

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>
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: 17 SEPTEMBER 2015

Start: 5.00pm

Finish: 5.25pm

PRESENT:

Councillors: Moran (Chairman)

Ashcroft Mrs Marshall
Davis 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)

1. APOLOGIES

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

2. SUBSTITUTIONS

In accordance with Council Procedure Rule 4.1, as related to Standards Committee substitutions, Members noted the termination of membership of Councillor D Westley and the appointment of Councillor Ashcroft, for this meeting only, thereby giving effect to the wishes of the Political Groups

3. URGENT BUSINESS

There were no items of urgent business.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. MINUTES

RESOLVED: That the minutes of the Standards Committee held on 18 September 2014 be received as a correct record and signed by the Chairman.

6. LOCAL GOVERNMENT STANDARDS

The Committee considered the joint report of the Managing Director (People and Places) and the Borough Solicitor, as contained on pages 7 to 22 of the Book of Reports that set out the observations reported by the Committee on Standards in Public Life in its 'Annual Report 2014-2015' relating to Local Government Standards'.

RESOLVED: That the observations of the Committee on Standards in Public Life on Local Government Standards, as referenced at paragraph 4, be noted.

7. FRAMEWORK FOR DELIVERING GOOD GOVERNANCE IN LOCAL GOVERNMENT

Consideration was given to the joint report of the Borough Solicitor and Borough Treasurer, as contained on pages 23 to 54 of the Book of Reports, which advised Members of the consultation being undertaken by the CIPFA/SOLACE Joint Working Group on Good Governance in Local Government on the revised framework for delivery good governance in local government. The report was scheduled to be considered by the Audit and Governance Committee at its meeting on 29 September 2015. The report recommended that, as the consultation deadline was 28 September 2015, that the Council's response to the document, attached at Appendix 1, be submitted to CIPFA following agreement at this meeting.

- RESOLVED:
- A. That the consultation on the revised draft 'Delivering Good Governance in Local Government: a Framework' by the CIPFA/SOLACE Joint Working Group, attached at Appendix 1 to the Report, be noted.
 - B. That the Council's response to the document, attached at Appendix 2 to the Report, be agreed.

8. STANDARDS COMMITTEE ANNUAL REPORT 2014/2015

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor, as contained on pages 55 to 64 of the Book of Reports, which provided details of the work undertaken by the Committee during 2014/15.

- RESOLVED: That the Standards Committee Annual Report 2015/16, attached at Appendix 1 to the Report, be noted, endorsed and published on the Council's website.

9. ANNUAL MONITORING OF TRAINING REPORT 2014/15

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor, as contained on pages 65 to 69 of the Book of Reports which detailed training undertaken to date and its effectiveness in relation to the Code of Conduct and standards.

Feedback from the Code of Conduct training held early in the year had been good. Members indicated that Members, including those from the Parishes, had preferred the May date for this annual training event.

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

10. ANNUAL REVIEW OF INDEPENDENT PERSON PROTOCOL

Consideration was given to the joint report of the Managing Director (People and Places) and Borough Solicitor as set down at pages 71 to 76 of the Book of Reports. The Committee reviewed the arrangements in place relating to the role of the Independent Person and Reserve Independent Person and proffered their thanks to them both for their assistance to the Council in the discharge of its duty to promote and

maintain high standards of conduct amongst Borough, Parish and Co-opted Members within West Lancashire.

- RESOLVED:
- A. That the Independent Person Protocol, attached at Appendix 1 to the Report, be endorsed.
 - B. That the thanks of the Committee to the Independent Person (IP) and Reserve Independent Person (RIP), be recorded.

12. COMPLAINTS STATISTICS

The Committee considered the circulated complaints statistics for 2014/15 and 2015/16 to date, as set down at pages 77 to 84 of the Book of Reports.

The IP, who was unable to attend the meeting, asked that his congratulations be submitted, as there had been no complaints made to date this year. This compliment was echoed by the RIP.

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

- RESOLVED: That the Standards Complaints Statistics, attached at Appendix 1 and 2 to the Report, be noted.

13. WORK PROGRAMME

The Committee considered the Work Programme.

It was agreed that reference to the Code of Conduct training be amended on the Work Programme, to be arranged for early June 2016.

- RESOLVED: That the Work Programme be noted and updated to include the Code of Conduct training as scheduled to take place in early June 2016.

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Chairman



AGENDA ITEM:

**STANDARDS COMMITTEE
29 MARCH 2016**

Report of: Borough Solicitor

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

**SUBJECT: BLOGGING AND SOCIAL MEDIA/NETWORKING – GUIDANCE NOTE
FOR COUNCILLORS**

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To consider a Guidance Note for Councillors on Blogging and Social Media/Networking.

2.0 RECOMMENDATIONS

2.1 That the 'Blogging and Social Media/Networking – Guidance Note for Councillors', attached at Appendix 1, be endorsed and circulated to all Members.

