

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: 15 DECEMBER 2011**

Start: 4.30pm

Finish: 5.05pm

### **PRESENT**

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

Councillors: Mrs U Atherley R Bailey  
J Davis L Savage

Parish Councillor: J Citarella

Officers: Managing Director (People and Places) (Mrs G Rowe)  
Borough Solicitor (Mr T Broderick)  
Assistant Member Services Manager (Mrs J Denning)

### **12. APOLOGIES**

An apology for absence was received on behalf of Parish Councillor R Coady.

The Committee was advised that there had been a change of Membership since the agenda had been published in respect of Councillor Savage for Councillor Fillis.

RESOLVED: That the apology and the change in membership be noted and Councillor Savage be welcomed to the Committee.

### **13. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN**

There were no items of urgent business.

### **14. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **15. MINUTES**

RESOLVED: That the minutes of the Standards Committee meeting held on 14 July 2011 be received as a correct record and signed by the Chairman.

### **16. APPOINTMENT OF PARISH COUNCIL REPRESENTATIVE ON THE STANDARDS COMMITTEE**

The Committee was advised that voting had taken place for Parish Councils to nominate a Parish Council representative to serve on the Council's Standards Committee, however as there was an equal number of votes (4 each) for Parish Councillors Brian Bailey and Rosie Evans, each Parish Council had now been asked to vote for one of these two candidates with a deadline of Tuesday, 31 January 2012.

RESOLVED: That the update be noted.

**17. COMPLAINTS - STATISTICS**

The Committee considered the complaint statistics for 2011/12 set out in pages 75 to 80 of the Book of Reports. Members were advised that one complaint had been received in 2011/12 which would be considered by the Assessment Sub Committee on 19 December 2011 and that two complaints received in 2010/11 had been dealt with during 2011/12 by the Review Sub Committee on 26 May 2011 (decision upheld) and the Consideration Sub Committee on 12 October 2011 (no breach).

RESOLVED: That the statistics be noted.

**18. LOCALISM ACT 2011 - IMPLICATIONS FOR STANDARDS COMMITTEES**

Consideration was given to the joint report of the Managing Director (People and Places) and the Borough Solicitor which detailed the provisions in the Localism Act 2011 relevant to the Standards Committee.

RESOLVED: That the contents of the report be noted and the Managing Director (People and Places) and the Borough Solicitor be asked to bring a further report and Action Plan to the Committee as further details emerge.

**19. ARRANGEMENTS RELATING TO THE ABOLITION OF STANDARDS FOR ENGLAND**

The Committee considered an update from Standards for England relating to its abolition as set out on pages 85 and 86 of the Book of Reports.

RESOLVED: That the update be noted.

**20. WORK PROGRAMME 2011/12**

The Committee considered the Work Programme for 2011/12.

RESOLVED: That the Work Programme be noted.

**21. CONSIDERATION SUB-COMMITTEE - WEDNESDAY 12 OCTOBER 2011.**

The Committee considered the minutes of the Consideration Sub-Committee held on 12 October 2011.

RESOLVED: That the minutes be noted.

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THE CHAIRMAN

**STANDARDS COMMITTEE – 14 JUNE 2012**

**ANNUAL COUNCIL MINUTE AND REPORT ON STANDARDS COMMITTEE  
UNTIL 30 JUNE 2012**

**11. STANDARDS COMMITTEE UNTIL 30 JUNE 2012**

Consideration was given to the report of the Managing Director (People and Places), as contained on pages 33 to 34 of the Book of Reports, which sought approval to continue the operation of the current Standards Committee until the introduction of a new Standards regime as required by the Localism Act 2011 (the Act).

- RESOLVED:
- A. That John Cailes and Paul Hanmer have their terms of office extended until 30 June 2012 and continue in the roles of Chairman and Vice-Chairman of the Standards Committee respectively for that period of time.
  - B. That the terms of office of Independent Members, Stuart Ibbs, Ben Winstanley and Peter Rogan on the current Standards Committee cease on 30 June 2012 to allow new Standards arrangements to be implemented.
  - C. That the terms of office of the existing Parish representative on the Standards Committee Jacky Citarella be extended until 30 June 2012 and the Parish Councils be advised accordingly, and that the current two vacancies for Standards Committee Parish representatives be filled until 30 June 2012 by Parish Councillors Brian Bailey and David Gallagher from the recruitment exercise conducted in 2011.
  - D. That the Councillors indicated on the revised Appendix 1 circulated at Item 9 on the agenda 'Appointment of Committee etc 2012/13' serve on the Standards Committee until 30 June 2012.
  - E. That it be noted that a Standards Committee and Extraordinary Council will be held in June to introduce a new Standards Regime under the Localism Act 2011 with effect from 1 July 2012 and in the meantime the Standards Committee continue with its existing Terms of Reference and delegations as set out in the Constitution.





**AGENDA ITEM: 11**

**COUNCIL: 16 May 2012**

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**Report of: Managing Director (People and Places)**

**Contact for further information: Mrs G Rowe (Extn. 5004)  
(E-mail: [gill.rowe@westlancs.gov.uk](mailto:gill.rowe@westlancs.gov.uk))**

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**SUBJECT: STANDARDS COMMITTEE UNTIL 30 JUNE 2012**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To continue the operation of the current Standards Committee until the introduction of a new Standards regime as required by the Localism Act 2011 (the Act).

