



**Committee:** STANDARDS COMMITTEE  
**Date:** THURSDAY, 22 JANUARY 2009  
**Venue:** LANCASTER TOWN HALL  
**Time:** 10.00 A.M.

**A G E N D A**

1. **Apologies for Absence**
2. **Minutes**  
Minutes of meeting held on 4<sup>th</sup> December 2008 (previously circulated).
3. **Items of Urgent Business authorised by the Chairman**
4. **Declarations of Interest**
5. **Amendment of Planning Protocol (Pages 1 - 13)**  
Report of the Monitoring Officer
6. **Attendance at Annual Assembly of Standards Committees (Pages 14 - 18)**  
Report of the Deputy Monitoring Officer
7. **Review of Complaint Form (Pages 19 - 30)**  
Report of the Monitoring Officer
8. **The Case Tribunals (England) Regulations 2008 (Pages 31 - 32)**  
Report of the Monitoring Officer
9. **Whistleblowing Policy (Pages 33 - 51)**  
Report of the Monitoring Officer
10. **Work Programme (Pages 52 - 55)**  
Report of the Monitoring Officer

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

#### Councillors

Councillors Jon Barry, Roger Dennison, Sheila Denwood, Sarah Fishwick, Janie Kirkman, Roger Sherlock and Joyce Taylor

#### Independent Members

Stephen Lamley (Chairman)  
Tony James, David Jordison, Sue McIntyre,

#### Parish Council Representatives

Margaret Davy, Paul Gardner, Tony James, David Jordison, Sue McIntyre, Susan O'Brien and Frank Senior

### **(ii) Substitute Membership**

#### Councillors

Councillors Keith Budden, John Gilbert, Roger Plumb, Ron Sands and Jude Towers

### **(iii) Queries regarding this Agenda**

Please contact Ron Matthews, Democratic Services - telephone (01524) 582074 or Email [rmatthews@lancaster.gov.uk](mailto:rmatthews@lancaster.gov.uk)

### **(iv) Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone 582170, or alternatively email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

MARK CULLINAN,  
CHIEF EXECUTIVE,  
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DALTON SQUARE,  
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Published on Tuesday, 13<sup>th</sup> January 2008

**STANDARDS COMMITTEE****AMENDMENT OF PLANNING PROTOCOL  
22nd January 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise the Committee of changes made by the Monitoring Officer to the Planning Protocol in order to implement a resolution of Council.

**This report is public**

**RECOMMENDATIONS**

(1) That the report be noted.

**1.0 Report**

1.1 At its meeting on the 19th November 2008, Council resolved "That Cabinet Members should not sit on the Planning and Highways Regulatory Committee for items directly related to those which have been previously considered by Cabinet (whether they were at that particular Cabinet or not)".

1.2 This followed a recommendation from the Council's Audit Committee, which had considered whether a restriction should be imposed on Cabinet Members taking part in the determination of planning applications to avoid any situations where there might be a perception of predetermination or bias.

1.3 This risk was referred to in section 8 of the Council's Protocol on Planning Procedure, and, as a result of the Council resolution, a consequential change to this section was required. The Monitoring Officer has therefore amended the section, and copies of the original version and the amended version are appended to this report for the Committee's information.

**2.0 Conclusion**

2.1 The Committee is requested to note the report.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None arising from this report.

**FINANCIAL IMPLICATIONS**

None arising from this report.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**LEGAL IMPLICATIONS**

None arising from this report.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her role as the Committee's adviser.

**BACKGROUND PAPERS**

None

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**Ref:**

## Part 7, Section 5 Protocol on Planning Procedure

### Appendix 1

#### 1 Introduction

The purpose of this protocol is to provide Members with guidance regarding their role in determining planning applications, in particular, when interacting with applicants, objectors or developers. Ward members, who are not members of the Planning Regulatory Committee but who want to address the Committee, also require guidance on interaction over their contact with applicants developers and objectors.

The protocol is designed to offer that guidance and help Members understand their role and the responsibilities associated with that role, and 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.

In addition, the Audit Commission has also raised the need for a protocol on planning in its document, "Probity in Planning". This protocol sets out detailed guidance for Members, but, in summary, the most important issues for Members to consider are as follows:

- The Code of Conduct, and in particular whether a Member has a personal interest, and if so whether that personal interest is also a prejudicial interest
- Aside from the Code of Conduct, whether there is any legal reason why a Member should not participate in a particular decision
- The need to exercise care and caution in any contact with applicants, developers and objectors
- The dangers of lobbying or being lobbied

#### 2 Natural Justice

These principles apply throughout public administration. They are fundamental principles of administrative law and should be adhered to when determining any planning application.

