

MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	General		
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest because it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/> <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 16/7/12) or a pecuniary interest but 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. (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. (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay. (iv) An allowance, payment or indemnity given to Members (v) Any ceremonial honour given to Members (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/2/13 – 19/2/17)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary 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>

'disclosable pecuniary interest' (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest

Prescribed description

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;

"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

'non pecuniary interest' means interests falling within the following descriptions:

- 10.1(1)(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 (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) 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 easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) 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 connected 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 connected 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 10.1(1)(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) 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: 4 FEBRUARY 2014
Start: 5.00pm
Finish: 5.25pm

PRESENT:

Councillors: Grant (Chairman)

Bell Kay
Mrs Blake Wright

In attendance: Mr S Garvey (Reserve Independent Person)

Officers: Managing Director (People and Places) (Mrs G Rowe)
Borough Solicitor (Mr T Broderick)
Principal Overview and Scrutiny Officer (Mrs C A Jackson)

13. APOLOGIES

Apologies for absence were submitted on behalf of Mr S Ibbs (Independent Person) and Councillor Davis.

14. SUBSTITUTIONS (IF ANY)

In accordance with Council Procedure Rule 4, as related to Standards Committee substitutions, Members noted the termination of membership of Councillor Mrs Atherley and the appointment of Councillor Mrs Blake, for this meeting only, giving effect to the wishes of the Political Groups.

15. URGENT BUSINESS

There were no items of urgent business.

16. DECLARATIONS OF INTEREST

Councillors Bell, Mrs Blake and Grant declared a non-pecuniary interest in relation to item 9 (Code of Conduct – Parishes) arising from their Parish Council membership.

17. MINUTES

RESOLVED: That the minutes of the Standards Committee meeting held on 22 July 2013 be received as a correct record and signed by the Chairman.

18. WRITTEN ASSESSMENT PROCEDURES

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor as contained on pages 43 to 58 of the Book of Reports which sought endorsement of the current 'Procedure for the Assessment of Written Complaints of Breach of the West Lancashire Borough Council and Parish Councils Members' Code of Conduct', attached as Appendix 1.

RESOLVED: That the Written Assessment Procedure be noted and endorsed.

19. STANDARDS COMPLAINTS STATISTICS 2013/14

The Committee considered the circulated complaints statistics for 2013/14 as set out at pages 59 to 64 of the Book of Reports. Members were advised that 4 complaints had been brought forward from the previous period. Additionally, 7 complaints had been received in the year of which 2 decisions were still pending. Nine complaints had been considered by the Monitoring Officer (MO), in consultation with the Independent Person (IP) or the Reserve IP (RIP). In eight cases, it was determined that the complaints did not merit further action and in relation to one complaint it was determined that it could be resolved without need for formal investigation (local resolution).

The Chairman, on behalf of the Committee, thanked the IP and RIP for the work that had been undertaken to date in relation to the complaints.

RESOLVED: That the statistics be noted.

20. ANNUAL MONITORING OF TRAINING

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor, as contained on pages 65 to 70 of the Book of Reports, which detailed training undertaken to date and its effectiveness in relation to the Code of Conduct and standards.

Members discussed the effectiveness of the training, particularly the in-house training session held on 20 November 2013 at the Council Offices in Ormskirk that had been well attended and good feedback reported.

It was noted that a Training Pack had been issued to all Standards Committee Members, Borough Councillors, Parish Clerks and Parish Councillors in the Borough which included a copy of the Members' Code of Conduct and a set of notes and case studies with model answers.

RESOLVED: That the training undertaken and evaluation of it be noted.

21. CODE OF CONDUCT - PARISHES

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor, as contained on pages 71 to 74 of the Book of Reports, in relation to inviting the Parish Clerks and Parish Chairmen to attend a meeting of the Standards Committee to discuss the Code of Conduct. This had been a standing item on the Committee's Work Programme that had been included as part of the previous standards regime arrangements.

It was acknowledged that processes in place and the annual training undertaken in Autumn 2013, had provided an opportunity for the Parish Clerks and Parish Councillors to raise issues in relation to the Code of Conduct. Further, the Parish Clerk Liaison Committee provides a forum for the Parish Clerks to raise and discuss items collectively.

It was agreed that the item on the Committee's Work Programme, as indicated, was no longer required.

RESOLVED: That, given the processes and annual training already in place in relation to Parish Councillors, the item included on the Work Programme to invite Parish Clerks and Parish Chairmen to attend a meeting of the Committee be no longer included, in the context of the new standards regime.

22. WHISTLEBLOWING CODE

Consideration was given to the joint report of the Borough Solicitor and Borough Treasurer, as contained on pages 75 to 86 of the Book of Reports, updating the Council's Whistleblowing Code, attached as Appendix 1.

The report highlighted the changes that were being proposed to ensure compliance following a change to the Public Disclosure Act 1998 and practice arrangements produced by the Whistleblowing Commission. The report had previously been considered by the Audit & Governance Committee on 28 January 2014 and would be considered by Council at its meeting on 26 February 2014.

In discussion reference was made to actions to ensure staff are made aware of the updated Code and their protection in relation to disclosures under it.

RESOLVED: That the updated Whistleblowing Code be endorsed.

23. COMMITTEE ON STANDARDS IN PUBLIC LIFE - LOCAL GOVERNMENT STANDARDS

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor, as contained on pages 87 to 90 of the Book of Reports, relating to information on Local Government Standards, set down at Appendix 1, from the Committee on Standards in Public Life 2012/13 Annual Report. The information provided the observations of that Committee, since the introduction under the Localism Act 2011 that came into effect on 1 July 2012, of the new local government standards regime.

RESOLVED: That the information on Local Government Standards be noted.

24. WORK PROGRAMME

The Committee considered the Work Programme.

RESOLVED: That the Work Programme be noted.

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Chairman



AGENDA ITEM: 6

AUDIT & GOVERNANCE COMMITTEE: 26 June 2014

STANDARDS COMMITTEE: 18 September 2014

Report of: Borough Treasurer and Borough Solicitor

Relevant Managing Director: Managing Director (People and Places)

Contact for further information: Ms J Ashcroft (Extn. 2606)

(E-mail: julie.ashcroft@westlancs.gov.uk)

SUBJECT: OFFICER CODE OF CONDUCT

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To set out a number of proposed revisions to the Council's Officer Code of Conduct within the Constitution.

2.0 RECOMMENDATION

2.1 That the revisions attached at Appendix 1 be endorsed and the document circulated to all staff.

3.0 BACKGROUND

3.1 It is good practice for Local Authorities to have an Officer Code of Conduct in place and the Council has had its own local framework in place for many years.

3.2 The Code 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 in tracked changes format, and ensure that it achieves these objectives.

4.0 CURRENT REVIEW

- 4.1 A substantial review of the Code was undertaken in 2011 which was endorsed and approved by Members. The main changes at that time were in response to new legislation relating to Equality and Bribery and Corruption. The review also included updating roles and responsibilities following a major change in the Council's management structure.
- 4.2 In line with the Council's commitment to regularly review its key documents and procedures, a review of the Code has been undertaken to ensure it is still fit for purpose and in line with current legislation. Appendix 1 provides an updated version of the Code including the proposed revisions.
- 4.3 The amendments largely relate to minor changes across the Authority since 2011, and strengthening and clarifying key messages within the document, for example the need for compliance with the data protection act within all officer roles.
- 4.4 Following this review, the document is now deemed to be accurate and up to date. Once the new Code has been approved, the Constitution will be updated accordingly and reissued to all staff.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 5.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

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

7.0 RISK ASSESSMENT

- 7.1 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.

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 – Revised Officer Code of Conduct

Appendix 2 – Minute of Audit & Governance Committee 26 June 2014 (Standards Committee only)

Officers' Code of Conduct

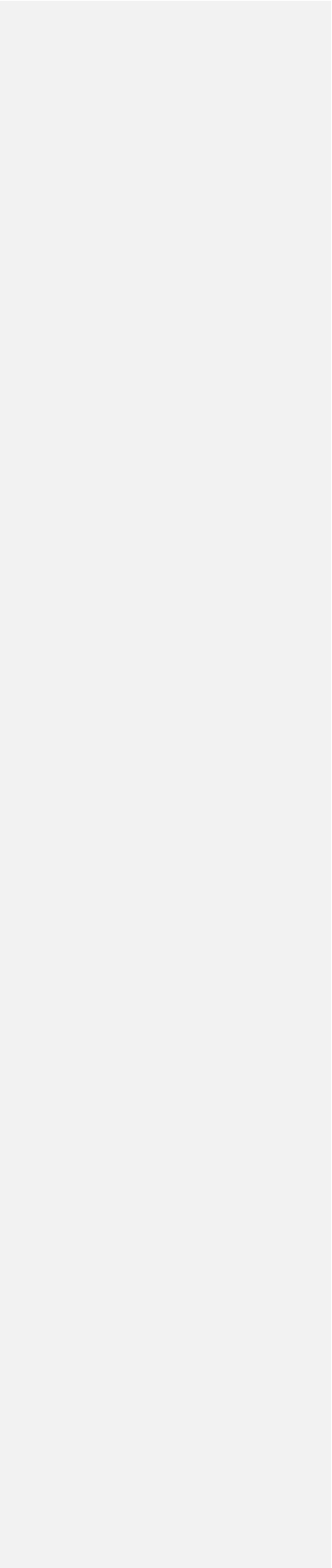
~~The Code of Conduct has been updated to reflect changes in legislation etc and other references in the Notes.~~

~~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.~~

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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.