3.0 BACKGROUND

3.1 Social media is a general term for platforms/applications based on user participation and user-generated content. Some of the most popular are Facebook, Twitter and You Tube. With widespread use of social media and social networking sites, it is important that Members are given guidance on the use of social media and how its use could apply to the Members Code of Conduct.

3.2 The Guidance Note at Appendix 1 has been prepared having regard to previous guidance issued by Standards for England.

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 The Guidance Note attached at Appendix 1 provides advice in relation to social media use and how it can relate to the Code of Conduct for Members. This will assist in enabling members to maintain compliance with the Code in their use of social media.

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.

Appendix

Appendix 1 - Blogging and Social Media/Networking – Guidance Note for Councillors

Blogging and Social Networking Guidance Note for Councillors



1.0 Blogging and Social Media/Networking

1.1 Blogging and social media/networking are effective methods for Councillors to interact with constituents and support local democracy. Used effectively, they can engage those who would not normally have access to local Councillors.

1.2 Social media/networking can be used:

- to support Councillors' community leadership role
- to create or take part in conversations
- to keep in touch with local views and opinions
- campaigning on local issues

1.3 Types of Social media/networking:

- Blogging and micro blogging eg. Twitter
- Social networking sites eg. Facebook
- Video and photo publishing – sharing videos and photos worldwide

2.0 When the Code of Conduct (the Code) may apply

2.1 Bear in mind the Council's [Code of Conduct for Members](#) when you blog or use social networking sites. You should pay particular attention to the following paragraphs of the Code:

- **Treating others with respect**
- **Disclosing confidential information**
- **Disrepute**
- **Use of resources**

2.2 To make sure you comply with the Code of Conduct (the Code), you need to think about whether you are acting as a Councillor, or giving the impression that you are representing the Council. To ensure appropriate use of online media we suggest the following general hints:

Do

- keep your personal and Councillor profile on social networking sites separate
- set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views
- be aware that the higher your profile as a Councillor, the more likely it is you will be seen as acting in your official capacity when you blog or network

- ensure you use council facilities appropriately (Related Policies at the end of this document.)
- be aware that by publishing information that you could not have accessed without your position as a Councillor you are likely to be seen as acting in your official capacity
- be careful when making political points and about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine political expression is less likely to be viewed as disrespect.
- Think about what you say and how you say it, in just the same way as you would when making statements in person or in writing.

Don't

- blog in haste, publishing on the web means that once you've said it, it's visible to all. Social media is vulnerable to your message "misfiring" or being misunderstood.
- post comments that you would not be prepared to make in writing or face to face
- request or accept a West Lancashire Borough Council employee as a "friend" on a social networking site (note: there are circumstances where this may be acceptable when using social media in a personal capacity, e.g. where a "friend" is a family member or a close friend from before you become a Councillor)
- harass or discriminate against others

2.3 The Code applies to your blog when you are acting in your "**official capacity**". Official capacity is defined as conducting the business of the authority or acting, claiming to act or giving the impression that you are acting as a councillor. Ethical use of online social media is not limited to what is covered in the Code. While your conduct may not be a breach of the Code it may still be viewed as less than exemplary and attract adverse publicity for your office and authority.

2.4 The decision as to whether you are acting in your official capacity will depend on the particular facts of each case and the circumstances surrounding your blog. There are a number of factors that will be taken into account when assessing this. These include:

- **How well known or high profile you are as a Councillor.** The more high profile you are, the more likely it is that you will be seen as acting in your official capacity when you blog or use a social networking site.
- **The profile on your blog or social networking site.** You should set out clearly in your profile if this is a political or personal blog. Identifying this will enable readers to better understand if you are seeking to act in your official capacity or not. Nevertheless it may be possible in a personal blog to give the

impression that you are acting as a Councillor even though you have stated otherwise. Also, you cannot discuss council business on a personal blog and/or make gratuitously offensive remarks about others who are linked to the Council and then claim to be doing so in a private capacity.

2.5 You should also consider other online activities where the Code may apply:

- **Forum posts.** If you go on to a forum and identify yourself as a Councillor then it is likely that the Code will apply when you post entries. If you put content on the site which you could only have obtained as a Councillor it is possible to argue that you have given the impression that you were acting as a Councillor even if you did not identify yourself as such when you made the posting.
- **“Friends” on social networking sites.** You should be aware that anyone you include as a friend on social networking sites could be regarded as a “person with whom you have a close association” within the meaning of paragraph 8 of the code – personal interests. Simply including someone on a site as a friend does not establish a close association but it is one factor that would be taken into account in deciding whether such an association exists.

3.0 Other issues to consider

3.1 There are also considerations apart from the Code that should be taken into account when using online media. The following is a brief guide to some of the legal pitfalls in establishing personal blogs. Almost all of these can be avoided if your online content is objective, balanced, informative and accurate.

3.2 In the main, you have the same legal duties online as anyone else, but it is possible that failures to comply with the law may have more serious consequences.

