRESENT:**

Members: Independent Member Mr P Hanmer  
Councillor Davis  
Parish Councillor J Citeralla

Officers: Acting Borough Treasurer (Mr T Broderick)  
Principal Member Services Officer (Mrs S Griffiths)

**1. APPOINTMENT OF CHAIRMAN**

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

**2. APOLOGIES**

There were no apologies for absence.

**3. MEMBERSHIP OF THE SUB-COMMITTEE**

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

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**5. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT – LG5/50**

The Review Sub-Committee considered the report of the Director of People and Places to review a decision of the Assessment Sub-Committee taken on 6 April 2011 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.





**Standards Committee Work Programme 2011/12 – July 2011**

	<b>Timescale</b>	<b>Comments</b>
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 2011	On target
4. Individual Training Needs Survey, Individual Training Plans and Training Records for Independent and Parish Council Members	On hold	
5 Code of Conduct Seminar for Officers, Borough and Parish Councillors (Press Release to be issued – Details on website)	On hold	
6 Report on Annual Standards for England Conference (Para for 7 Days)	Conference on hold	
7 Visits by individual Members to Borough and Parish Council Meetings (Press Release to be issued and put on website)	Suspended	
8 Update on Whistleblowing Code	On hold	
9 Hearings and Investigations	As and when required	On going
10 Consideration of applications for dispensations	As and when required	On going

	<b>Timescale</b>	<b>Comments</b>
11 Monitoring Officer meeting with Parish Clerks to discuss Standards regime	On hold	
12 Standards Committee annual meeting inviting Parish Clerks and Parish Chairman to discuss Code (Press Release to be issued)	On hold	
13 Standards for England – Annual Return	On hold	
14 Standards Committee – Annual Report	Autumn 2011	
15 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)	On hold	
16 Look at conducting research in relation to opinions of conduct in West Lancashire	On hold	
17 Look at the potential involvement of the Standards Committee in complaints handling and review of Ombudsman decisions	On hold	
18 Local Filter - implementation	Continuing	Ongoing
19 Involvement of the Standards Committee in officer code and political restrictions	On hold	

	<b>Timescale</b>	<b>Comments</b>
20 Future of Standards Regime	Continuing	