GILLIAN L. ROWE LL.B Hons

MANAGING DIRECTOR (PEOPLE AND PLACES)

June 2014

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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/Managing Director.

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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 [and in line with the Council's Data Protection Policy](#). 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 4.3.1 and 4.4-3.2 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~~[disclosable pecuniary interest or pecuniary interest](#).
- (3) The Managing Directors 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 Managing Directors of the relationship/interest. The Managing Directors 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 Managing Directors~~ 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 Managing Directors 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~~ a 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. [Reference should be made to the Council's Working Time Policy in relation to the notification of secondary jobs.](#)

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 Managing Directors or relevant Head of Service requesting permission and giving full details of the business to be engaged in, or the additional appointment. The Managing Directors 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.
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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 Managing Directors 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, 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 4.54.3](#) above.

Notes:

See also paragraph [4.3](#) 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~~Equality Statement" 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~~Dignity at Work policy" 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 Managing Directors 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 Managing Directors 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 11.1 and 12, and are publicly known.

See also paragraph 4.3 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 11.1*. 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 "The Senior Officer shall be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official and the corporate offence of failing to prevent bribery; and the Council's Anti-Fraud, Bribery and Corruption Strategy.

The following clause shall be inserted in every written Council contract:

'The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in relation to the improper performance of any function or activity in respect of this or any other Council contract (even if the Contractor does not know what has been done) or
- (b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972 or
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor's liability shall not apply to this clause' " "

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. [Additional guidance on dress code is available on the Council's intranet](#)

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 formal request from (i) an approved source e.g. [Inland RevenueHM Revenues and Customs](#), 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 DP Link Officers, IAOs or the SIRO as required](#).

2. Please do not hesitate to seek advice in this area, either from the Managing Directors, 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 or~~ 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 Managing Directors 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 Managing Directors 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 Managing Directors 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 Managing Directors 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.

AUDIT & GOVERNANCE COMMITTEE – 26 JUNE 2014

12. OFFICER CODE OF CONDUCT

Consideration was given to the joint report of the Borough Treasurer and Borough Solicitor, as contained on pages 95 to 118 of the Book of Reports, which set out a number of proposed revisions to the Council's Officer Code of conduct within the Constitution.

Comments and questions were raised in respect of the following:

- Training for staff on the Code of Conduct and Equalities – Future Briefing Note
- Disclosure of interests for staff
- Member and Officer Relationships in Planning Protocol

- RESOLVED A. That the revisions to the Officer Code of Conduct, attached at Appendix 1 to the report, be endorsed and the updated document circulated to staff.
- B. That the Transformation Manager be asked to prepare a Briefing Note to identify what training is provided to staff on the Code and also on issues such as equality.



AGENDA ITEM: 7

**PLANNING COMMITTEE: 4 SEPTEMBER
2014**

**STANDARDS COMMITTEE: 18 SEPTEMBER
2014**

Report of: Borough Solicitor

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr M E Jones (Extn. 5025)
(E-mail: matthew.jones@westlancs.gov.uk)**

SUBJECT: PLANNING CODE OF GOOD PRACTICE

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To update the Planning Code of Good Practice in light of recent changes to the law and Government guidance.

2.0 RECOMMENDATIONS TO PLANNING COMMITTEE

2.1 That the updated Planning Code of Good Practice, attached at Appendix 1, be recommended for adoption with effect from 16th October 2014, subject to any amendments proposed by the Standards Committee.

3.0 RECOMMENDATIONS TO STANDARDS COMMITTEE

3.1 That the updated Planning Code of Good Practice, attached at Appendix 1, be recommended for adoption with effect from 16th October 2014.

4.0 BACKGROUND

4.1 The Planning Code of Good Practice forms part of the Council's Constitution and was first issued in 2003. It is derived from a model code promoted by the Association of Council Secretary and Solicitors (now Lawyers in Local Government) and has been regularly updated over the years to reflect changes in legislation and Government guidance.

4.2 In April 2014 Lawyers in Local Government published an updated model code taking into account the revisions made to the law regarding members interests

and predetermination introduced under the Localism Act 2011 together with the guide on “Openness and transparency on personal interests” published by the Department of Communities and Local Government in 2013.

4.3 The Planning Code of Good Practice is a supplementary code to the Members’ Code of Conduct and provides guidance on the special role played by members who are involved in the process of making decisions on planning proposals at Planning Committee. The Code of Good Practice applies equally to those who are standing members and to those who only occasionally attend as substitutes on the Committee. The Code is also relevant to those members who get involved in planning matters in their ward in a representative role, whether they are members of the Planning Committee or not.

4.4 The Code provides a series of helpful advice on things to do, and to avoid doing, in relation to the issues of

- Development Proposals and Members’ interests under the Members’ Code of Conduct
- Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)
- Contact with Applicants, Developers and Objectors
- Lobbying of Members
- Site Visits
- Decision Making

4.5 The key aim of the Code is to ensure that when members deal with matters through the planning process there are no grounds for suggesting that a decision has been biased, partial, or not well-founded in any way and that decisions are made having taken into account all relevant and material planning considerations.

5.0 EXPLANATION OF THE PROPOSED UPDATE TO THE PLANNING CODE OF GOOD PRACTICE

5.1 The updated Planning Code of Good Practice, attached at appendix 1:

- Reflects the changes to the descriptions of Members’ Interest so that it is consistent with the revised Members’ Code of Conduct (i.e. references to personal and prejudicial interests are replaced by references to disclosable pecuniary interests, pecuniary interests and non-pecuniary interests).
- Includes updated wording following the subtle changes made to the law of predetermination under the Localism Act 2011 which gives greater freedom to members to indicate their views on matters in advance of taking a decision providing that they are prepared to reconsider their initial views and approach decisions without a closed mind.

- Clarifies the approach dual-hatted members (e.g. those members who are both Parish and Borough Council members) should take if they wish to take part in the debate on a proposal when acting as part of a consultee body.
- Advises that whilst members may attend formal planning presentations by applicants or developers and ask relevant questions they must be mindful that a presentation is a form of lobbying and that although they may express views they should take great care not to fetter their discretion and state how they or other members might vote should the application come before Committee.
- Emphasises the need for members to ensure that where they are minded to take a decision contrary to officer recommendation their planning reasons leading to this conclusion are clearly stated, identified and understood together with their reasons for disagreeing with the reasoning in the officer's report which led to the officer recommendation.
- Recommends that members attend the training courses provided by the Council relevant to their role on Planning Committee.

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 no significant links with the Sustainable Community Strategy.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no significant financial or resource implications arising from this report.

8.0 RISK ASSESSMENT

8.1 The adoption of an updated Planning Code of Good Conduct will assist those members who become involved in the planning process and will help to ensure there are no grounds for suggesting that a decision taken by the Council is biased, partial, or not well-founded in any way.

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 adoption of an updated Planning Code of Good Conduct to reflect current law and guidance 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. Planning Code of Good Practice
2. Minute of Planning Committee – 4 September 2014 (Standards Committee only)



MEMBERS' PLANNING CODE OF GOOD PRACTICE

Background

This updated Members' Planning Code of Good Practice is derived from an existing national model code recently revised by Lawyers in Local Government (LLG), in order to promote best practice in the planning process.

The drafting of the original model code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now LLG), the Local Government Association, the local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

This update takes into account the changes to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

For further reading please refer to 'Probity in Planning' issued by the Local Government Association.