- **Libel**

If you publish an untrue statement about a person which is damaging to their reputation they may take a libel action against you. This will also apply if you allow someone else to publish something libellous on your website if you know about it and do not take prompt action to remove it. A successful libel claim may result in an award of damages against you.

- **Bias and Predetermination**

You should avoid publishing anything on your blog that might suggest you have already made up your mind about a matter you may be involved in determining, eg. if you are involved in determining planning or licensing applications, if you do so the decision runs the risk of being invalidated.

- **Copyright, Commercially Sensitive information or Confidential material**

Placing images or text on your site from a copyrighted or confidential source (e.g. extracts from publications, photos etc) without permission is likely to breach copyright or the law relating to confidentiality. Avoid publishing anything you are unsure about or seek permission in advance. Breach of copyright or confidence may result in an award for damages against you.

- **Data Protection**

Avoid publishing the personal data of individuals unless you have their express written permission.

- **Obscene Material**

It goes without saying that you should avoid publishing anything in your blog that people would consider obscene. Publication of obscene material is a criminal offence.

Related Policies:

- ICT & Data Security Policy
- Data Protection Policy
- Members' Code of Conduct
- Protocol on Publicity Arrangements (purdah guidance)
- Protocol on the Use of ICT by Members



AGENDA ITEM:

**STANDARDS COMMITTEE
29 March 2016**

Report of: Borough Solicitor

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

SUBJECT: 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 and the Indemnity, at Appendix 2, be endorsed.

3.0 BACKGROUND AND CURRENT POSITION

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 Independent Protocol (Constitution 16.5), has been adopted to clarify how the Independent Person will fulfil this role.

3.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the Regulations) have required the Council to provide revised arrangements for disciplinary action in respect of its statutory officers, i.e. the Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer. Arrangements were agreed at Council on 22 July 2015. The report to Council and its decision (Minute 23) are attached at Appendix 1..

3.4 The Regulations provide an additional role for Independent Persons. In the case of any proposed disciplinary action contemplating dismissal of one of the Statutory Officers, the Council is required to form an independent panel (the

Panel) and in doing so to invite Independent Persons who have been appointed under the Members' Code of Conduct regime. The Council currently has 2 Independent Persons so appointed. The Panel will be formed if 2 or more Independent Persons accept the invitation, and the Council should issue invitations in the following priority order:

- An Independent Person who has been appointed by the Council and who is a local government elector;
- Any other Independent Person who has been appointed by the Council; and
- An Independent Person who has been appointed by another council or councils.

The Regulations require an authority to appoint a Panel at least 20 working days before the Council meeting which will consider the relevant disciplinary matter.

- 3.5 In the event that an Independent Person declines the request to be involved then the Council will seek to rely on reciprocal arrangements with nearby local authorities.
- 3.6 In order to allow the Council to rely on such arrangements it is sensible to ensure that suitable indemnities are in place to cover any liability that may arise for the person fulfilling the Independent Person role. This is achieved through making amendments to the existing Indemnity as set down at Appendix 2
- 3.6 The Independent Person Protocol, attached at Appendix 3, has been updated to reflect the Regulations and the indemnity arrangements.

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 The Independent Person and the Reserve Independent Person receive a small allowance in line with recommendations made by the Council's Independent Remuneration Panel. Any additional payment, up to the level of the standards remuneration would be paid for any relevant disciplinary action in which they agreed to take a role. This would be met from within existing budgets.
- 5.2 Should a claim be made that is covered by the Indemnity Arrangements then details of the financial implications will be reported back to the Members of the Committee.

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 Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 – Independent Panel – Statutory Officers – Report / Decision of Council 22 July 2015

Appendix 2 Indemnity (Constitution 17.3), as revised.

Appendix 3 Independent Person Protocol (Constitution 16.5, Article 5), as revised



AGENDA ITEM: 13

COUNCIL: 22 July 2015

Report of: Borough Solicitor/Transformation Manager

Relevant Managing Director: Managing Directors

Contact for further information: Mr T Broderick (Extn. 2001)
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(Ms S Lewis(Extn. 5027)
(E-mail: sharon.lewis@westlancs.gov.uk)

**SUBJECT: LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND)
(AMENDMENT) REGULATIONS 2015 – INDEPENDENT PANEL –
STATUTORY OFFICERS**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To agree changes to the Constitution to reflect the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the Regulations).

2.0 RECOMMENDATIONS

- 2.1 That “Constitution 13.2 - Officer Employment Procedure Rules” be updated as shown in Appendix 1 of the Report.
- 2.2 That an Independent Panel be established with the Membership and Terms of Reference set out at Appendix 2 to the Report – Constitution 4.1 and 4.1A, and the necessary updates in respect of the Investigating Committee and Employment Appeals Sub-Committees also set out in Appendix 2 be agreed.
- 2.3 That it be noted that this Report does not deal with the contractual position of the Head of Paid Service, Monitoring Officer or Chief Finance Officer.
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3.0 BACKGROUND

3.1 The Council is required to modify its Officer Employment Procedure Rules to implement the Regulations no later than the first ordinary Council meeting held after the Regulations came into force on 11 May 2015.