**2.0 RECOMMENDATIONS**

2.1 That John Cailles and Paul Hanmer have their terms of office extended until 30 June 2012 and continue in the roles of Chairman and Vice-Chairman of the Standards Committee respectively for that period of time.

2.2 That the terms of office of Independent Members, Stuart Ibbs, Ben Winstanley and Peter Rogan on the current Standards Committee cease on 30 June 2012 to allow new Standards arrangements to be implemented.

2.3 That the terms of office of the existing Parish representative on the Standards Committee Jacky Citarella be extended until 30 June 2012 and the Parish Councils be advised accordingly, and that the current two vacancies for Standards Committee Parish representatives be filled until 30 June 2012 by Parish Councillors Brian Bailey and David Gallagher from the recruitment exercise conducted in 2011.

2.4 That the Councillors indicated on the Appendix circulated at Item 9 on the Agenda serve on the Standards Committee until 30 June 2012.

2.5 That it be noted that a Standards Committee and Extraordinary Council will be held in June to introduce a new Standards Regime under the Localism Act 2011 with effect from 1 July 2012 and in the meantime the Standards Committee continue with its existing Terms of Reference and delegations as set out in the Constitution.

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### **3.0 STANDARDS COMMITTEE UNTIL 30 JUNE 2012**

3.1 There is a requirement to operate a Standards Committee and various standards provisions under the Local Government Act 2000 until 30 June 2012. The recommendations above put in place the necessary arrangements.

3.2 There are currently two Parish Council vacancies on the Standards Committee, which under the current regime could create difficulties, should a complaint be submitted. As a recruitment exercise was conducted in 2011, it is proposed that the two candidates with the highest number of votes (Parish Councillors Brian Bailey, Burscough Parish Council and David Gallagher, Aughton Parish Council) fill these vacancies until the end of June 2012.

### **4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

4.1 There are no significant sustainability or community strategy implications arising from this report.

### **5.0 FINANCIAL AND RESOURCE IMPLICATIONS**

5.1 There are no financial and resource implications arising from this decision.

### **6.0 RISK ASSESSMENT**

6.1 The Council must have in place Standards arrangements to comply with existing legislative requirements.

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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: 7**

**STANDARDS COMMITTEE:  
14 June 2012**

**COUNCIL: 19 June 2012**

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**Report of: Managing Director (People and Places) and Borough Solicitor**

**Contact for further information: Mrs G Rowe (Ext 5004)**

**(E-mail: [gill.rowe@westlancs.gov.uk](mailto:gill.rowe@westlancs.gov.uk))**

**Mr T Broderick (Ext 5001)**

**(E-mail: [terry.broderick@westlancs.gov.uk](mailto:terry.broderick@westlancs.gov.uk))**

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**SUBJECT: LOCALISM ACT 2011 – THE NEW STANDARDS REGIME – DUTY,  
STANDARDS COMMITTEE AND ARRANGEMENTS**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To introduce a new Standards regime as required by the Localism Act 2011 (the Act) including establishing a Standards Committee and related arrangements.

**2.0 RECOMMENDATIONS**

2.1 That from 1 July 2012 the Council establish a Standards Committee, with an independent Chairman and Vice-Chairman, comprising 4 elected members appointed proportionally and the Leader of the Council be requested to nominate to the Committee only one member who is a member of the Cabinet.

2.2 That the independent Chairman and Vice Chairman be co-opted to the Committee as non-voting members, in future using the same procedure as adopted to date, but from 1 July 2012 existing Independent Members XX and YY be appointed for a term of 3 years and 2 years as Chairman and Vice Chairman respectively.

2.3 That the Parish Councils be invited to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee from 1 July 2012, using the same procedure as adopted to date, and until such appointments are made the terms of office of existing Parish representatives on the Standards Committee namely Parish Councillors Jackie Citarella, Brian Bailey and David Gallagher be extended and the Parish Councils be advised accordingly.

2.4 That the “Standards Regime Arrangements” attached as Appendix 1 be approved and the Managing Director (People and Places) work with the Parishes on these new arrangements.

- 2.5 That the updated Functions of the Standards Committee as set out in Article 9, the updated Constitution 4.1 and the updated extract from the Scheme of Delegation to the Managing Director (People and Places) attached as Appendices 2, 3 and 4 respectively be approved.
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### **3.0 THE LOCALISM ACT 2011**

- 3.1 The Act makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.
- 3.2 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Council's Monitoring Officer is the Managing Director (People and Places).