Introduction

The aim of this Code: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code applies: this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with, namely the rules on Disclosable Pecuniary Interests, Pecuniary Interests, Non-Pecuniary Interests and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
 - the Council at risk of proceedings on the legality of the related decision or maladministration; and
 - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Interests under the Members' Code of Conduct

- **Do** disclose the existence and nature of your interest as required by the Members' Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

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

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have an interest under the Members' Code of Conduct, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you have an interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have an interest.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest (for instance if you are an applicant for planning permission) or other personal conflict of interest and note that:
 - you should send the notification no later than submission of an application where you can;
 - where an application has been submitted by you, your spouse, or by a member of your close family it will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and

- it is advisable that you consider the appointment of an agent to act on your behalf in respect of the proposal when dealing with officers and in circumstances where you are eligible to address Committee under the Council's public speaking rules in the same way that an ordinary member of the public would.

3. **Fettering Discretion in the Planning Process** (natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
 - are only entitled to take into account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations,
- **Do** be aware that you may be perceived to be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of, for example, both Cabinet and Planning Committee, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal at Planning Committee where you are also a member of consultee body (for instance where you are a member of a parish council) provided:
 - you do not have a disclosable pecuniary interest, or pecuniary interest in the proposal (which may arise for instance in circumstances where an application is made by the consultee body itself) and
 - you made it clear at the consultee stage (in circumstances where you chose to comment on the proposal, for instance at a Parish Council meeting), that:
 - your views are expressed on the limited information before you only and these views do not commit yourself as to how you or others may vote when the proposal comes before Planning Committee;
 - you reserve judgement and the independence to make up your own mind on the proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning Committee and you hear all of the relevant information; and
 - you inform the Planning Committee, during its consideration of the proposal, of any prior involvement by you at the consultee stage

- **Do** alternatively explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** consider taking the opportunity where you have fettered your discretion but do not have a disclosable pecuniary interest, pecuniary interest or other personal conflict of interest to exercise any separate speaking rights as a Ward Member that you may have, in accordance with the Regulatory Committee Procedure Rules.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting requests from applicants, developers or groups of objectors. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself but should request the Assistant Director Planning to organise it. Planning officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
 - follow the rules in paragraph 5 on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted with a meeting request; and
 - report to the Assistant Director Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of public presentations by applicants/developers:

- **Do** attend formal planning presentations by applicants/developers where you feel that this will assist you in understanding planning proposals.
- **Do** ask relevant questions for the purposes of clarifying your understanding.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application.
- **Do** be aware that a presentation is a form of lobbying. You must take great care when expressing any views on the merits or otherwise of the proposal presented not to fetter, or give the appearance of fettering, your discretion on any subsequent application.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. (An offer of hospitality of a bare minimum, such as a tea or coffee may be accepted where this is appropriate in the circumstances of the engagement).
- **Do** copy or pass on any lobbying correspondence you receive to the Assistant Director Planning at the earliest opportunity.
- **Do** promptly refer to the Assistant Director Planning any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a Ward Member.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby, promote or oppose planning proposals unless you notify the Assistant Director Planning of your involvement in the organisation and are prepared to step away from the Committee when it comes to make its decision.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but do consider whether you should seek to disclose your membership to aid transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.

- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the Assistant Director Planning about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Assistant Director Planning, which may be incorporated into any committee report).
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that you set out your planning reasons in writing. This will then be referred to in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** ensure you have sound planning reasons for a request to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. Where you propose a decision contrary to officers' advice you should state clearly and precisely your reason(s) specifying all matters, policies and proposals relevant to your reason(s) including why you disagree with the reasoning in the officer's report which led to that recommendation. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Do** make every effort to attend the planning training sessions provided by the Council.
- **Do** endeavour to attend any other relevant training sessions provided by the Council.



AGENDA ITEM: 8

**STANDARDS COMMITTEE
18 SEPTEMBER 2014**

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

**Contact for further information: Mrs C A Jackson (Extn. 5016)
(E-mail: cathryn.jackson@westlancs.gov.uk)**

SUBJECT: STANDARDS COMMITTEE ANNUAL REPORT 2013/14

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To present the Standards Committee Annual Report 2013/14.

2.0 RECOMMENDATIONS

2.1 That the Standards Committee Annual Report 2013/14, attached at Appendix 1, be noted, endorsed and published on the Council's website.

3.0 BACKGROUND

3.1 The Standards Committee Annual Report is attached at Appendix 1 and provides details of the work undertaken by the Committee during 2013/14.

4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

4.1 There are no significant sustainability impacts associated with the report. Promoting and maintaining high ethical Standards contributes to achievement of the Community Strategy.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are no significant resource implications arising from this report.

6.0 RISK ASSESSMENT

6.1 There are no risks to the Council's business objectives associated with the Annual Report.

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 and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1 Standards Committee Annual Report 2013/14



STANDARDS COMMITTEE ANNUAL REPORT 2013/14

1.0 INTRODUCTION

Section 53 of the Local Government Act 2000 (the 2000 Act) provided a legal requirement for the Council to establish a Standards Committee. With the introduction of the Localism Act 2011 (“the Act”) this was repealed. Although under the Act there is no legal requirement to have a Standards Committee there is still a need to comply with the statutory duty to promote and maintain high standards of conduct and deal with standards issues and case-work. On 19 June 2012 Council considered proposals in relation to the introduction of a new Standards regime as required by the Act and agreed the establishment of a Standards Committee from 1 July 2012.

The main role of the Committee is to promote and maintain high standards of conduct throughout the authority and create a sense of ‘ethical well-being’. The Standards Committee and the Monitoring Officer are at the heart of the standards framework. They promote, educate and support Councillors and Co-opted Members within West Lancashire in following the highest standards of conduct.

1.1 Role and Function of the Standards Committee

- (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.

1.2 Membership

The Standards Committee must comprise at least six councillors. In 2013/14 six members were appointed to the Committee. The Chairman and Vice-Chairman are appointed at Council and, respectively, are the Leader of the Council and Leader of the main Opposition Group. At least three elected members of the Standards Committee must be present at its meetings. Substitute members may be nominated in exceptional circumstances and if the nominated substitute has been appropriately trained.

1.3 Independent Person and Reserve Independent Person

The Localism Act 2011 introduced a requirement to appoint an 'Independent Person'(IP). Following a recruitment process during May/June 2012 an IP and a 'Reserve Independent Person'(RIP) were appointed effective from 1

July 2012. The role of the IP, and RIP (when the IP is unavailable or conflicted), is to be consulted on alleged breaches of the Code of Conduct

The IP and RIP are not members of the Standards Committee but are invited to its meetings and they regularly attended during 2013/14. They also took the opportunity to observe Committee procedures by attending a meeting of the Planning Committee in September 2013.

2.0 WORK OF THE COMMITTEE 2013/14 – OVERVIEW

The Committee's main responsibility is to promote and maintain high standards of conduct for Councillors within West Lancashire. It does this through providing training and support and following a proactive Work Programme.

2.1 Standards Committee – Arrangements

As a result of the implementation of duties under the Localism Act 2011, from the 1 July 2012 the arrangements for dealing with complaints of breach of Code of Conduct both by Borough Council members and Parish Council members changed. The main changes were that the Act repealed the requirements for separate Referrals, Review and Hearing Sub-Committees and enabled the Council to establish its own process. However, the Act required that the Council set out its arrangements 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. Also, as the statutory provisions no longer gave the Standards Committee or the Monitoring Officer special powers to deal with complaints, it was necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer. The functions of the Standards Committee are set out in Article 9 of the Constitution.

The Managing Director (People and Places) is the Monitoring Officer (MO) and on 19 June 2012 was duly appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct.

(a) Decision whether to investigate a complaint

Under delegated authority, from 1 July 2012 the initial decision on whether a complaint requires formal investigation, is determined by the Monitoring Officer (MO), subject to consultation with the Independent Person (IP) as is the ability to refer particular complaints to the Standards Committee (Assessment Sub-Committee) where the MO feels that it would be inappropriate for her to take a decision on the complaint, if there were particular sensitivities.

The adoption of these arrangements provides an opportunity for the MO to seek to resolve a complaint informally before taking a decision on whether the complaint merits formal investigation.

During 2013/14 eight complaints were received. Additionally, 4 complaints, brought forward from the previous period, were concluded. No one of the complaints considered in 2013/14 by the MO, in consultation with the IP or RIP were referred for investigation, one complaint was the subject of local resolution. One decision was pending at the end of 2013/14 and the outcome will be reported in the 2014/15 Report.

The MO provides regular updates to the Standards Committee in respect of the number and nature of complaints received.

(b) “No Breach of Code” finding on investigation

The arrangements also provide that where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the MO 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. The findings would also be reported to the Standards Committee for information.

During 2013/14 the use of this was not required.