4.0 REQUIREMENTS

- 4.1 The Regulations remove the requirement that a Designated Independent Person (DIP) be appointed to investigate and make a binding recommendation on disciplinary action against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer of a Local Authority. The Regulations provide that the full Council must take the decision to dismiss any of those three Statutory Officers. Before taking that decision, Council must consider: any advice, views or recommendations from an Independent Panel (see para 4.3 below); the conclusions of any investigation into the proposed dismissal; and any representations from the officer concerned.
- 4.2 The Council is required to establish an Independent Panel by inviting Independent Persons who have been appointed under the Members' Code of Conduct regime (Section 28(7) of the Localism Act 2011) to form an Independent Panel. The Council currently has 2 Independent Persons, Stuart Ibbs and Stephen Garvey so appointed. The Council must appoint to the Independent Panel such Independent Persons who have accepted an invitation in accordance with the following priority order:
- An Independent Person who has been appointed by the Council and who is a local government elector;
 - Any other Independent Person who has been appointed by the Council; and
 - An Independent Person who has been appointed by another council or councils.
- 4.3 The Council is not required to appoint more than 2 relevant Independent Persons but may do so. The Regulations require an authority to appoint a Panel at least 20 working days before the Council meeting which will consider the relevant disciplinary matter. Both Stuart Ibbs and Stephen Garvey have indicated they are happy to accept the invitation. The Regulations state also that the Independent Panel is a committee of the Council. The LGA has sought clarification from the Department for Communities and Local Government as to whether the Panel can comprise just independent persons as envisaged in the Regulations or whether it must be a politically balanced committee.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 5.1 The Independent Person and the Reserve Independent Person receive a small allowance in line with recommendations made by the Council's Independent Remuneration Panel for their role in relation to the Council's Standards regime. Any remuneration, allowances or fees paid to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's normal role with respect to Standards and the Member Code of Conduct.

6.0 RISK ASSESSMENT

- 6.1 The proposed amendments to the Constitution are required by the Regulations. However, the lack of clarity in certain aspects of the Regulations creates some

difficulty in establishing relevant procedures. The contractual position of the statutory officers is not dealt with in this report. It is hoped that national negotiations will resolve these issues in due course.

Background Documents

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

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Constitution 13.2 – Officer Employment Procedure Rules
2. Constitution 4.1 – Responsibility for Functions – Page 9 and 10 of 36 and Constitution 4.1A Membership of Committees, Sub-Committees etc – Page(vi) of (xi)
3. Equality Impact Assessment

APPENDIX 1**Officer Employment Procedure Rules**

(Managing Directors, Assistant Director Community Services, Assistant Director Street Scene, Assistant Director Housing and Regeneration and Assistant Director Planning only and in limited circumstances the Chief Finance Officer).

1. Recruitment and appointment**(a) Declarations**

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) No councillor will seek support for any person for any appointment with the Council. This shall not preclude a councillor from giving a written testimonial of a candidate's ability, experience, or character for submission to the Council with an application for appointment.

2. Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers

Where the Council proposes to appoint a chief officer or deputy chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

- i) the duties of the officer concerned; and
- ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

- (a) The Council must approve the appointment of the Head of Paid Service before an offer of appointment is made following the recommendation of such an appointment by the Chief Officers Committee. That Committee will include at least one member of the Cabinet.
- (b) The Council may only make an offer of appointment as the Head of Paid Service where
 - (i) the Chief Officers Committee has notified the Proper Officer of the name of the person the Committee wishes to appoint together with any other particulars which the Committee considers are relevant to the appointment.
 - (ii) the Proper Officer has notified every member of the Cabinet of the name of the person and any other particulars relevant to the appointment which the Committee has notified to the Proper Officer and
 - (iii) the period of 5 working days has elapsed since the notification referred to in (ii) above and either
 - (1) the Leader of the Cabinet has within the period of 5 working days referred to in (iii) above notified Council that neither he nor any other member of the Cabinet has any objection to the appointment or;
 - (2) the Proper Officer has notified Council that no objection was received by him/her within the period of 5 working days from the Leader of the Cabinet or
 - (3) Council is satisfied that any objection received from the Leader of the Cabinet within the period of 5 working days is not material or is not well-founded.

4. **Appointment of Chief Officers and Deputy Chief Officers**

- (a) The Chief Officers Committee will appoint chief officers and deputy chief officers. That Committee will include at least one member of the Cabinet.
- (b) The Chief Officers Committee may only make an offer of appointment of chief officer or deputy chief officer where:-
 - (i) the Chief Officers Committee has notified the Proper Officer of the name of the person the Committee wishes to appoint together with any other

particulars which the Committee considers are relevant to the appointment.