The two principles of Natural Justice are :-

- (a) The rule against bias
- (b) The duty to act fairly/duty to hear both sides or the other side.

#### 3 The Rule Against Bias

The first principle means that no Member should remain and be a party to a decision which affects their own interests. This is largely the process by which Members declare interests.

In addition to the common law rule against bias, Members must be mindful of the provisions of the Council's Code of Conduct with regard to personal and prejudicial interests, referred to below.

If Members are in any doubt about the application of the Code of Conduct, they should seek advice early, from the Monitoring Officer, Deputy Monitoring Officer or one of their staff. Failure to comply with the Code of Conduct may have implications for the individual Member, as there may be a complaint to the Standards Board. There may also be implications for

the decision making process, with criticism of the Committee and possible challenge to the decision on the basis that a Member with an interest remained within the Council Chamber and tainted the integrity of the decision.

4 **The duty to act fairly/hear both sides or the other side - Predetermination and Predisposition**

“Predetermination” is where a Member is closed to the merits of any arguments relating to a particular application, and makes a decision without taking them into account.

“Predisposition” is where a Member holds a view in favour of or against an application, but has an open mind to the merits of the argument before making a final decision.

Predisposition is acceptable; predetermination is not.

Both sides, applicant and objector, should have an opportunity to put their view forward and the decision making body must consider both sides before coming to its decision. The Member’s mind should not be closed until the final decision is made. A Member’s mind will be closed if they have already come to a decision on an application prior to entering the Council Chamber. This is predetermination. A decision will be open to challenge if a Member appears to have already decided how they will vote at the meeting so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

However, simply listening to or receiving viewpoints from residents or other interested parties, seeking information through appropriate channels, or making comments to residents, interested parties or other Members or appropriate officers will not constitute predetermination, provided that the Member makes it clear that they are keeping an open mind.

It is not a problem for Members to be “predisposed”, holding a view but having an open mind and being open to persuasion against that view. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly, provided it is clear that their mind is not closed to countervailing arguments.

5 **Example of Maladministration**

The Local Ombudsman some time ago made a finding of maladministration against a Merseyside Council because a Member failed to declare an interest and leave the meeting. The Member had a house that was situated near to and affected by a planning proposal. The Member did not declare an interest and remained in the Chamber and voted on the application.

It is important to the integrity of the Planning process and to open and honest governance that justice must not only be done to the planning application – but also that it is seen to be done, thereby giving the public confidence in the system.

There have also been examples of maladministration where Members have encouraged their colleagues to set aside the advice of professional officers by introducing factors which do not amount to material planning considerations. These can include personal circumstances, or land ownership issues. Members should always be cautious and stick only to valid planning considerations.

6. **Declarations of Interest and Leaving the Chamber**

Personal interests and prejudicial interests are defined in Part 2 of the Council's Code of Conduct. It is important to note that if an interest does not fall within the definition of a personal interest, it cannot be a prejudicial interest.

Under the Code of Conduct, where a decision might reasonably be regarded as affecting the well-being or financial position of a Member, or that of a relative or close associate of theirs, or of a body to which the Member is appointed by the Council, or a body of which the Member is a member which exercises functions of a public nature, is directed to charitable purposes, or whose principal purposes is the influence of public opinion or policy the Member must declare a personal interest. The phrase "close associate" is not defined in the Code, but covers both social and business associations. The Code of Conduct also requires Members to declare a personal interest in any matter that relates to an interest included in their register of interests.

Where a Member has a personal interest as set out in the Code of Conduct, they must give careful consideration as to whether that interest is also a prejudicial interest (that is, one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest). In other words, the interest must be perceived as likely to harm or impair the Member's ability to judge the public interest. Simply knowing the Applicant does not necessarily equate to a prejudicial interest.

The Code of Conduct provides that a prejudicial interest does not arise where the decision does not affect the financial position of the Member or their interests, or does not relate to a licensing or regulatory matter affecting the Member or a person or body in which they have a personal interest.

If the personal interest is not a prejudicial interest, the existence and nature of the interest must be disclosed to the meeting.

Where a Member has a personal interest which is also a prejudicial interest under the Code of Conduct, the general rule is that they must leave the chamber – they are not permitted to return to the public gallery for the debate and they should not be seen by other Members when they are making the decision. This is a requirement of the Code of Conduct. If a Member who had declared an interest was present or could be seen to watch the proceedings, this could be sufficient to taint the process.