(c) “Breach of Code” finding on investigation

The arrangements also provide that where a formal investigation finds evidence of a failure to comply with the Code of Conduct, the MO, in consultation with the IP, has been authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such a local resolution is not possible the MO can report the investigation findings to a Hearings Sub-Committee of the Standards Committee for local hearing.

The procedure was not required during 2013/14.

(d) Action in response to a Hearing Sub-Committee finding of failure to comply with the Code

The Council has also delegated to a Hearings Sub-Committee powers 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 are set down at paragraph 9.04(e) of Article 9.

During 2013/14 the Hearings Sub-Committee has not met.

(e) Appeals

There is no requirement for appeals to be put in place under the new arrangements.

2.2 Sub-Committees – Terms of Reference

- **Assessment Sub-Committee** – ‘To carry out initial assessment of allegations.’
- **Hearings Sub-Committee** – ‘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.’

2.3 Training

A training session on the Code of Conduct , attended by Borough and Parish Councillors, Standards Committee, IP and RIP, Heads of Service and Legal and Member Services Officers, was held on 20 November 2013.

In-house induction training on standards is also provided to new Councillors following their election and training sessions, relating to the role of Members particularly on licensing and planning committees, are also held.

2.4 Promoting Standards

The Standards Committee, supported by the Managing Director (People and Places) and the Borough Solicitor, works to promote the role of the Committee and to ensure high ethical standards are promoted within West Lancashire in the following manner:

(a) The Council’s Website

A dedicated Standards Committee area of the Council’s website has been provided and this is regularly updated.

(b) Parish Clerks Meeting

The Assistant Member Services Manager attends meetings of this group and advises on the standards regime.

(c) Local Democracy Week

Schools are invited to attend the Council Offices to take part in a debate and are given information on the Code of Conduct and Declarations of Interests.

(d) ‘West Lancs Now’ and Press Releases

Appropriate articles on the work of the Committee are included in the ‘West Lancs Now’ newsletter which is distributed to Councillors and Officers, and for the press.

2.5 Proactive Work Undertaken during 2013/14

The Committee, under the Chairmanship of the Leader of the Council, Councillor Grant and Vice Chairman, Leader of the Labour Group, Councillor Bell, supported by the Monitoring Officer has been active in considering a range of issues during the year including:

- (a) Assessment work, including consideration of complaint statistics. Complaints and reviews were assessed within the required performance target.
- (b) Consideration of allowing substitutions, in exceptional circumstances, to the membership of the Committee in accordance with Council Procedure Rule 5.1.
- (c) Consideration of revisions to Standards Regime Arrangements (Article 9 of the Constitution) relating to the IP and RIP arrangements.
- (d) Consideration of the update to the descriptions of the seven principles of public life, the annex to the Members' Code of Conduct, following a review by the Government Committee on Standards in Public Life.
- (e) Endorsement of the Independent Person (IP) Protocol introduced to support the work of the IP and RIP.
- (f) Consideration of the updated guidance, issued by the Local Government Association (LGA), 'Probity in Planning' to support Councillors, and to note subsequent training, provided on behalf of the Assistant Director Planning.
- (g) Endorsement of the Council's Whistleblowing Code.
- (h) Consideration of the information on Local Government Standards, part of the Committee on Standards in Public Life 2012/13 Annual Report, since the introduction of the new local government standards regime from 1 July 2012.
- (i) Evaluation of the effectiveness of training undertaken during the year in relation to the Code of Conduct and standards.

2.6 Dispensations

No applications for dispensations were considered by the Committee during 2013/14.

3.0 REGISTER OF MEMBERS' DISCLOSABLE PECUNIARY (DPI's) AND NON-PECUNIARY INTERESTS (Non-PIs)

Members are required to complete a notification of DPIs and Non-PIs for inclusion on the Register of Members Disclosable Pecuniary and Non-Pecuniary Interests and are reminded annually of their requirement to ensure that their Register of these interests is up-to-date. Newly elected members are also advised by letter and at induction, of the 28 day deadline for completing their interests forms.

Copies of notifications by Members or Co-opted Member of DPIs and Non-PIs in the register are published on the Council's website and the register is available for public inspection.

An item is included on every Borough Council, Cabinet, Committee, Working Group and Panel Agendas to remind Members of the importance of declaring interests and a check list is included to assist Members in deciding if they have any declarations.

4.0 THE CONSTITUTION

Sections 16 and 17 of the Council's Constitution contains various Codes and Protocols relevant to the functions of the Committee as follows:

- Borough Council and Parish Councils Members' Code of Conduct
- Protocol on Member/Officer Relations
- Planning Code of Good Practice
- Protocol on the use of ICT by Members
- Independent Person Protocol
- Officers' Code of Conduct
- Whistleblowing Code
- Indemnity

Section 3.13A of the Council's Constitution details the Monitoring Officer Protocol.

5.0 PARTNERSHIP GOVERNANCE

Governance arrangements are in place for partnerships that are appropriate for the specific arrangement. For example, there is a framework of contracts governing the Council's relationship with the Leisure Trust / Serco and Lancashire County Council/BT Lancashire Services (BTLs) and a Parish Charter on joint working with Parish Councils.

6.0 THE YEAR AHEAD

To ensure that standards are maintained and promoted the Committee will develop its Work Programme for 2014/15 to:

- Deal with matters or reports from the Monitoring Officer;
- Consider the Annual Monitoring Training Report;
- Consider its Annual Report;
- Consider Applications for Dispensation;
- Consider any new / revised Protocols;
- Provide / update information on the dedicated Standards Committee area of the Council's website;
- Provide a Code of Conduct Seminar / Workshop for Standards Committee Members / Officers, Borough and Parish Councillors and the IP and RIP;
- Invite schools during Local Democracy Week to attend the Council Offices to take part in a debate and provide information on the Code of Conduct and Declarations of Interest.

The Committee may also consider, if requested by the MO, alleged breaches of the Code of Conduct referred to it and will note the decisions on alleged breaches determined by the MO in consultation with the IP.

7.0 OFFICER SUPPORT

Gill Rowe, Managing Director (People and Places) (Monitoring Officer)
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AGENDA ITEM: 9

**STANDARDS COMMITTEE
18 SEPTEMBER 2014**

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

**Contact for further information: Mrs C A Jackson (Extn. 5016)
(E-mail: cathryn.jackson@westlancs.gov.uk)**

SUBJECT: REVIEW OF INDEPENDENT PERSON PROTOCOL

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To review the Independent Person Protocol.

2.0 RECOMMENDATIONS

2.1 That the Independent Person Protocol, attached at Appendix 1, be endorsed.

2.2 That the Independent Person (IP) and Reserve Independent Person (RIP) indicate their acceptance of the Protocol by signing a copy before the Monitoring Officer.

3.0 BACKGROUND

3.1 The statutory role of the Independent Person appointed under Section 28(7) of the Localism Act 2011 is to assist the Council to discharge its duty to promote and maintain high standards of conduct amongst Members and Co-opted Members both of the Borough Council and those Parish Councils within the Borough.

3.2 The protocol, attached at Appendix 1, (Constitution 16.5) was endorsed by this Committee at its meeting on 22 July 2013. The Committee agreed to review the Protocol after a period of 12 months. The Protocol as currently drafted appears to deal with matters appropriately.

4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

4.1 There are no significant sustainability impacts associated with the report. Promoting and maintaining high ethical Standards contributes to achievement of the Community Strategy.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are no significant resource implications arising from this report.

6.0 RISK ASSESSMENT

6.1 There are no risks to the Council's business objectives associated with the Protocol.

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 and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1 Independent Person Protocol



The statutory role of an Independent Person appointed under Section 28(7) of the Localism Act 2011 is to assist the Council to discharge its duty to promote and maintain high standards of conduct amongst Members and Co-opted Members both of the Borough Council and those Parish Councils within the Borough.

This protocol has been established to clarify how the Independent Person will fulfil this role:

1. Considering complaints of failure to comply with the Code of Conduct
 - 1.1 The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before determining whether a written complaint merits formal investigation, recognising that where appropriate the MO will seek to resolve complaints without formal investigation.
 - 1.2 The MO has been given discretion by Council to refer decisions on investigation to the Standards Committee where she feels that it is inappropriate for her to take the decision and report to Standards Committee on the discharge of this function.
 - 1.3 Following consideration of a written complaint, a decision letter will be issued by the MO which will record that the IP has been consulted and that their views have been taken into account.
 - 1.4 Where at any time the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by the Reserve Independent Person (Reserve).

2. Matters under investigation

- 2.1 The MO may consult the IP at any stage during the process.
- 2.2 Where a matter has been referred to the Standards Committee for determination, the Committee may seek the views of the IP before reaching its conclusions.
- 2.3 The IP may be consulted by a member or co-opted member of the Council or of a Parish Council against whom a complaint has been made.