### **4.0 STANDARDS COMMITTEE**

- 4.1 The Act repeals Section 55 of the Local Government Act 2000 (the 2000 Act), which provides for the current statutory Standards Committee. So, there will be no legal requirement to have a Standards Committee. However, there will still be a need to comply with the statutory duty and deal with standards issues and case-work, so it is sensible to have a Standards Committee, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation.
- 4.2 As a result the composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply.
- 4.3 The current co-opted independent members will cease to hold office. The Act establishes a new category of Independent Persons (see separate report on the Agenda) who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years. It seems that ministers are mindful to make transitional provisions which allow a Council to appoint a person as an independent person who has been an independent member within the last 5 years. The new Independent Persons may be invited to attend meetings of the Standards Committee, but are unlikely to be co-opted onto the Committee.
- 4.4 The Council can also choose to co-opt non-voting independent members to its Standards Committee as it did prior to the 2000 Act.
- 4.5 The Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils, but the current Parish Council representatives cease to hold office. The Council can choose whether it wants to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. The choice is between establishing a Standards Committee as a Committee of the Council,

with co-opted but non-voting Parish Council representatives (which could then only make recommendations in respect of Parish Council members), or establishing a Standards Committee as a Joint Committee with the Parish Councils within the District (or as many of them as wish to participate) and having a set number of Parish Council representatives as voting members of the Committee (which could then take operative decisions in respect of members of Parish Councils, where the Parish Council had delegated such powers to such a Joint Standards Committee).

## **5.0 DEALING WITH MISCONDUCT COMPLAINTS**

### **5.1 “Arrangements”**

The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of Code of Conduct both by Borough Council members and by Parish Council members, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct. The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

### **5.2 Decision whether to investigate a complaint**

In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where she feels that it would be inappropriate for her to take a decision on it, for example where she has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. It would be appropriate that she make regular updates to the Standards Committee, which would enable reporting on the number and nature of complaints received and draw to the Committee’s attention areas where training or other action might avoid further complaints.

### **5.3 “No Breach of Code” finding on investigation**

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, it would be reasonable to delegate the decision to take no further action to the Monitoring Officer, but with the power to refer a matter to Standards Committee if she feels appropriate. It would be sensible if copies of all

investigation reports were provided to the Independent Person to enable him/her to get an overview of current issues and pressures, and that the Monitoring Officer provide summary reports to Standards Committee for information.

#### 5.4 “Breach of Code” finding on investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. Sometimes the investigation report can cause a member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee.

In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Sub-Committee constituted as a Sub-Committee of Standards Committee) to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearing Sub-Committee can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

#### 5.5 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited and must be directed to securing the continuing ability of the authority to continue to discharge its functions effectively, rather than “punishing” the member concerned. In practice, this might include actions set out in Appendix 1 paragraphs 5.1 to 5.7.

There is a particular difficulty in respect of Parish Councils, as the Act gives the Standards Committee no power to do any more in respect of a member of a Parish Council than make a recommendation to the Parish Council on action to be taken in respect of the member. Parish Councils will be under no obligation to accept any such recommendation. The only way round this would be to constitute the Standards Committee and Hearings Sub-Committee as a Joint Committee and Joint Sub-Committees with the Parish Councils, and seek the delegation of powers from Parish Council to the Hearings Sub-Committee, so that the Hearings Sub-Committee can effectively take decisions on action on behalf of the particular Parish Council. This clearly would not be practicable given that we have 20 Parish Councils in West Lancashire

#### 5.6 Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

## **6.0 TRANSITIONAL ARRANGEMENTS**

6.1 Regulations under the Act provide for –

- a. transfer of Standards for England cases to local authorities following the abolition of Standards for England;
- b. a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- c. removal of the power of suspension from the start of the transitional period; and
- d. removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

## **7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

7.1 There are no significant sustainability impacts associated with this report and, in particular no significant impact on crime and disorder. The report has links to the Sustainable Community Strategy through its work with the Parish Councils.

## **8.0 FINANCIAL AND RESOURCE IMPLICATIONS**

8.1 There is a small budget within Legal and Democracy to handle these matters which if it proves insufficient would require that funding be made available from contingencies. Introducing new arrangements of this nature is time consuming and substantial in-house resource will be required to work on this project. There will be a substantial amount of work arising in relation to Parishes the costs of which cannot be recovered.

8.2 Allowances for independent members and Parish members are covered in the budget at £200 each, it is suggested that an additional £300 be paid to the Chairman and £100 to the Vice-Chairman of the Standards Committee from 1 July 2012. As the number of independent members has also been reduced from 5 to 2 this would then leave sufficient budget to pay a sum of £500 to the newly recruited Independent Person and £250 to the Reserve, as to which see the separate report on this Agenda.

## **16.0 RISK ASSESSMENT**

16.1 The Council must put in place arrangements in order to comply with the requirements of the Act once relevant sections are brought into effect. Failure to

do so or to adhere to suitable arrangements may expose the Council to the risk of judicial review proceedings or Ombudsman action. Any action taken in respect of Members would be proportionate in accordance with the requirements of the Human Rights Act 1998.