However, as an exception to the general rule, the Code of Conduct does now allow a Member who has a personal and prejudicial interest to participate in the same manner that would apply to an ordinary member of the public, that is, in the public participation part of the meeting, but the Member must then leave the room immediately after making such representations. This reverses the decision of the Court of Appeal in *Richardson -v- North Yorkshire County Council*, and means that Members are no longer placed in a more disadvantageous position than ordinary members of the public.

Dispensations from the Standards Committee are available in limited circumstances, where the existence of prejudicial interests would mean that the meeting could not otherwise be quorate.

When declaring interests at meetings, Members should make it clear what level of interest they are declaring, and whether the interest prevents them from taking part in the decision making process.

**7. Party Politics**

A Member must not blindly follow the recommendations of their political party. A decision on a particular planning application should not be dictated to by party politics. Party whips should never be used. The Member is part of the decision making body. As far as planning applications are concerned the decision making body is the Planning Regulatory Committee. That Committee sits in a quasi-judicial manner and each decision is made on its own merits, within the Development Plan framework, supported by legislation, government advice and other Council land use policies. Therefore each decision has to be made on the information put before the Committee and should take into account the development plan, the impact of the individual development and any individual site characteristics – not party politics.

**8. Allegations of Bias**

As a Member of the Planning Regulatory Committee the time for decision making is after the Members have heard all relevant considerations i.e. after the application has been presented to the Members in the Committee meeting and when the presentation of the application is completed. Therefore, a decision should not be made before the agenda is sent out, at a site visit or immediately before the meeting begins. If a Member has made their mind up before the application is fully presented then this renders the decision open to challenge. This would be on the basis that the application was predetermined, was not considered fairly and that the Member's conduct showed bias. To predetermine an application flies in the face of the principle of the rule 'to hear both sides'.

Where the Council is the applicant or the landowner, and a Member is both a Member of the Planning Committee and also a Cabinet Member with ongoing land-owning responsibilities, it is arguable that the issue of predetermination may arise as a result of the Member's perceived proximity to the proposal through discussions in Cabinet. There is a risk that even an apparently genuine consideration of the planning application by such a Member may be perceived as a sham. In the event of such a Cabinet Member choosing to participate in the Planning Committee decision, and in order to avoid the possibility of a real risk of a perceived closed mind, the Member should be able to demonstrate that they have approached their dealings with the proposal with particular scrupulousness, and should spell out at the outset of any debate at Planning Committee that, notwithstanding their Cabinet role, responsibilities and other decisions in Cabinet, here only planning functions are exercised and planning considerations relevant. They should also make it clear that they approach the application debate with a wholly open mind and a preparedness to be persuaded either way.

However, the simple fact that a Member has been involved in a decision to promote the development of land in the public interest, does not necessarily prevent them from making decisions on the matters of detail. Members approving specific land use allocations in a Local Development Framework for example, would not be prevented from deciding subsequent planning applications. They would be expected to use their decision making abilities to ensure that schemes conform with the requirements of the Framework.

**9. Media Exposure**

A Member should never make any public declaration on an application until the application has been determined. If a Member makes an announcement (that is one sided) prior to the application being determined then that Member is at risk from an allegation of bias i.e. they have not kept their mind open until all matters are before them. In these circumstances it may be inappropriate for the Member to take part in the decision making process to ensure the decision is not tainted. This will be particularly important where there is adverse public



reaction to a planning application in the local press some time before the application has received a recommendation from Officers.

## 10. **Parish Councillors**

A Member of the Planning Regulatory Committee who is also a parish councillor may speak and vote at both parish and City Council level on the same planning issue. Members who take this course of action will need to declare membership of the parish council as a personal interest at City Council level.

As indicated above, Members are under an obligation to approach decision-making with an open mind, prepared to listen to all sides of the argument. Dual-hatted Members who choose to speak and vote at parish and City Council level will need to make it very clear that their vote at parish level represents a preliminary view and that they will reconsider the matter afresh at City Council level. Failure to do so may result in a challenge on the grounds of predetermination.

Different considerations will apply if the parish council is the applicant in relation to a particular planning application. In that situation a parish councillor would be likely to have a prejudicial interest at the Planning Regulatory Committee.

It must always be remembered that debate at parish council meetings takes place without professional advice from a Chartered Town Planner. It is likely, therefore, that considerations may involve matters not properly restricted to planning considerations. City Council Members involved in such discussions should take specific care to qualify their views accordingly.

## 11. **Lobby Groups**

A Member of the Planning Regulatory Committee who is a member of a lobbying group which has publicly expressed support for or against a planning application will need to consider whether they have a personal and prejudicial interest, and whether there is any other reason outside the Code (such as bias or predetermination) why they should not participate in the decision.