3.0 Decisions

- 3.1 The IP must be consulted before a finding is made as to whether a member has failed to comply with the Code of Conduct; or 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);

4.0 Relationship with the Standards Committee

- 4.1 The Standards Committee and MO are responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.
- 4.2 The IP and Reserve shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend those meetings and, with the agreement of the Chairman, speak at the Committee.

5.0 Other matters

- 5.1 The IP and Reserve have the right of access to confidential information required to carry out their role. Access to such information shall be agreed with the MO. In carrying out the role the IP and Reserve shall keep confidential all confidential information they shall receive or become aware of in undertaking their duties. Access to such information shall be agreed with the MO except where it shall otherwise come into the possession of the IP or Reserve in the course of performing their role.
- 5.2 The IP and Reserve have the right of access to Council buildings in order to carry out their role. Access should be agreed with the MO.

- 5.3 The IP and Reserve are expected to declare any relevant interests in relation to cases to the MO who will decide whether the interests conflicts them out of involvement in the matter.

ANNEX**PRINCIPLES****Selflessness**

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

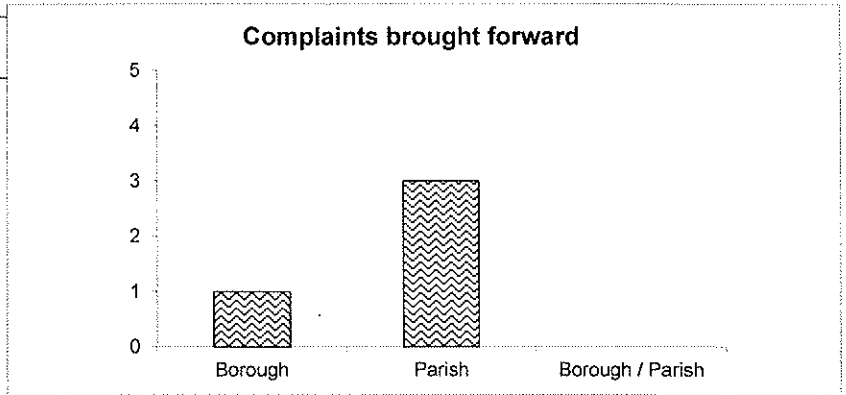


STANDARDS COMPLAINTS 2013 / 2014

As at 31/03/2014

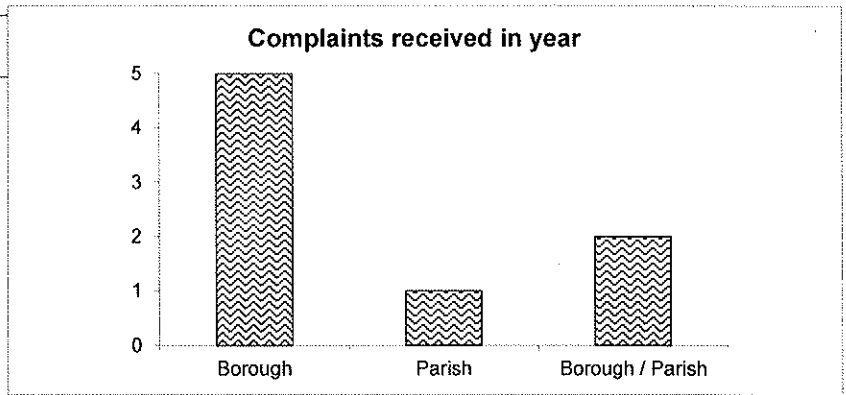
Complaints brought forward

Borough	1
Parish	3
Borough / Parish	0
Total	4



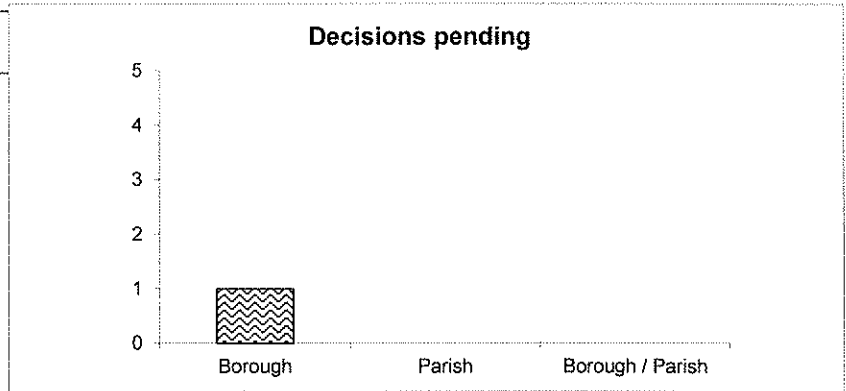
Complaints received in year

Borough	5
Parish	1
Borough / Parish	2
Total	8



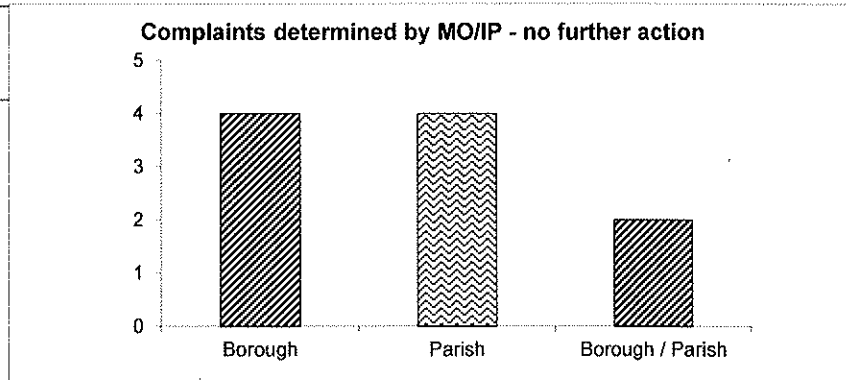
Decisions pending

Borough	1
Parish	0
Borough / Parish	0
Total	1



Monitoring officer in consultation with IP - complaint does not merit further action

Borough	4
Parish	4
Borough / Parish	2
Total	10





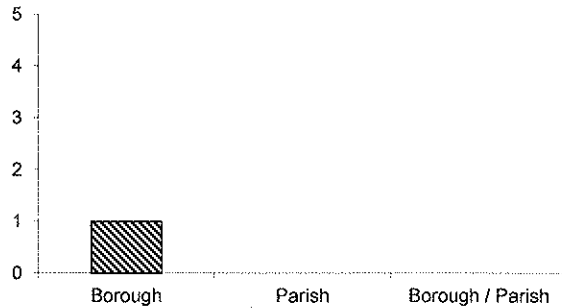
STANDARDS COMPLAINTS 2013 / 2014

As at 31/03/14

MO in consultation with IP - complaint can be resolved without need for formal investigation

Borough	1
Parish	0
Borough / Parish	0
Total	1

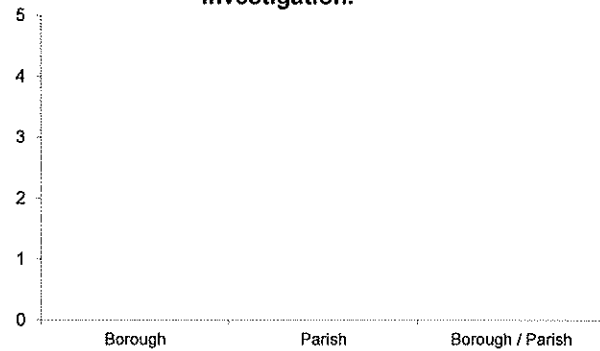
Complaints determined by MO/IP - resolve without need for formal investigation (local resolution).



MO in consultation with IP - complaint requires formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	0

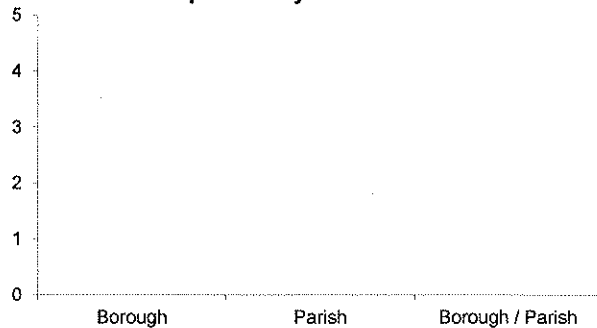
Complaints determined by MO/IP - require formal investigation.



MO in consultation with IP - Complaint referred to the Police as potentially criminal.