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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**

Appendix 1 – Standards Regime – Arrangements

Appendix 2 – Constitution 3.9 – Article 9 – Standards Committee

Appendix 3 – Updated Constitution 4.1

Appendix 4 – Updated Scheme of Delegation to Managing Director (People and Places)

Appendix 5 – (Council only) Standards Committee Minute

**“STANDARDS REGIME ARRANGEMENTS”**

1. That the Managing Director (People and Places) be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
2. That the Managing Director (People and Places) be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. She be asked to seek resolution of complaints without formal investigation wherever practicable, and that she be given discretion to refer decisions on investigation to the Assessment Sub-Committee of the Standards Committee where she feels that it is inappropriate for her to take the decision, and to report quarterly to Standards Committee on the discharge of this function;
3. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Managing Director (People and Places) be asked to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
4. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Managing Director (People and Places) in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, she is to report the investigation findings to a Hearings Sub-Committee of the Standards Committee for local hearing;
5. That Council delegates to the Hearings Sub-Committee such powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
  - 5.1 Reporting its findings to Council [*or to the Parish Council*] for information;
  - 5.2 Recommending to the member’s Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - 5.3 Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - 5.4 Instructing the Managing Director (People and Places) to [*or recommend that the Parish Council*] arrange training for the member;
  - 5.5 Removing [*or recommend to the Parish Council that the member be removed*] from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish Council*];
  - 5.6 Withdrawing [*or recommend to the Parish Council that it withdraws*] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
  - 5.7 Excluding [*or recommend that the Parish Council exclude*] the member from the Council’s offices or other premises, with the exception of meeting rooms

as necessary for attending Council, Committee and Sub-Committee meetings.



## Article 9 – The Standards Committee

### 9.01 Standards Committee

The Council will establish a Standards Committee

### 9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of at least:
- four councillors other than the Leader (no more than one member who is a member of the Cabinet);
  - two persons who are not councillors or officers of the Council or any other body having a Standards Committee (independent members);
  - three members of a Parish Council wholly or mainly in the Council's area (parish members) who are not also members of the borough council.
- (b) **Independent members.** Independent members will not be entitled to vote at meetings;
- (c) **Parish members.** At least one parish member must be present when matters relating to Parish Councils or their members are being considered. Parish Members will not be entitled to vote at meetings
- (d) **Chairing the Committee.** An Independent member must chair the committee;
- (e) **Quorum.** At least three elected members of the Standards Committee must be present together with one independent member and at least 1 Parish member when considering Parish Council matters.

### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members and operating the “Standards regime – arrangements” as appropriate;
- (b) assisting councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation and effectiveness of the Members' Code of Conduct;

- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from the monitoring officer on any matter which is referred to the monitoring officer;
- (h) setting up procedures for the initial assessment of alleged breaches of the Codes of Conduct for Members;
- (i) setting up procedures for the investigation of and subsequent report on, alleged breaches of the Codes of Conduct for Members;
- (j) the exercise of (a) to (i) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (k) advising the Council on the adoption and subsequent review of a Code of Conduct for officers;
- (l) advising, training or arranging to train officers on matters relating to the Code of Conduct for officers;
- (m) advising the Council on the adoption and subsequent review of the Council's Whistleblowing Code;
- (n) dealing with applications from officers for exemptions from political restrictions in respect of their posts;
- (o) where appropriate, issuing direction to include a post in the list of politically restricted posts it maintains;
- (p) advising, following consultation with appropriate parties, on the application of criteria for designation of a politically restricted post;

#### 9.04 **Standards Regime - Arrangements**

Repeat in Constitution as Appendix 1

**Standards Committee**

Membership - see Appendix at Section 4.1A.

Functions

These are set out in Article 9.03

Delegations

The Committee shall exercise full powers, duties and functions as set out in Article 9.03.

**Assessment Sub Committee**

Membership - see Appendix at Section 4.1A

Functions

To carry out the initial assessment of allegations if requested to do so by the Monitoring Officer.

Delegations

Full authority to determine all matters as appropriate

**Recruitment of Independent Members and Independent Persons Panel**

Membership - see Appendix at Section 4.1A

Functions

To assist in the recruitment of independent members and Independent Persons by shortlisting and interviewing and making recommendations to the Council

Delegations

To make recommendations to the Standards Committee and Council

**Hearings Sub Committee**

Membership - see Appendix at Section 4.1A.

Functions

To hear cases referred to it and decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take.

Delegations

Full delegation to determine all matters as appropriate.

**Note for Sub Committees:**

- Membership and chairmanship of sub committees do not have to be fixed.
- At least 3 elected members of the Standards Committee must be present, together with one Independent Member and at least one Parish Councillor representative when considering a matter relating to a member of a Parish Council.



Scheme of Delegation to Managing Director (People and Places)

(v) **STANDARDS**

1. (a) To act under the “Standards Regime arrangements”
  - (b) To act under the pre-hearing and hearing procedures for Standards Committee determinations.
  - (c) To act under the procedure for Standards Committee investigations.
  - (d) To make minor amendments, in consultation with the Chairman of the Standards Committee, to the “Standards Regime arrangements” and the pre-hearing and hearing procedures for Standards Committee determinations and the procedure for Standards Committee investigations.
2. To disclose any information held by the Council to an Investigating Officer, whether confidential or otherwise and whether requested or not, which would in her opinion assist an investigation.
3. In consultation with the Chairman of the Standards Committee, in instances where the Independent Person/Reserve Independent Person or an Independent Member is unavailable, to appoint Independent Persons or Members from another authority on a temporary basis.
4. In consultation with the Chairman of the Standards Committee to appoint a Parish Representative on a temporary basis, in the first instance by going to other nominees on the list (i.e. those Parish Councillors nominated for election/appointment to the Standards Committee) and to advise the Parish Councils of this.
5. To publish details of the address to which written allegations of breach of the Code of Conduct should be sent.
6. To update the procedures and develop the standard documentation to be used in dealing with written complaints of breach of the Code of Conduct and publish as required.
7. In consultation with the Chairman of the Standards Committee to update the Investigation Procedure, the Determination, Pre-Hearing and Hearing Procedures, for dealing with alleged breaches of the Council’s Code of Conduct and of the Codes of Conduct of the Parish Councils in the Borough of West Lancashire, as required.