Members are required to declare a personal interest if they are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision. However, a member will not have a prejudicial interest in a developer's planning proposals against which they and their lobby group campaigned if they or any other person or body in which they have a personal interest are not affected financially by the matter. It is not relevant for the purposes of the revised Code that the planning proposal will impact on the aims of the lobby or campaign group the member belongs to. The Code is focused on the actions of individuals and as such is about preventing improper personal advantage.

A Member who belongs to a general interest group, such as a local civic society, should disclose a personal interest where that organisation has made representations on a particular proposal, and should make it clear that the Member has reserved judgement and the independence to make up their own mind on each separate proposal.

Further guidance can be obtained from the Standards Board publication "Lobby groups, dual-hatted members and the Code of Conduct", and the Standards Board Occasional Paper "Predisposition, Predetermination or Bias, and the Code".

## 12. **Contact by an Applicant Agent or Developer**

It is inevitable that Planning Regulatory Committee Members will be approached frequently by a variety of people during the planning process. It is therefore important that Members of the Committee are clear on the nature of the advice and the comments that they give.

Members of the Planning Regulatory Committee should avoid giving any commitment or the impression of any commitment or view that is held regarding any particular planning application yet to be determined or any matter that may result in the submission of a planning application. It is inappropriate for a Committee Member to meet with the Applicant or Developer to discuss the proposals. Instead they should be directed to the Head of Planning Services and his staff. Equally, any Member of the Committee requiring further information about the application should contact the Head of Planning Services and his staff.

If a meeting or telephone call does take place then Members of the Committee are advised to avoid comments which infer predetermination such as:

- 'I am completely against any development there'
- 'I am all for any kind of economic regeneration'
- 'The developer X normally builds to a high standard'

In the very rare circumstances where a meeting does take place between a Member of the Committee and the Applicant or Developer it is essential that an officer is present and the meeting properly minuted. The Audit Commission states that in these circumstances "all meetings should be attended by officers, fully minuted and reported to Committee in order to ensure transparency". Therefore those minutes should be reported to the Planning Regulatory Committee prior to any decision being made.

Any significant contact with the applicant or other parties should be reported to the Head of Planning Services, explaining the nature and purpose of the contacts and the member's involvement in them.

## 13. **Presentations by applicants/developers**

A Member of the Committee should not attend a planning presentation unless an officer is present and/or it has been organised by officers. A Member should be aware that a presentation is a form of lobbying and should not express any strong view or state how they or other Members might vote.

Where a public meeting is arranged by a developer to present to local residents a scheme which the developer intends to submit, there is nothing to prevent Members attending to obtain information, but they should not make any comment.

## 14. **Approach by a Constituent**

If a constituent approaches a Member about an application Members can give advice on planning procedure rules and policy so far as they are able but it is always advisable to direct the constituent to staff of the Planning Service in any event. When speaking to constituents Members must not give any impression of any commitment to the application itself.

## 15. **Approach by a Non-Constituent**

If a non-constituent approaches a Member, Members can advise the person on planning procedure rules and policy as far as they are able or alternatively ask them to contact their own Ward Member or the Head of Planning Services and his staff.

16 **Disclosure of Information**

It is important that Members are clear on what information is a matter of public record and what information is not. Details contained within the planning application are open to the public and the planning process and planning policies are all within the public domain. However, informal observations of the Planning staff will not be information available to the public. If a Member wishes to rely on the observations or comments of the officer then the Member must ask the officer if the information is of a public or confidential nature. If the Member intends to refer such information to a member of the public i.e. not a Council Member, they must make this clear to the officer.

17 **Hospitality Offered to Members**

It is advisable in all circumstances to simply refuse any hospitality. To accept creates the risk that there has been undue influence on the planning process. In the rare event that the hospitality of an estimated value in excess of £25 is accepted it must be registered as a personal interest under Paragraph 8 of the Council's Code of Conduct. It must also be declared as a personal interest at any meeting within the next three years where an item of business relating to the source of the hospitality is considered..

18 **Lobbying of Planning Officers**

Members must recognise that they are part of the organisation which employs professional staff who will make their recommendations on planning applications. Public confidence in the planning system is dependant on planning officers being able to reach open and impartial recommendations on applications, based on lawful planning considerations only, without being improperly influenced in reaching their conclusions by political pressure. Whilst it is entirely proper for Members to enquire about progress on applications and to ask for clarification about the reasons for any recommendation, they must take particular care to ensure that they do not give the impression of applying pressure to officers to make any changes to their recommendations. To do so would leave them open to accusations of applying inappropriate pressure in the form of lobbying.