- (ii) the Proper Officer has notified every member of the Cabinet of the name of the person together with any other particulars relevant to the appointment which the Committee has notified to the Proper Officer.
- (iii) the period of 5 working days has elapsed since the notification referred to in (ii) above and either:-
 - (1) the Leader of the Council has within the period of 5 working days referred to in (iii) above notified the Committee that neither he nor any other member of the Cabinet has any objection to the appointment
 - (2) the Proper Officer has notified the Committee that no objection was received by him/her within the period of 5 working days from the Leader of the Council or
 - (3) the Committee is satisfied that any objection received from the Leader of the Council within the period of 5 working days is not material or is not well founded.

5. Other appointments

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. Disciplinary Action - Head of Paid Service, Monitoring Officer and Chief Finance Officer

- (a) The Council must approve the dismissal of the Head of the Paid Service, **Monitoring Officer and Chief Finance Officer** before notice of dismissal is given to him/**her**, following the recommendation of such dismissal by the Investigating Committee (that Committee will include at least one member of the Cabinet) **and consideration by Council of:-**
 - (i) any advice, views or recommendations from the Independent Panel**
 - (ii) the conclusions of any investigation into the proposed dismissal and**
 - (iii) any representations from the relevant officer.**
- (b) The Council may only decide that notice of dismissal be given to the Head of the Paid Service, **Monitoring Officer or Chief Finance Officer** where:-

- (i) the Investigating Committee has notified the proper officer of the recommendation to dismiss the Head of the Paid Service, **Monitoring Officer or Chief Finance Officer** together with any other particulars the Committee considers are relevant to the dismissal
 - (ii) the Proper Officer has notified every member of the Cabinet of the recommendation to dismiss the Head of the Paid Service, **Monitoring Officer or Chief Finance Officer** and any other particulars relevant to the recommendation to dismiss which the Committee has notified to the Proper Officer and
 - (iii) the period of 5 working days has elapsed since the notification referred to in (ii) above and either
- (1) the Leader of the Council has within the period of 5 working days referred to in (iii) above notified full Council that neither he nor any member of the Cabinet has any objection to the dismissal,
 - (2) the Proper Officer has notified Council that no objection was received by him or her within the period of 5 working days from the Leader of the Council or
 - (3) Council is satisfied that any objection received from the Leader of the Council within the period of 5 working days is not material or is not well founded.

7. **Disciplinary action - Dismissal of Chief Officers and Deputy Chief Officers other than Head of Paid Service, Monitoring Officer or Chief Finance Officer**

- (a) The Investigating Committee will be responsible for the dismissal of Chief Officers and Deputy Chief Officers. That Committee will include at least one member of the Cabinet.
- (b) The Investigating Committee may only decide that notice of dismissal be given to a chief officer or deputy officer where:-
 - (i) the Investigating Committee has notified the Proper Officer of the name of the Chief Officer or Deputy Chief Officer it wishes to dismiss and any other particulars which the Committee considers are relevant to the dismissal
 - (ii) the Proper Officer has notified every member of the Cabinet of the name of the Chief Officer or Deputy Chief Officer the Committee wishes to dismiss and any other particulars relevant to the dismissal which the Committee has notified to the proper officer, and
 - (iii) the period of 5 working days has elapsed since the notification referred to in (ii) above and either

- (1) the Leader of the Council has within the period of 5 working days referred to in (iii) above notified the Committee that neither he nor any other member of the Cabinet has any objection to the dismissal.
- (2) the Proper Officer has notified the Committee that no objection was received by him/her within the period of 5 working days from the Leader of the Council or
- (3) the Committee is satisfied that any objection received from the Leader of the Council within the period of 5 working days is not material or is not well-founded.

8. **Disciplinary action - Further Provisions**

(a) — **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

9. **Other Dismissals and Disciplinary Action**

- (a) Officers below Deputy Chief Officers:- the dismissal of and taking disciplinary action against officers below deputy chief officer (other than assistants to political groups) must be discharged on behalf of the Council by the head of the paid service or his/her nominee.
- (b) Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members.
- (c) Assistants to Political Groups - the dismissal of an assistant to a political group shall be made by that political group.

10. **Definitions**

For the purpose of these Rules

- (a) Chief Officer is either a statutory or non-statutory chief officer as defined in Section 2(6) and (7) of the Local Government and Housing Act 1989 and a Deputy Chief Officer is as defined in Section 2(8) of that Act, in practice at West Lancashire Borough Council this means the posts of Managing Directors, Assistant Director Community Services, Assistant Director Street Scene, Assistant Director Housing and Regeneration and Assistant Director

Planning only and, in limited circumstances as provided for in these Rules, the Chief Finance Officer.

- (b) the Proper Officer is the Managing Directors or where disciplinary action is being taken against one of them a Head of Service.

APPENDIX 2

Delegations

The Committee shall exercise the full powers, duties and functions of the Council as set out above.

Employment Appeals Sub-Committee

Membership – See Appendix at 4.1A

At least 3 Members of the Licensing and Appeals Committee must be present.