Borough	0
Parish	0
Borough / Parish	0
Total	0

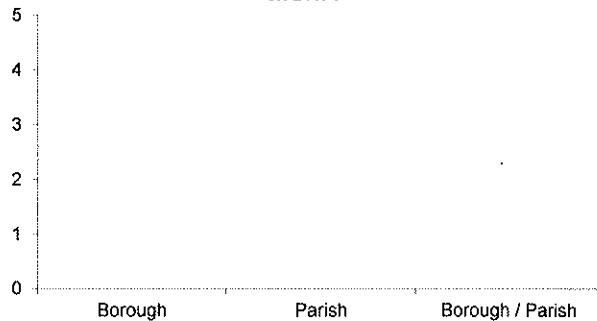
Complaints determined by MO/IP - referred to Police as potentially criminal.



MO in consultation with IP - complaints referred to Assessment sub-committee for consideration

Borough	0
Parish	0
Borough / Parish	0
Total	0

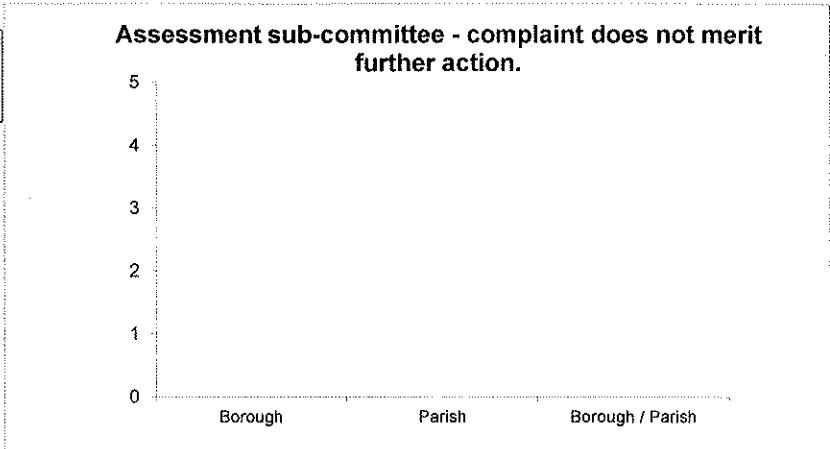
Complaints referred to Assessment sub-committee by MO/IP.



As at 31/03/14

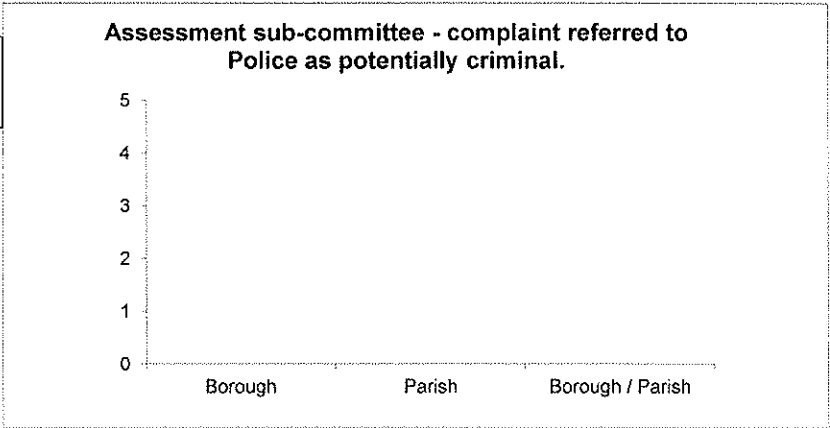
Assessment sub-committee -
complaint does not merit further
action

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



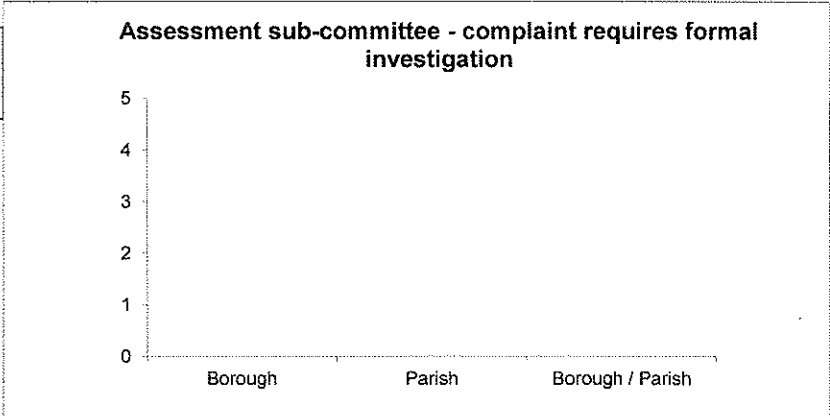
Assessment sub-committee -
complaint referred to the Police as
potentially criminal

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



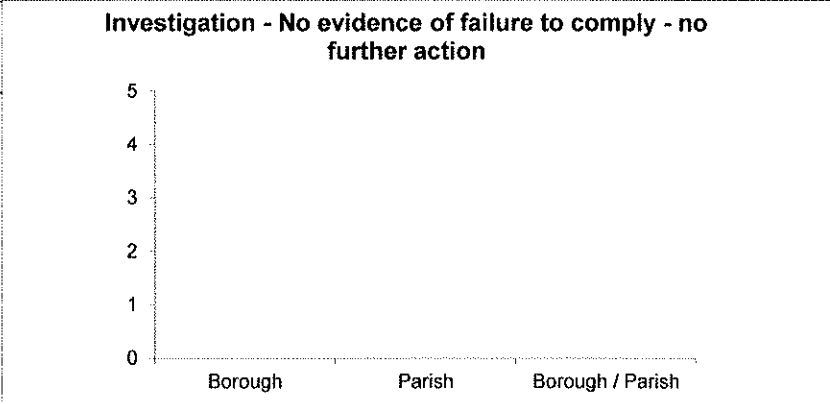
Assessment sub-committee -
complaint requires formal
investigation

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



Investigation - No evidence of failure
to comply - no further action

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>





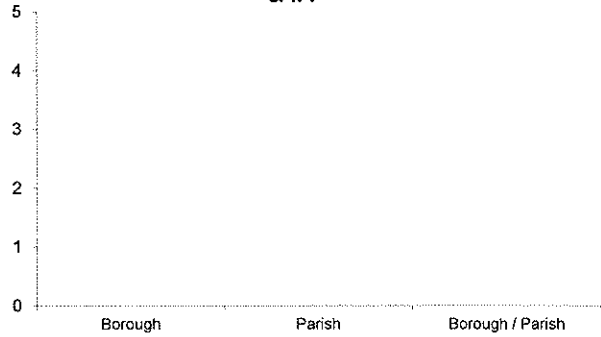
STANDARDS COMPLAINTS 2013 / 2014

As at 31/03/14

Investigation - finds breach - local resolution through MO & IP

Borough	0
Parish	0
Borough / Parish	0
Total	0

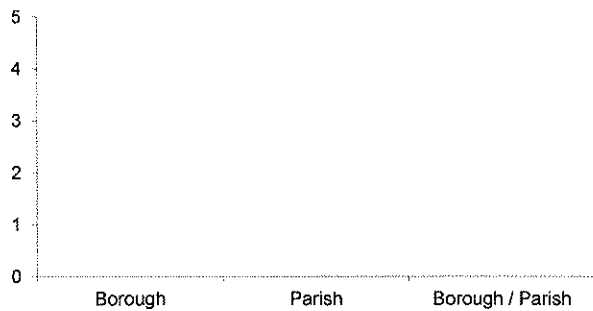
Investigation - finds breach - local resolution through MO & IP.



Investigation - finds breach - referred to the Hearing sub - committee for local hearing.

Borough	0
Parish	0
Borough / Parish	0
Total	0

Investigation - finds breach - referred to the Hearing sub-committee for local hearing.



Hearing sub-committee - no breach found following hearing

Borough	0
Parish	0
Borough / Parish	0
Total	0

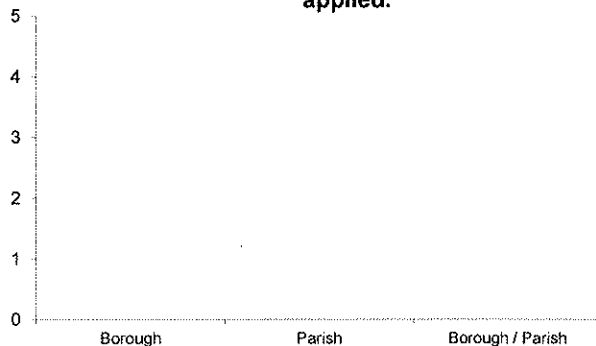
Hearing sub-committee - no breach found following hearing.