**AGENDA ITEM: 8**

**STANDARDS COMMITTEE:  
14 June 2012**

**COUNCIL: 19 June 2012**

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**Report of: Managing Director (People and Places) and Borough Solicitor**

**Contact for further information: Mrs G Rowe (Ext 5004)**

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**SUBJECT: CODE OF CONDUCT FOR MEMBERS**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To introduce a new Code of Conduct for Members as required by the Localism Act 2011 (the Act).

**2.0 RECOMMENDATIONS**

2.1 That the Code of Conduct for Members attached as Appendix 1 be adopted with effect from 1 July 2012 and that the Managing Director (People and Places) be authorised to publicise the Code.

2.2 That, when the Disclosable Pecuniary Interests Regulations are published, the Managing Director (People and Places), after consultation with the Chairman of the Standards Committee and the Leader of the Council add to the Code the provisions which are considered to be appropriate for the registration and disclosure of interests other than Disclosable Pecuniary Interests (DPIs).

2.3 That all Parish Councils in West Lancashire be urged to adopt the Code adopted by the Borough Council with effect from 1 July 2012.

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**3.0 THE LOCALISM ACT 2011**

3.1 The Act makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

3.2 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Council's Monitoring Officer is the Managing Director (People and Places).

#### **4.0 THE CODE OF CONDUCT**

4.1 The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council must adopt a new Code of Conduct governing elected and co-opted member's conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

4.2 The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not possible yet to draft Code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider that it might be appropriate to include in the Code in respect of the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it is sensible for the Managing Director (People and Places) to include in the Code registration and disclosure for those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal for DPIs.

4.3 The Act prohibits members with a DPI from participating in authority business, and the Council can adopt a Council Procedure Rule requiring members to withdraw from the meeting room.

4.4 So the Council's new Code of Conduct has to deal with:

- (a) General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct.
- (b) Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains "appropriate" provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate.



## **5.0 ADOPTION OF A CODE**

- 5.1 Nationally two “model” Codes have emerged within recent weeks; one issued by the Local Government Association (LGA) and one by the Department for Communities and Local Government (DCLG). The model Codes have been produced to assist authorities when preparing their local Codes and authorities are not obliged under the Act to follow either Code. Lancashire County Council (LCC) has recently adopted a “hybrid” Code modelled primarily on the DCLG version but including some elements of the LGA Code. NALC are also producing a Code.
- 5.2 A revised Code of Conduct for West Lancashire Borough Council similar to the LCC Code but suitable to be also adopted by the Parish Councils in West Lancashire is attached at Appendix 1. As with the LCC Code the necessary provisions on Interests will still need to be included within the Code once the Regulations implementing these provisions are issued.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 There are no significant sustainability impacts associated with this report and, in particular no significant impact on crime and disorder. The report has links to the Sustainable Community Strategy through its work with the Parish Councils.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There is a small budget within Legal and Democracy to handle these matters which if it proves insufficient would require that funding be made available from contingencies. Introducing new arrangements of this nature is time consuming and substantial in-house resource will be required to work on this project. There will be a substantial amount of work arising in relation to Parishes the costs of which cannot be recovered.

## **8.0 RISK ASSESSMENT**

- 8.1 The Council must put in place arrangements in order to comply with the requirements of the Act once relevant sections are brought into effect. Failure to do so or to adhere to suitable arrangements may expose the Council to the risk of judicial review proceedings or Ombudsman action. Any action taken in respect of Members would be proportionate in accordance with the requirements of the Human Rights Act 1998.

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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**

Appendix 1 – Code of Conduct for Members

Appendix 2 – (Council only) Standards Committee Minute

Localism Act 2011 The New Standards Regimer 2012 Code of Conduct

**WEST LANCASHIRE BOROUGH COUNCIL (AND PARISHES)  
MEMBERS' CODE OF CONDUCT**

1. You are a Member or Co-opted Member and hence you shall have regard to the principles set out in the attached Annex.
- 2.1 You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member.
- 2.2 Where you act as a representative of the Council on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or on any other body, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 3.1 You must treat others with respect
- 3.2 You must not do anything which may cause the Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006; bully any person; intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 4.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature except where you have the consent of a person authorised to give it; you are required by law to do so; the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or the disclosure is reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the Council.
- 4.2 You must not prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
- 6.1 You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- 6.2 You must act in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures.