Functions and delegations

Full delegation to determine all matters as appropriate in respect of functions 40,41 and 42 of the Licensing and Appeals Committee **except in relation to the dismissal of the Head of the Paid Service, Monitoring Officer and Chief Finance Officer which function will be reserved to the Council.**

Standards Committee

Membership - see Appendix at Section 4.1A.

Functions

These are set out in Article 9.03

Delegations

The Committee shall exercise full powers, duties and functions as set out above.

Assessment Sub Committee

Membership - see Appendix at Section 4.1A

Functions

To make decisions as to whether to investigate a complaint referred to the Sub-Committee by the Monitoring Officer or to take no further action.

Delegations

Full authority to determine all matters as appropriate

Hearings Sub Committee

Membership - see Appendix at Section 4.1A.

Functions

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

Delegations

Full delegation to determine all matters as appropriate.

Note for Sub Committees:

- Membership and chairmanship of sub committees do not have to be fixed.
- At least 3 members of the Standards Committee must be present.

Investigating Committee

Membership - see Appendix at Section 4.1A.

Functions

To meet as and when required to consider disciplinary complaints against officers employed on JNC Conditions of Service, referred to the Committee by the proper officer as defined in Rule 10 of the Officer Employment Procedure Rules. The Committee shall have the power to decide the matter on behalf of the Council, by either exonerating the officer, or, if they find misconduct, taking whichever form of disciplinary action is appropriate, except that in the case of the dismissal of the Head of the Paid Service, **Monitoring Officer or Chief Finance Officer** such dismissal must be approved by Council in accordance with the provisions of Rule 6 of the Officer Employment Procedure Rules.

Delegations

This Committee shall exercise the full powers, duties and functions of the Council as set out above, except in the case of the dismissal of the Head of the Paid Service, **Monitoring Officer or Chief Finance Officer**.

Independent Panel

Membership – see Appendix at Section 4.1A

Functions

To advise the Council on all matters relating to the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

Delegations

None

Chief Officers Committee

Membership - see Appendix at Section 4.1A.

Functions

1. To deal with all matters in respect of the appointment of chief officers and deputy chief officers and to make recommendations to full Council in respect of the appointment of the head of paid service

6. STANDARDS COMMITTEE
(6 Members - 3 Lab 3 Con)

Chairman: Councillor Moran
Vice Chairman : Councillor D. Westley

Labour: Councillors Davis and Wright

Conservative: Councillors Bailey and Mrs. Marshall

The Chairman should be the Leader of the Council and the Vice Chairman should be the Leader of the Main Opposition Group.

(Note: Independent Person: Mr Stuart Ibbs (Appointed 1 July 2012)
Reserve Independent Person: Mr Stephen Garvey (Appointed 1 July 2012)

7. INVESTIGATING COMMITTEE
(5 Members - 3 Lab 2 Con)

Labour: **(Chairman) Councillor Patterson**
(Vice-Chairman) Councillor Wilkie
Councillor Savage

Conservative: Councillors C. Marshall and Pope

Must include at least one Member of the Cabinet.

7A. INDEPENDENT PANEL

Independent Person: Mr. Stuart Ibbs
Independent Person: Mr. Stephen Garvey
And if advice requires it 5 Members – 3 Lab 2 Con
Names to be nominated by the Group Leaders to the Borough Solicitor

8. CHIEF OFFICERS COMMITTEE
(5 Members - 3 Lab 2 Con)

Labour: **(Chairman) Councillor Gagen**
(Vice-Chairman) Councillor Moran
Councillor Bell

Conservative: Councillors Mrs. Houlgrave and D. Westley

Must include at least one Member of the Cabinet.

**Appendix (3)
Equality Impact Assessment Form**



Directorate: Transformation	Service: Human Resources
Completed by: S Lewis	Date: 17 June 2015
Subject Title: Local Authorities (Standing Orders) (England) (Amendments) Regulations 2015 – Mandatory Standing Orders Re Dismissal of Statutory Officers	

1. DESCRIPTION

Is a policy or strategy being produced or revised:	Yes <i>*delete as appropriate</i>
Is a service being designed, redesigned or cutback:	No
Is a commissioning plan or contract specification being developed:	No
Is a budget being set or funding allocated:	No
Is a programme or project being planned:	No
Are recommendations being presented to senior managers and/or Councillors:	Yes
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations):	Yes
Details of the matter under consideration:	To agree to change the Council's constitution to reflect the Regulations for dismissal of statutory officers

*If you answered Yes to any of the above go straight to Section 3
If you answered No to all the above please complete Section 2*

2. RELEVANCE

Does the work being carried out impact on service users, staff or Councillors (stakeholders):	Yes/No* <i>*delete as appropriate</i>
If Yes, provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered Yes go to Section 3</i>	
If you answered No to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>	

3. EVIDENCE COLLECTION

Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	The changes impact on a small number of specific officers employed in the Council's workforce. The Council's workforce has the potential to comprise of all the protected characteristics
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	See Above.
Which of the protected characteristics are most relevant to the work being carried out?	<i>*delete as appropriate</i>
Age	Yes
Gender	Yes
Disability	Yes
Race and Culture	Yes
Sexual Orientation	Yes
Religion or Belief	Yes
Gender Reassignment	Yes
Marriage and Civil Partnership	Yes
Pregnancy and Maternity	Yes