Hearing sub-committee - breach found and sanction(s) applied.

Borough	0
Parish	0
Borough / Parish	0
Total	0

Hearing sub-committee - breach found and sanction(s) applied.



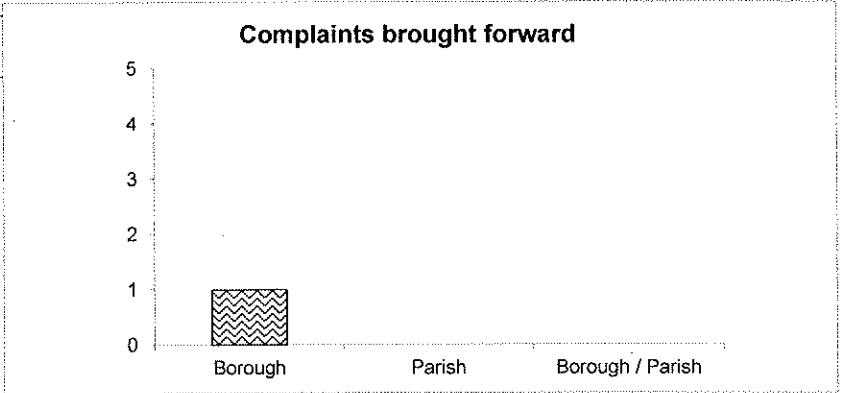


STANDARDS COMPLAINTS 2014 / 2015

As at 16/04/2014

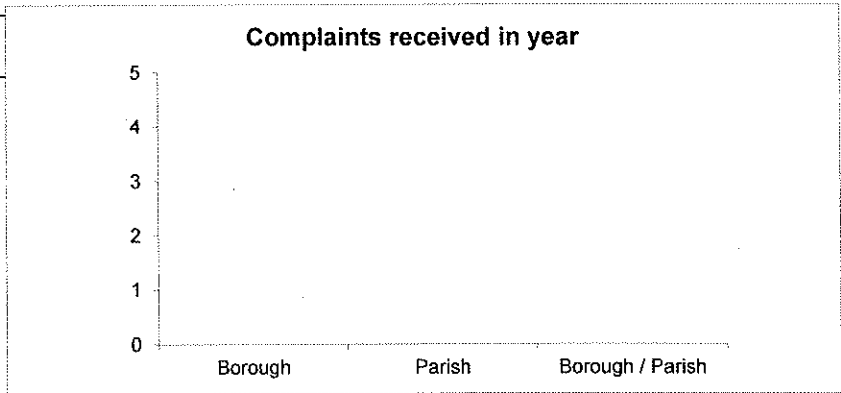
Complaints brought forward

Borough	1
Parish	0
Borough / Parish	0
Total	<input type="text" value="1"/>



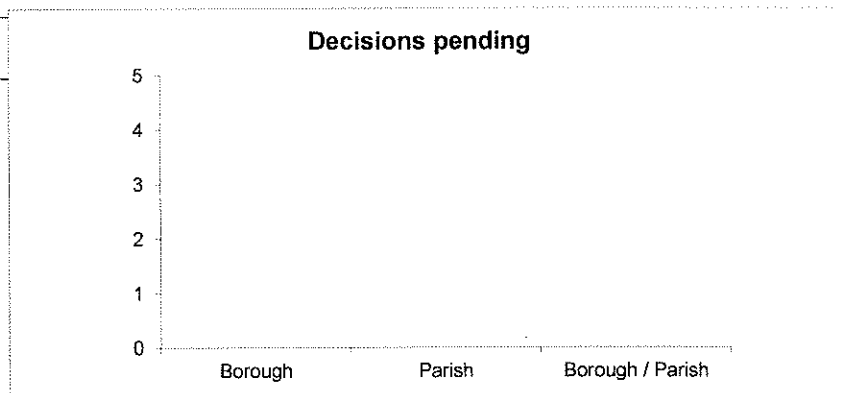
Complaints received in year

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



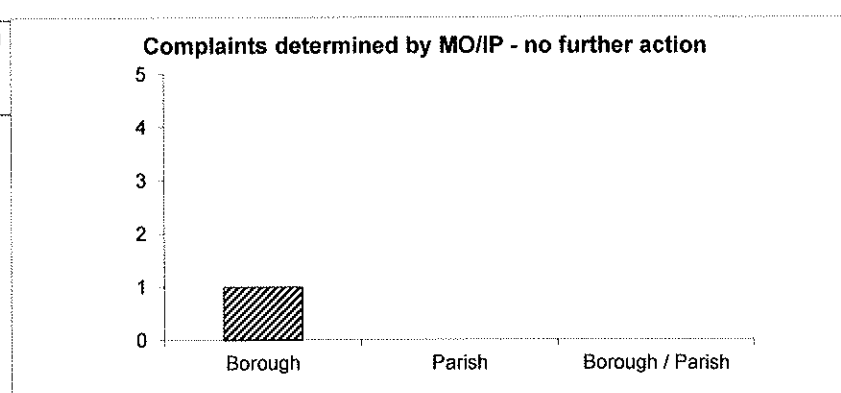
Decisions pending

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



Monitoring officer in consultation with IP - complaint does not merit further action

Borough	1
Parish	0
Borough / Parish	0
Total	<input type="text" value="1"/>





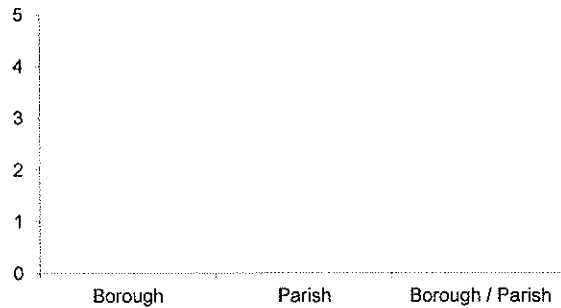
STANDARDS COMPLAINTS 2014 / 2015

As at 16/04/14

MO in consultation with IP - complaint can be resolved without need for formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	0

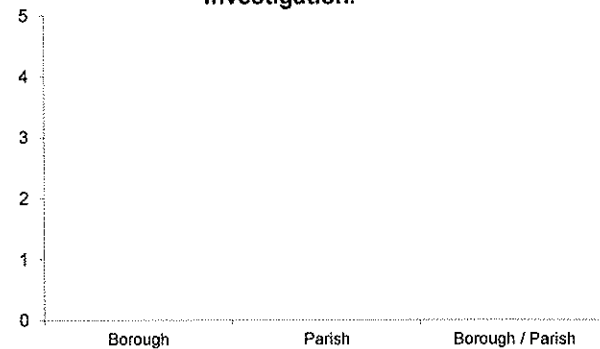
Complaints determined by MO/IP - resolve without need for formal investigation (local resolution).



MO in consultation with IP - complaint requires formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	0

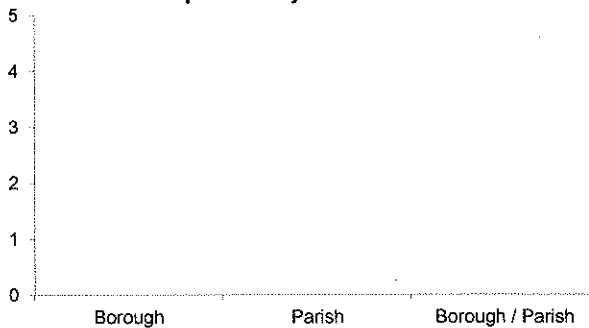
Complaints determined by MO/IP - require formal investigation.



MO in consultation with IP - Complaint referred to the Police as potentially criminal.

Borough	0
Parish	0
Borough / Parish	0
Total	0

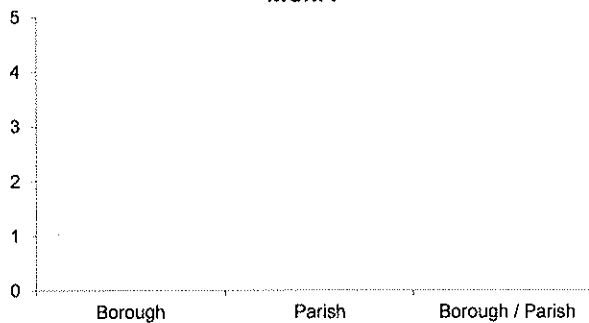
Complaints determined by MO/IP - referred to Police as potentially criminal.



MO in consultation with IP - complaints referred to Assessment sub-committee for consideration

Borough	0
Parish	0
Borough / Parish	0
Total	0

Complaints referred to Assessment sub-committee by MO/IP.