- 6.3 You must, when using or authorising the use by others of Council resources (i) act in accordance with the Council's reasonable requirements; (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
- 6.4 You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- 7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's chief finance officer; or monitoring officer where that officer is acting pursuant to his or her statutory duties.
- 7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **8. Registering and declaring pecuniary and non-pecuniary interests**

- 8.1 You must, within 28 days of taking office as a member or co-opted member, notify the Council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the disclosable pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 8.2 In addition, you must, within 28 days of taking office as a member or co-opted member, notify the Council's monitoring officer of any pecuniary or non-pecuniary interest which the Council has decided should be included in its register.
- 8.3 If an interest has not been entered onto the Council's register, then the member must disclose the interest to any meeting of the Council at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest' *described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.*
- 8.4 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- 8.5 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by regulations made by the Secretary of State.

8.6 Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by the Council.

## 9. **Interests other than Pecuniary Interests**

*To be added following the making of the Regulations.*

10. In this Code “disclosable pecuniary interest” has the meaning given by Regulations made by the Secretary of State under the Localism Act 2011 and “meeting” means any meeting of the Council, the Cabinet, any of the Council’s or Cabinet’s committees, sub-committees, joint committees, joint sub-committees, or area committees.

# **ANNEX**

## **PRINCIPLES**

### **Selflessness**

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### **Honesty and Integrity**

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### **Objectivity**

Members should make decisions on merit, including when making appointments, awarding contractors, or recommending individuals for rewards or benefits.

### **Accountability**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### **Openness**

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### **Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.





**AGENDA ITEM: 9**

**STANDARDS COMMITTEE:  
14 June 2012**

**COUNCIL: 19 June 2012**

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**Report of: Managing Director (People and Places) and Borough Solicitor**

**Contact for further information: Mrs G Rowe (Ext 5004)**

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**SUBJECT: APPOINTMENT OF INDEPENDENT PERSON AND RESERVE  
INDEPENDENT PERSON**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To appoint an Independent Person and Reserve Independent Person as required by the Localism Act 2011 (the Act).

**2.0 RECOMMENDATIONS**

2.1 That the actions of the Managing Director (People and Places) in advertising a vacancy for the appointment of an Independent Person and a Reserve Independent Person, short-listing and interviewing candidates be noted and endorsed.

2.2 That the Council on 19 June 2012 appoint XXX as the Independent Person and YYY as the Reserve Independent Person with effect from 1 July 2012.

2.3 That an allowance of £500 be paid to the Independent Person and £250 to the Reserve Independent Person.

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**3.0 THE LOCALISM ACT 2011**

3.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

- 3.2 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Council's Monitoring Officer is the Managing Director (People and Places).

#### **4.0 INDEPENDENT PERSON(S)**

- 4.1 The "arrangements" adopted by Council must include provision for the appointment by Council of at least one Independent Person. The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council.

A person is considered not to be "independent" if –

- (a) he/she is, or has been within the last 5 years, an elected or co-opted member or an officer of the Borough Council or of any of the Parish Councils within its area;
- (b) he/she is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Borough Council or of any of the Parish Councils within its area (which would preclude, subject to transitional arrangements) any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or
- (c) he/she is a relative or close friend of a current elected or co-opted member or officer of the Borough Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

For this purpose, "relative" comprises –

- (a) the candidate's spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate's grandparent;
- (d) any person who is a lineal descendent of the candidate's grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

#### **4.2 Functions of the Independent Person**

The functions of the Independent Person(s) are –

- (a) They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local



- resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- (b) They may be consulted by the authority in respect of a standards complaint at any other stage; and
  - (c) They may be consulted by a member or co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.

This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

#### 4.3 How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a reserve candidate is retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is not able to discharge the function.

#### 4.4 Remuneration

As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current Chairman of the Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and Hearings Sub-Committee, but not to be a formal member of the Committee or Sub-Committee. He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. The Independent Person may also be involved in the local resolution of complaints and in the grant of dispensations.

### 5.0 APPOINTMENT

- 5.1 The recruitment process started on 9 May 2012 when an advert was placed in the newspaper. Press releases were also issued. (Number) application forms were received before the deadline on 30 May. Applications were shortlisted to (number) Candidates by the Managing Director (People and Places), the Borough Solicitor and the Assistant Member Services Manager with interviews taking place on Tuesday, 12 June 2012. Members will be notified as soon as possible thereafter of the recommendations arising from the interviews.

### 6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

6.1 There are no significant sustainability impacts associated with this report and, in particular no significant impact on crime and disorder. The report has links to the Sustainable Community Strategy through its work with the Parish Councils.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

7.1 There is a small budget within Legal and Democracy to handle these matters which if it proves insufficient would require that funding be made available from contingencies. Introducing new arrangements of this nature is time consuming and substantial in-house resource will be required to work on this project. There will be a substantial amount of work arising in relation to Parishes the costs of which cannot be recovered.

7.2 A sum of £750 is available within the Budget to pay the newly recruited Independent Person £500 and the Reserve Independent Person £250.

## **8.0 RISK ASSESSMENT**

8.1 The Council must put in place arrangements in order to comply with the requirements of the Act once relevant sections are brought into effect. Failure to do so or to adhere to suitable arrangements may expose the Council to the risk of judicial review proceedings or Ombudsman action. Any action taken in respect of Members would be proportionate in accordance with the requirements of the Human Rights Act 1998.