4. DATA ANALYSIS

In relation to the work being carried out, and the service/function in	The changes impact on a small number of officers employed in the Council's workforce, but could in theory impact on all protected
--	---

question, who is actually or currently using the service and why?	characteristics.
What will the impact of the work being carried out be on usage/the stakeholders?	<p>The changes impact on the process used to apply dismissal processes to employees who hold Statutory Roles i.e. Head of Paid Service, Section 151 Officer and Monitoring Officer. There are already specific arrangements in place that need to be followed if action of this nature is to take place for these post holders. The report follows changes to Government Legislation directly affecting how Councils configure these processes.</p> <p>The major change is that, since 2001 these officers have had statutory protection requiring the appointment of a Designated Independent Person (DIP). The DIP is appointed early in the procedure, when it appears to a council that an allegation of misconduct by the relevant officer requires to be investigated. No disciplinary action in respect of these officers may be taken other than in accordance with a recommendation in a report made by a Designated Independent Person.</p> <p>In place of the DIP process, the decision to dismiss will now be taken by full council, which must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned.</p>
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	The Government undertook a national consultation exercise and any impact on equality has been considered as part of that exercise.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	<p>Census Data</p> <p>Profile information available on the Council's website</p> <p>Workforce Profile</p> <p>Equality Policies within the Council</p> <p>Equal Pay Audit</p> <p>Trade union consultation</p> <p>Direct officer consultation.</p>
If any further data/consultation is needed and is to be gathered, please specify:	N/A
5. IMPACT OF DECISIONS	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	The changes, are in line with legislation. It is considered that in cases of a proposed action to dismiss one of the statutory officers, the new arrangements would not present any significant negative detriment to any officer based on any particular protected characteristic.
6. CONSIDERING THE IMPACT	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	See above in 5.
What actions do you plan to take to address any other issues above?	No further actions on equality impact need to be taken.
7. MONITORING AND REVIEWING	
When will this assessment be reviewed and who will review it?	The Regulations are not clear on some key issues and there is a national dialogue as to interpretation of the Regulations particularly on the constitution of the independent panel. If clarification is provided by the Government it may be necessary to refine our arrangements.

23. LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) (AMENDMENTS) REGULATIONS 2015 – PROCEDURES FOR DISMISSAL OF STATUTORY OFFICERS

Consideration was given to the report of the Borough Solicitor, as contained on pages 241 to 256 of the Book of Reports, which sought agreement to changes to the Constitution to reflect the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

- RESOLVED
- A. That “Constitution 13.2 - Officer Employment Procedure Rules” be updated as shown in Appendix 1 to the Report.
 - B. That an Independent Panel be established with the Membership and Terms of Reference set out at Appendix 2 to the Report – Constitution 4.1 and 4.1A, and the necessary updates in respect of the Investigating Committee and Employment Appeals Sub-Committees also set out in Appendix 2 be agreed.
 - C. That it be noted that this Report does not deal with the contractual position of the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

INDEMNITY 2008

(1) "Officers" includes any person employed by the Council and any other person engaged or appointed to be an officer of the Council. "Members" includes co-opted members of the Standards Committee and co-opted members on the Overview and Scrutiny Committee and of any Committee or Sub Committee discharging the same or similar functions.*

(2) The Council hereby indemnifies its officers and members, whether appointed or elected at the date of this resolution or at any time thereafter, against the costs, claims and expenses set out in paragraph (3) of this indemnity, subject to the exceptions set out in paragraph (4) of this resolution, and to paragraph (6) of this resolution, and on the terms set out in paragraph (5). It will not itself make any claim against them in relation to any costs or expenses for which they are hereby indemnified.

Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the member or officer in question –

- (a) believed that the action, or failure to act, in question was within the powers of the Council, or
- (b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that officer or member to hold that belief at the time when he or she acted or failed to act.

The indemnity is also effective in relation to any act or omission which is subsequently found to be beyond the powers of the employee or member in question but only to the extent that he or she reasonably believed that the act or omission in question was within his or her powers at the time at which he or she acted.

(3) The costs, claims and expenses are those which arise from, or in connection with, any action of, or failure to act by, the employee or member in question, which:-

- (a) is or has been authorised by the Council
- (b) forms part of, or arises from, any powers conferred, or duties placed, upon that officer or member, as a consequence of any

function being exercised by that officer or member (whether or not when exercising that function he or she does so in his or her capacity as an officer or member of the Council)-

- (i) at the request of, or with the approval of the Council, or
- (ii) for the purposes of the Council.