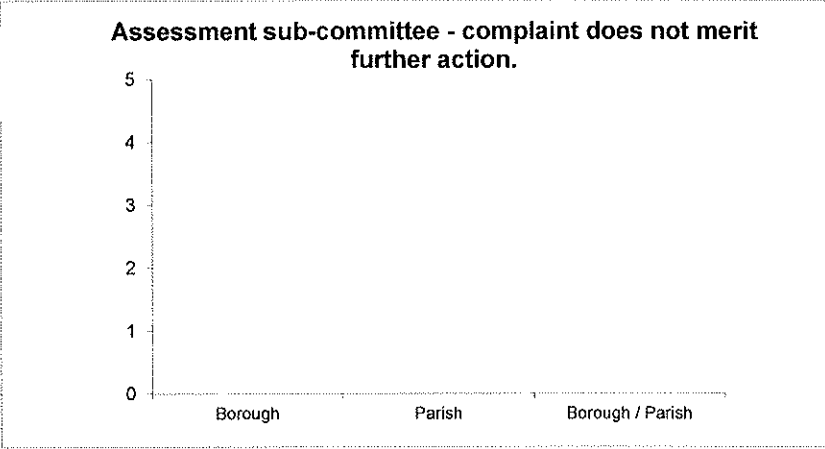


STANDARDS COMPLAINTS 2014 / 2015

As at 16/04/14

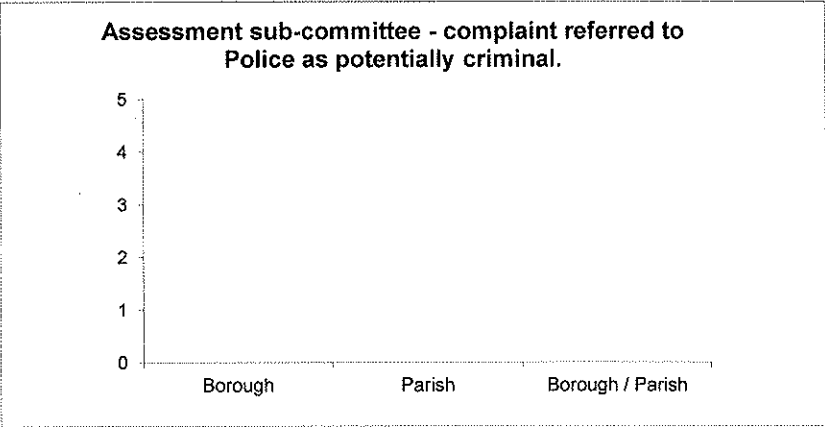
Assessment sub-committee - complaint does not merit further action

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



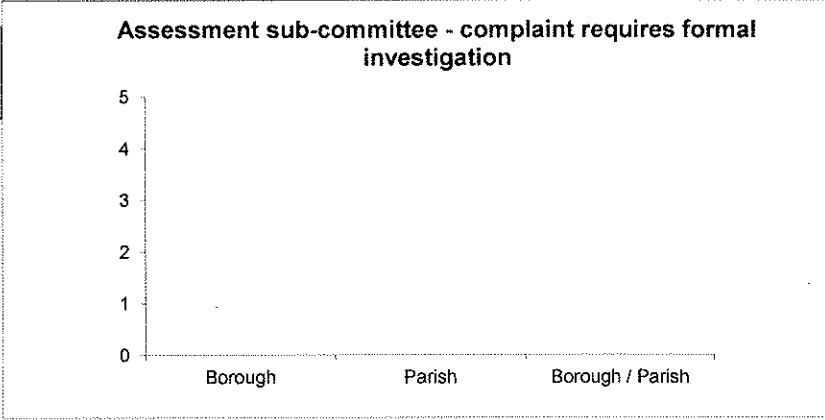
Assessment sub-committee - complaint referred to the Police as potentially criminal

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



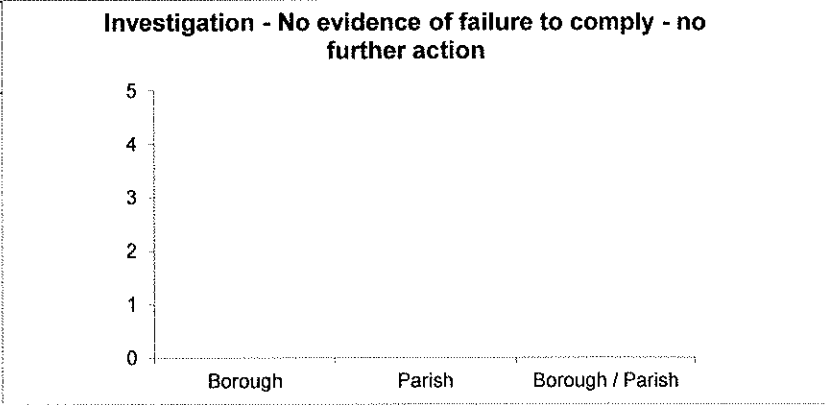
Assessment sub-committee - complaint requires formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>



Investigation - No evidence of failure to comply - no further action

Borough	0
Parish	0
Borough / Parish	0
Total	<input type="text" value="0"/>





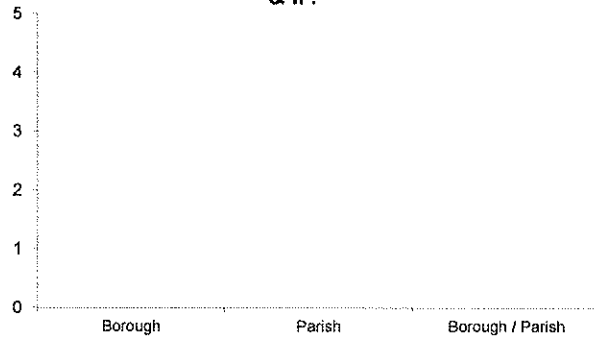
STANDARDS COMPLAINTS 2014 / 2015

As at 16/04/14

Investigation - finds breach - local resolution through MO & IP

Borough	0
Parish	0
Borough / Parish	0
Total	0

Investigation - finds breach - local resolution through MO & IP.



Investigation - finds breach - referred to the Hearing sub - committee for local hearing.

Borough	0
Parish	0
Borough / Parish	0
Total	0

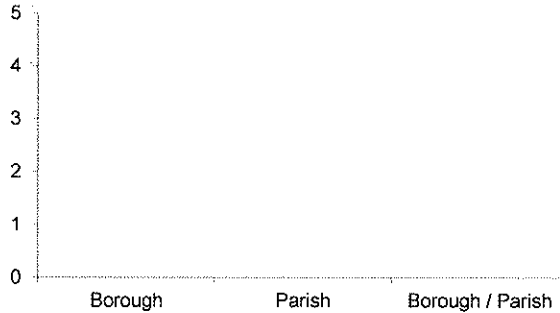
Investigation - finds breach - referred to the Hearing sub-committee for local hearing.



Hearing sub-committee - no breach found following hearing

Borough	0
Parish	0
Borough / Parish	0
Total	0

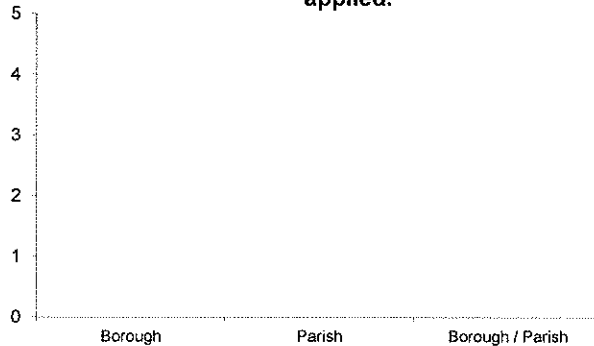
Hearing sub-committee - no breach found following hearing.



Hearing sub-committee - breach found and sanction(s) applied.

Borough	0
Parish	0
Borough / Parish	0
Total	0

Hearing sub-committee - breach found and sanction(s) applied.



Standards Committee Work Programme – September 2014

(Meetings end February/March and September)

	Timescale	Comments
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	February/March 2015	
4 Individual Training Needs Survey, Individual Training Plans and Training Records for Independent Person and Reserve Independent Person	Annual	
5 Code of Conduct Seminar for Officers, Borough and Parish Councillors (Press Release to be issued – Details on website)	Autumn 2014	
6 Update on Whistleblowing Code	February/March 2015	
7 Hearings and Investigations	As and when required	On going
8 Consideration of applications for dispensations	As and when required	On going
9 Standards Committee – Annual Report	September 2015	
10. Review of the IP Protocol	September 2015	