19. **Lobbying of the Planning Regulatory Committee by other Members**

Members should not give an impression of any commitment or view on the application itself and Planning Regulatory Committee Members must consider all matters before forming a view. If the lobbying Member is an applicant the Committee Member must critically assess their relationship to the Applicant-Member. The test is to ask yourself 'is the relationship such that a reasonable person would consider that remaining in the Planning Regulatory Committee meeting when the decision is made would give the impression of bias'. Simply being a member of the same political party does not necessarily equate to a personal or prejudicial interest but Members must ask themselves about their relationship, e.g. Are they close associates outside the political arena? Do they socialise with each other? .

20. **Social Contact**

Members of the Planning Regulatory Committee should minimise their direct social contact with known Developers and Agents, especially when developments are contemplated or applications are being proposed or when controversial decisions are likely to be needed.

21. **Site Visits – Informal or Formal**

Again, if Members of the Planning Regulatory Committee, whether or not on a site visit, enter any premises which –

- are the subject of/ affected by a planning application or
- are known to be likely to become subject to or affected by a planning application

for any purpose in connection with such an application/proposed application, the Member should be careful to use the inspection purely as a fact-finding exercise and not express any opinion on the merits of the application. Members must not give any kind of indication of what their views of the application are at this stage as they would be at risk of predetermining the issue.

It is recommended that a member of the Planning Regulatory Committee should not enter a site which is subject to a proposal, other than as part of an official site visit, unless the member feels that it is essential to visit the site other than through attending the official site visit, and the member has first spoken to the Planning Officer about their intention to do so and why (which will be recorded on the file).

## 22. **Purpose of Formal Visits**

The purpose of a Committee site visit is to give Members the opportunity to see the prospective development site and to see it in context, in relation to the surrounding areas and the neighbouring uses. The Planning Officer will normally identify the site and make a short factual presentation explaining the proposed development and perhaps highlighting issues which initially prompted the site visit. The Planning Officer will answer, where possible, questions raised by the Committee.

Site visits are not intended to pre-empt the debate. Questions should therefore relate to matters of factual information about the site, the development and the surrounding area rather than a detailed debate regarding the principle or merits of the proposal. Any detailed debate regarding the above should await the formal Committee meeting when all Members of the Committee and members of the public who attend can hear the arguments in a proper setting.

## 23. **Public Attendance at Formal Site Visits**

Members will often be met by numbers of local residents at a site visit as they are often high profile cases which are under consideration. It is important that the Planning Officer or the Committee Clerk explains clearly the purpose of the site visit to residents before the site visit commences. Members of the public can listen to the officers' presentation but should not join in any subsequent discussion. Public views or objections will be fully presented or reported at the Committee meeting and should properly form part of the overall debate and discussion at that time.

Members should avoid getting into individual dialogue with local residents, although it is appreciated this can be difficult to avoid. The Chairman can invite a spokesperson for the residents to answer any specific questions Members may have but this should not become a general debate about the proposal. If there is a request to visit the site from a particular position or location this can be undertaken at the Chairman's discretion. If it is agreed, all Members should accompany the Chairman if possible.

The applicant or his representative will also be invited to attend the site visit. They are present simply to answer any questions the Committee Members may have but should not address the Members on the general merits of the case. Again the Planning Officer or Chairman should explain this situation to the applicant or representative if necessary.

None of the above text on site visits is intended to stifle debate or prevent local residents from having their say. The proper place for such a debate is however at the Committee

meeting when neighbour/local views will be properly reported and a proper discussion in a public forum can take place.

24. **Ward Members Speaking at Planning Regulatory Committee who are Not Members of the Planning Regulatory Committee – Contact by the Applicant, Developer or Objector**

When a Ward Member speaks at a Committee it is important that they make it clear whose views they are expressing. Are they speaking for themselves only? Are they speaking on behalf of their Ward? Are they speaking on behalf of a group of residents? An important difference between Planning Members and Ward Councillors who are not Members of the Planning Regulatory Committee is that Ward Members are permitted to express a view prior to entering the Council Chamber. Also, a Ward Member can inform other Members of their own view. If they are asked to meet with a party who has an interest in an application it should be made clear to that party that the Ward Member cannot lobby Members of the Planning Regulatory Committee – they can inform the Members of their concerns etc but they cannot lobby.