(4) The exceptions are that:-

- (a) No indemnity is given in relation to any action by, or failure to act, by any member or officer which -
 - (i) constitutes a criminal offence; or
 - (ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that officer or member.
- (b) Notwithstanding paragraph (4)(a)(i), the indemnity does relate to
 - (i) (subject to paragraph 5) the defence of any criminal proceedings brought against the officer or member; and
 - (ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.
- (c) No indemnity is given in relation to the making by the employee or member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but the indemnity does relate to the defence by that officer or member of any allegation of defamation made against him or her.

(5) The terms of the indemnity are as follows:-

- (a) Where the indemnity has effect in relation to the defence of any criminal proceedings; or any Part 3 proceedings (meaning any investigation, report, reference, adjudication or any other proceeding pursuant to Part 3 of the Local Government Act 2000) then
 - (i) in the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, and
 - (ii) in the case of Part 3 proceedings –
 - (1) if a finding is made in those proceedings that the member in question has failed to comply with the

Code of Conduct and that finding is not overturned following any appeal, or

- (2) if the member admits that he has failed to comply with the Code of Conduct,

the employee or member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity, and those sums shall be recovered by the Council as a civil debt.

- (b) The indemnity will only extend to cover actual loss and expense incurred and evidenced by the officer or member to the satisfaction of the Borough Treasurer.
- (c) The indemnity will not cover any loss or expense in respect of which the officer or member can obtain reimbursement from any other source, including any policy of insurance whether taken out by the Council or the officer or member or by any other person.
- (6) The provision of an indemnity for the purposes of any proceedings referred to in Clause (4)(c) or (5)(a) is subject to the prior approval of the Managing Director (People and Places), acting in his or her sole discretion, following the receipt of advice from the Borough Treasurer, the Borough Solicitor and the Transformation Manager to the maximum amount of costs or expenses that the Council will pay or bear in the matter.

To the extent that the law permits, in order to facilitate the discharge of its functions relating to its staff, and its democratic functions, the Council hereby confirms that it will continue to indemnify its employees and former employees, in the terms set out in Appendix A.

* This indemnity shall apply in like terms to any Independent Person and/or Reserve Independent Person within the meaning of Section 28 (7) of the Localism Act 2011 for the time being appointed by the Council for any statutory purpose.

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APPENDIX A

INDEMNITY 1996

“The Council will indemnify all officers of the Council against the whole or part of any damages, costs or legal expenses which any such officer may have been ordered to pay or may have incurred, if the officer acted in good faith and honestly believed that the act complained of was within his/her power and that his/her duty as an officer required or entitled him/her to do it. Such indemnity shall extend to responsibilities arising from duties performed by any officer by virtue of his/her employment with the Council itself or with the Council but on behalf of other bodies to which the Council supplied the services of the employee which have resulted in the act or omission complained of.

Exceptions: The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- (a) fraud, dishonesty or a criminal offence on the part of the employee; or
- (b) any neglect, error or omission by the employee otherwise than in the course of his/her duties; or
- (c) liability in respect of surcharges made by the District Auditor or orders made under Section 19 of the Local Government Finance Act 1982.

The Council reserves the right to withdraw the indemnity if an employee, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution.

In pursuance of the indemnity above, the Council undertakes not to sue (or join others in suing) an employee of the Council in respect of any neglect, error or omission by the employee in the course of his/her employment, but subject to the same exceptions as in (a) (b) and (c) above.

The above indemnity and undertaking are continuing and cover present employees of the Council and after that employment has ceased and they apply retrospectively to any neglect, act, error or omission which may have occurred before this date,

The above indemnity and undertaking shall be without prejudice to the right of the Council to take disciplinary action against the employee.

The cost of the indemnification is to be met by the Council.”

PSS23



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~~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 Advisory role in relation to disciplining of statutory officers

5.1 The Independent Person and/or the Reserve may be requested to form (part of) a Panel (Committee) for the purpose of advising the Council on all matters relating to the dismissal of the Head of the Paid Service, Monitoring Officer or Chief Finance Officer in accordance with the requirements of the Local Authorities (Standing Orders) (Amendment) Regulations 2015. It is noted that the Independent Person and Reserve may chose not to accept such an appointment.

5.06.0 Other matters

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[65.1](#) 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.

[65.2](#) The IP and Reserve ~~have~~have the right of access to Council buildings in order to carry out their role. Access should be agreed with the MO.

[65.3](#) 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.

[6.4](#) The Council shall indemnify the Independent Person and Reserve in relation to the carrying out of their duties. * (whether in relation to their standards role or in their disciplinary role) in accordance with the terms of the Indemnity 2008 (see Constitution 17.3)).

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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 Committee Work Programme – March 2016

(Meetings end March and September, as appropriate)

	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	20 September 2016	
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)		
6 Hearings and Investigations	As and when required	On going
7 Consideration of applications for dispensations	As and when required	On going
8 Standards Committee – Annual Report	20 September 2016	
9 Review of the IP Protocol	21 March 2017	
10 Update on Whistleblowing Code	20 September 2016	
11 Officer Code of Conduct	20 September 2016	
12. Ethical Standards for Providers of Public Services – Guidance	20 September 2016	

Stds Cttee WP 2015_16_V5