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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**

Appendix 1 – (Council only) Standards Committee Minute



**AGENDA ITEM: 10**

**STANDARDS COMMITTEE:  
14 June 2012**

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**Report of: Managing Director (People and Places) and Borough Solicitor**

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**SUBJECT: REGISTRATION AND DISCLOSURE OF INTERESTS AND  
DISPENSATIONS**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To introduce provisions in relation to the registration and disclosure of interests and granting of dispensations as required by the Localism Act 2011 (the Act).

**2.0 RECOMMENDATIONS**

2.1 That the Managing Director (People and Places) (a) prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, and ensure that it is available for inspection as required by the Act and that all members are informed of their duty to register interests; and (b) prepare and maintain new registers of members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council, ensure that it is available for inspection as required by the Act; and arrange to inform and train Parish Clerks on the new registration arrangements.

2.2 That the Managing Director (People and Places) prepare a Council Procedure Rule (effective from 1 July 2012) which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a Disclosable Pecuniary Interest (DPI), except where he is permitted to remain as a result of the grant of a dispensation.

2.3 That the power to grant dispensations be delegated to the Standards Committee.

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### **3.0 THE LOCALISM ACT 2011**

- 3.1 The Act makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.
- 3.2 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. The Council's Monitoring Officer is the Managing Director (People and Places).

### **4.0 THE REGISTER OF MEMBERS' INTERESTS**

- 4.1 The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Parish Councils, which will also have to be open for inspection at the Council offices and on the Council's website.
- 4.2 At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.
- 4.3 The provisions of the Act in respect of the Code of Conduct require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the Borough Council offices and on the Borough Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.
- 4.4 Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member. In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but would be a failure to comply with the Code of Conduct.
- 4.5 There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. In relation to 'new' DPIs these must be notified to the Monitoring Officer within 28 days of the Member becoming aware of it. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register. The preparation and operation of the register, not just for this

authority but also for each Parish Council, is likely to be a considerable administrative task, especially if different Parish Councils adopt different Code requirements for registration and disclosure in respect of interests other than DPIs. There is no provision for the Borough Council to recover any costs from Parish Councils.

## **5.0 DISCLOSURE OF INTERESTS AND WITHDRAWAL FROM MEETINGS**

5.1 As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences. The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.

5.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a “pending notification”). So, members of the public attending the meeting will in future need to read the register of members’ interests, as registered interests will no longer be disclosed at the meeting.

5.3 Where the member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests. If a member has a DPI in any matter, he/she must not –

- (a) Participate in any discussion of the matter at the meeting. The Act does not define “discussion”, but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or
- (b) Participate in any vote on the matter, unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

Failure to comply with the above requirements becomes a criminal offence, rather than leading to sanctions.

5.4 The Council’s Code of Conduct must make “appropriate” provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of the Code of Conduct not a criminal offence.

5.5 The requirement to withdraw from the meeting room can be covered by Council Procedure Rules, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Cabinet and Cabinet Committee meetings. Failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the member.

## **6.0 DISCLOSURE AND WITHDRAWAL IN RESPECT OF MATTERS TO BE DETERMINED BY A SINGLE MEMBER**

- 6.1 Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under Portfolio powers, or where the member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors.
- 6.2 The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter, unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and he/she must take no action in respect of that matter other than to refer it another person or body to take the decision.
- 6.3 Council Procedure Rules can provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter. The Act here effectively removes the current rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct.

## **7.0 SENSITIVE INTERESTS**

- 7.1 The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".
- 7.2 If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

## **8.0 DISPENSATIONS**

- 8.1 The provisions on dispensations are significantly changed by the Act. At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –
- (a) That at least half of the members of a decision-making body have prejudicial interests (this ground maybe of little use as it is normally only at the meeting that it is realise how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and
  - (b) That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.
- 8.2 In future, a dispensation will be able to be granted in the following circumstances

- (a) That so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
- (b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- (c) That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- (d) That, without a dispensation, no member of the Cabinet would be able to participate in the matter; or
- (e) That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

8.3 The Local Government Act 2000 required that dispensations be granted by the Standards Committee, however the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer.

## **9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

9.1 There are no significant sustainability impacts associated with this report and, in particular no significant impact on crime and disorder. The report has links to the Sustainable Community Strategy through its work with the Parish Councils.

## **10.0 FINANCIAL AND RESOURCE IMPLICATIONS**

10.1 There is a small budget within Legal and Democracy to handle these matters which if it proves insufficient would require that funding be made available from contingencies. Introducing new arrangements of this nature is time consuming and substantial in-house resource will be required to work on this project. There will be a substantial amount of work arising in relation to Parishes the costs of which cannot be recovered.

## **11.0 RISK ASSESSMENT**

11.1 The Council must put in place arrangements in order to comply with the requirements of the Act once relevant sections are brought into effect. Failure to do so or to adhere to suitable arrangements may expose the Council to the risk of judicial review proceedings or Ombudsman action. Any action taken in respect of Members would be proportionate in accordance with the requirements of the Human Rights Act 1998.