If the applicant/objector/third party asks for information Members should advise them to contact the Planning Service staff. The Ward Member can comment on how they would like the decision to be determined but must not give any impression of interfering with the normal democratic process. Comments like 'I will have a quiet word with the Chairman' 'the Group will all vote together' or 'it will be sorted' are unacceptable. They infer predetermination and interference, which at the very least is against an open and transparent planning system.

Instead the Member should make it quite clear that they are able to express an opinion to the Committee but the final decision will be made by the Members when they have considered all matters including the Local Development Plan.

When a non Planning Regulatory Committee Member addresses the Committee, it is advisable that they disclose to the Committee any contact they have had with the applicant and/or agent and/or interested party. For example if a Ward Member meets with a Developer and is in favour of an application they should state 'I am the Ward Member and I am here to represent my own views on this matter. I have spoken to the Developer and I have looked at the plans in detail. I am for the application and consider the benefits are ...'. Or 'I am the local Ward Councillor and I am here to represent the views of what I consider is the majority of the residents of my Ward. I have had numerous telephone calls and letters complaining about this. I have met with local resident groups and I am unhappy with the proposal before Members because ...'

A member of the Planning Regulatory Committee may take the opportunity to exercise separate rights as a Ward Councillor where the Member has fettered his/her discretion to participate in the decision making. However, the Member should make it clear before commencement of the item that they are speaking in this capacity, and should remove themselves from the Committee seating area for the duration of that item.

25. **The Public Participation Process**

With the introduction of the public participation process members of the public now have the opportunity to address the Planning Regulatory Committee. Each individual has 3 minutes to speak. Ideally the person would refer only to planning issues. However realistically speaking this is unlikely to occur and in practice they may refer to non-planning and land use matters.

Planning Regulatory Committee Members need to sift through such presentations and concentrate on the land use principles, distinguishing between issues that are and are not

relevant to the planning decision. Issues that are not planning matters need to be dismissed or given very little weight, while land use issues should be taken into account and given great weight. Personal circumstances and financial details are rarely, if ever, determining issues. Members have to give proper weight to the Development Plan and other material land use considerations.

As indicated above, a Member with a personal and prejudicial interest may take part in the public participation process, but must withdraw from the meeting immediately after they have addressed the Committee.

26. **The Decision Itself**

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 a planning application made under the Planning Acts shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Material considerations are anything that relates to the use and the development of land. "Material considerations must be genuine planning considerations, i.e. they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest." PPG1 para. 50. 'In the public interest' does not mean determining planning applications on the view of the local residents. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated" para. 60 of PPG1.

If there is public opinion against an application then Members must ask themselves "are the objections based on planning grounds?" and if they are "is there evidence to support them?" If the answer to one or both of these questions is 'no', then Members should not permit the objections to determine the outcome.

A Member who is proposing, seconding or supporting a decision contrary to officer recommendations or the development plan should clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. It may be necessary to justify the resulting decision by giving evidence in the event of any challenge.

27. **Code of Conduct**

This guide is ancillary to the Council's Code of Conduct and is designed to help Members understand their role in the Planning process. Its production is recommended by District Audit ('Probity in Planning').

28. **Enforcement of the Protocol**

Members need to be aware that this Protocol is for guidance. The breach of its terms will not necessarily result in the decision being invalidated, but may well lead to a decision being challenged. A breach of the Council's Code of Conduct may lead to a complaint, currently to the Standards Board for England. A breach of this Protocol which is not a breach of the Council's Code of Conduct Code could not be referred to the Standards Board, but may be investigated by the Monitoring Officer and subsequently reported to the Council's own Standards Committee.

If Members have any concerns about the above they should contact the Head of Legal and HR and/or the Head of Planning Services.

**APPENDIX 2**

**PROTOCOL ON PLANNING PROCEDURE – SECTION 8 AMENDED FOLLOWING  
RESOLUTION OF COUNCIL 19TH NOVEMBER 2008**

8. **Allegations of Bias**

As a Member of the Planning Regulatory Committee the time for decision making is after the Members have heard all relevant considerations i.e. after the application has been presented to the Members in the Committee meeting and when the presentation of the application is completed. Therefore, a decision should not be made before the agenda is sent out, at a site visit or immediately before the meeting begins. If a Member has made their mind up before the application is fully presented then this renders the decision open to challenge. This would be on the basis that the application was predetermined, was not considered fairly and that the Member's conduct showed bias. To predetermine an application flies in the face of the principle of the rule 'to hear both sides'.