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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

Localism Act 2011 The New Standards Regime 2012 Registration etc



**AGENDA ITEM: 11(a)**

**ASSESSMENT SUB-COMMITTEE**

**HELD: 19 DECEMBER 2011**

**START: 10.30AM**

**FINISH: 10.55AM**

**PRESENT:**

Independent Member: Mr J Cailes

Councillor: Mrs U Atherley

Parish Member: Ms J Citeralla

Officers: Legal Services Manager (Mr M Jones)  
Principal Member Services Officer (Mrs S Griffiths)

**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**

The Sub-Committee noted the termination of membership of R. Coady (Parish representative) and the appointment of J. Citeralla (Parish representative) for this meeting.

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**5. PROCEDURE FOR THE INITIAL ASSESSMENT OF WRITTEN COMPLAINTS OF BREACH OF THE CODE OF CONDUCT RECEIVED UNDER SECTION 57A(1) OF THE LOCAL GOVERNMENT ACT 2000**

The Legal Services Manager referred to the Local Assessment Procedures and described the steps the Sub-Committee were required to take in order to make a decision.

RESOLVED That the procedure be noted.

**6. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/52**

The Sub-Committee considered the joint report of the Managing Director (People and Places) and Borough Solicitor to decide whether any action should be taken on a complaint they 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**

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**HELD: 10 MAY 2012**

START 4.00PM

FINISH 4.20PM

**PRESENT:**

Independent Member: Mr J Cailes

Councillor: Savage

Parish Councillor: Ms J Citeralla

Officers: Legal & Member Services Manager (Mr M Jones)  
Principal Overview & Scrutiny Officer (Mrs C A Jackson)

**7. APPOINTMENT OF CHAIRMAN**

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

**8. APOLOGIES**

There were no apologies for absence.

**9. MEMBERSHIP OF THE COMMITTEE**

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

**10. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**11. PROCEDURE FOR THE INITIAL ASSESSMENT OF WRITTEN COMPLAINTS OF BREACH OF THE CODE OF CONDUCT RECEIVED UNDER SECTION 57A(1) OF THE LOCAL GOVERNMENT ACT 2000**

RESOLVED: That the Procedure be noted.

**12. COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/53**

The Sub-Committee considered the joint report of the Managing Director (People and Places) and Borough Solicitor to decide whether any action should be taken on a complaint they 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.



**AGENDA ITEM: 11(b)**

**STANDARDS COMMITTEE  
REVIEW SUB-COMMITTEE**

**HELD: 6 FEBRUARY 2012  
START: 5.45PM  
END: 6.20PM**

**PRESENT:**

Members: Independent Member (Mr P Hanmer)  
Councillor Bailey  
Parish Council Coady

Officers: Borough Solicitor (Mr T Broderick)  
Principal Overview and Scrutiny Officer (Mrs C A Jackson)

**6. APPOINTMENT OF CHAIRMAN**

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

**7. APOLOGIES**

There were no apologies for absence.

**8. MEMBERSHIP OF THE COMMITTEE**

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

**9. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**10. PROCEDURE FOR THE INITIAL ASSESSMENT OF WRITTEN COMPLAINTS OF BREACH OF THE CODE OF CONDUCT RECEIVED UNDER SECTION 57(A)(1) OF THE LOCAL GOVERNMENT ACT 2000**

RESOLVED: That the Procedure be noted.

**11. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/52**

The Review Sub-Committee considered the report of the Managing Director (People and Places) and Borough Solicitor to review a decision of the Assessment Sub-Committee taken on 19 December 2011 when no findings of fact were made.

The Sub-Committee also considered the review report at Appendix 6 and the recommendations therein.

RESOLVED: A. That the Review Decision Notice agreed be issued.

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



**STANDARDS COMMITTEE  
REVIEW SUB-COMMITTEE**

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**HELD: 29 MAY 2012  
START: 5.15PM  
FINISH: 5.45PM**

**PRESENT:**

Members: Independent Member (Mr P Hanmer)  
Councillor Bailey  
Parish Council Gallagher

Officers: Borough Solicitor (Mr T Broderick)  
Principal Overview and Scrutiny Officer (Mrs C A Jackson)

**1. APPOINTMENT OF CHAIRMAN**

RESOLVED: That Mr P Hanmer be appointed Chairman of the meeting.

**2. APOLOGIES**

There were no apologies for absence.

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

There were no changes of the membership of the Sub-Committee.

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**5. PROCEDURE FOR THE INITIAL ASSESSMENT OF WRITTEN COMPLAINTS OF BREACH OF THE CODE OF CONDUCT RECEIVED UNDER SECTION 57(A)(1) OF THE LOCAL GOVERNMENT ACT 2000**

RESOLVED: That the Procedure be noted.

**6. REVIEW OF COMPLAINT OF BREACH OF CODE OF CONDUCT - LG5/52**

The Standards Committee Review Sub-Committee considered the report of the Managing Director (People and Places) and Borough Solicitor giving details of the action taken or proposed to comply with the decision of the Sub-Committee on 6 February 2012.

RESOLVED: That the Review Sub-Committee was not satisfied with the action specified in the report.