Council, at its meeting on the 19th November 2008, resolved that Cabinet Members should not sit on the Planning Regulatory Committee for items directly related to those which have been previously considered by Cabinet (whether they were present for that particular Cabinet item or not). The rationale for this is that where the Council is the applicant or the landowner, and a Member is both a Member of the Planning Committee and also a Cabinet Member with ongoing land-owning responsibilities, it is arguable that the issue of predetermination and bias might arise as a result of the Member's perceived proximity to the proposal through discussions in Cabinet. The Council resolution removes this risk.

However, the simple fact that a Member has been involved in a decision to promote the development of land in the public interest, does not necessarily prevent them from making decisions on the matters of detail. Members approving specific land use allocations in a Local Development Framework for example, would not be prevented from deciding subsequent planning applications. They would be expected to use their decision making abilities to ensure that schemes conform with the requirements of the Framework.

**STANDARDS COMMITTEE****ATTENDANCE AT ANNUAL ASSEMBLY OF  
STANDARDS COMMITTEES****22<sup>nd</sup> January 2009****Report of the Deputy Monitoring Officer****PURPOSE OF REPORT**

To provide feedback and an evaluation from the Annual Conference attended in 2008 by the Chairman of the Committee and the Deputy Monitoring Officer in accordance with the requirements of the Member Development Strategy.

This report is public

**RECOMMENDATIONS**

**That the Committee consider the report and whether Member attendance at the conference provides value for money and should therefore continue to be funded.**

**1.0 Introduction**

- 1.1 The Annual Assembly of Standards Committees takes place each year over 2 days in October and funding is included in the Member Development budget for the Chairman of Standards Committee or their representative to attend each year. Officer attendance is funded separately from the relevant Service budget.
- 1.2 In order to more rigorously control the member development budget, the Council Business Committee have introduced a system requiring those Members attending training or developmental events such as this to provide a report of the event, both for the purpose of cascading useful information gained and to provide an evaluation on whether attendance provides value for money for future years.
- 1.3 The cost of this year's Conference, held on 13<sup>th</sup> & 14<sup>th</sup> October 2008, was £430 per person + accommodation costs of £145 per person + travel to Birmingham. It was attended by Stephen Lamley, Chairman of the Committee and Gillian Noall, Head of Democratic Services and Deputy Monitoring Officer.



## 2.0 Report of the Conference

### 2.1 Day One

#### 2.1.1 Opening Plenary

Speakers – Glenys Stacey Chief Exec Standards Board  
Robert Chilton, Chair Standards Board  
Government Minister

General introductory remarks

#### 2.1.2 Breakout sessions

##### *Alternative Action (GN)*

Speakers – Alan Eastwood, Bolton Council, Suzan Hemmingway, Bradford Council,  
Jennifer Rogers Standards Board

Useful discussion and exercises on when alternative action could be an suitable course of action and when it would be inappropriate – separate notes attached at Appendix A.

##### *Communicating with Communities (SL)*

Speakers – Judy Simmons & Richard Scott, Standards Board

Provided suggestions on how Standard Committees can improve communications with their local communities – nothing useful to report.

#### 2.1.3 Afternoon Plenary

Speakers – Richard Cowell, University of Cardiff, Christopher Kelly. Chair of Committee on Standards in Public Life, Ben Page, Ipsos Mori

Interesting information on current research regarding the impact of Standards Committees on how Councils work, the behaviour of Councillors and the level of trust by the public; public ignorance of what Councils do and the existence of an ethical framework; the negative effect on Councils who have to deal with a large number of complaints, creating a very hostile environment in which Councillors believe the framework is at fault rather than their behaviour; challenge of operating in the current negative environment regarding local government. Nothing of practical value to the situation at Lancaster.

#### 2.1.4 Breakout sessions

##### *Delivering Local Investigations(GN)*

Speakers – Maria Lucas, North Tyneside Council, Matt Richards & Jon Wigmore, Standards Board

Interesting exercise at conclusion on how to undertake investigations for someone who has not previously undertaken an investigation but nothing new learnt.

##### *What went wrong (SL)*

Speakers – Elizabeth Hall & Hazel Salisbury Standards Board

Opportunity to discuss cases where investigators' reports had proved unsatisfactory and to consider where mistakes had been made and what should have happened.

## 2.2 Day Two

### 2.2.1 Breakout sessions

#### *Planning ahead (GN)*

Speakers - Anne Rehill, Standards Board and Sarah Richards, Planning Advisory Service

Well constructed practical exercise – but nothing new learnt that hasn't already been addressed at Lancaster. Group dominated by independent members who had very little understanding of the planning process – highlighted need for independent members on Standards Committees to have the opportunity to be trained on Council decision making structures and planning processes if inexperienced.

#### Standards Committee members Q&A session (SL)

Speakers – Paul Hoey, Freda Sharkey & Belinda Shaw, Standards Board

Nothing new of interest to report.

### 2.2.2 Morning Plenary

Speakers – Allison Kelly, Audit Commission  
Michael Macauley, Teeside Business School

Raised issues of Standards Committees taking a leadership role in Authorities and encouraging Councils as a whole to drive standards forward, leading to an attitude of respect being embedded in the authority and an overall improvement in everyday behaviour. In turn, this leads to the development of trust within the Authority and externally by the public. Having a pro-active Standards Committee can change the public perception of a Council. Too many Councils where the independent Standards Committee members are unknown to Councillors and even senior officers are unaware of the work of the Standards Committee.

### 2.2.3 Breakout sessions

#### *Parish Perspective (GN and SL)*

Speakers – Shirley Flint, Standards Board, Kirsty Cole Newark & Sherwood Council, Nick Randle, Society of Local Council Clerks

Main issue raised by almost all present was how to deal with Parish Councils who are reluctant to engage with the District Council. It was confirmed that Standards Committee has no jurisdiction over Parish Clerks and the only suggestion on how to deal with a Clerk who was unwilling or unable to take responsibility for the conduct of their Parish Council was to persuade the Clerk to attend training sessions – when asked the direct question on how to do this and how to interact generally with unwilling clerks no answers were forthcoming.

## 3.0 **Conclusion**

3.1 There were some interesting sessions and occasional interesting questions but very little in the way of new information. The main advantage of attending comes from the opportunity to talk to officers and members.

- 3.2 The Committee is asked to consider whether the guidance and assistance provided by attendance at this Conference warrants the level of expenditure on an annual basis and to advise the Council Business Committee accordingly.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>	
None arising from this report.	
<b>FINANCIAL IMPLICATIONS</b>	
The cost of Member attendance at the Annual Assembly is currently met from the Members Development budget and officers from appropriate Service training budgets. Not attending in future years would enable savings to be made or for the budget to be directed at more cost effective training.	
<b>SECTION 151 OFFICER'S COMMENTS</b>	
The S151 Officer has been consulted and has no further comments	
<b>LEGAL IMPLICATIONS</b>	
There are no direct legal implications as a result of this report.	
<b>MONITORING OFFICER'S COMMENTS</b>	
The Monitoring Officer has been consulted and has no further comments	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> Gillian Noall <b>Telephone:</b> 01524 582060 <b>E-mail:</b> <a href="mailto:gnoall@lancaster.gov.uk">gnoall@lancaster.gov.uk</a>
None	

**ALTERNATIVE ACTION**

Things to remember:

- If go for alternative action there can be no investigation
- no finding of fact
- Can't get into specifics of the allegation once alternative action has been agreed
- Can't get drawn into role of parish clerk – no jurisdiction
- not a cheap option as it can be resource intensive
- not to be used routinely
- used rarely
- consider each case on its merits

What cases are suitable?

- When the matter is relatively trivial but not so trivial that no action is likely to be the result
- if there has been an apology
- where there is a poor understanding of the code (and this could lead to a number of members failing in some way, eg. Not declaring an interest in something.) The alternative action would be for the MO to review Declaration of Interests with all Members
- where it may be the result of officers giving incorrect advice
- where there has been a breakdown in relationships within the authority (eg. Large number of 'tit for tat' complaints between members signifying an underlying problem)

What can it consist of?

- Training, advice, guidance to Members – eg. Chairmanship skills
- Mediation, conciliation of members
- Monitoring Officer working with Parishes
- Monitoring Officer reviewing the Register of Interests
- A review of Standing Orders

Disadvantages:

- Not a quick fix
- Rarely straightforward
- Time-consuming and resource intensive
- Need both parties to agree
- Need to be confident will resolve the issue
- Problem if member initially agrees to mediation but then refuses to co-operate – it is then too late to go back to an investigation (need to include in agreement that if don't co-operate will carry out investigation)
- No opportunity for the member complained about to 'clear their name'
- Only 20 days available in which to research whether this would be an appropriate course of action
- 

Advantages:

- Early intervention can halt 'tit for tat' complaints
- Can address wider issues of lack of training/understanding of issues by other Members

Suggestion – Standards Committee meetings to include a session revisiting old cases looking at what happened and considering alternative solutions

**STANDARDS COMMITTEE****REVIEW OF COMPLAINT FORM  
22nd January 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to make amendments to the form for submitting Code of Conduct complaints.

**This report is public**

**RECOMMENDATIONS**

- (1) **That the Committee approve the amendments to the Complaint Form as appended to this report.**

**1.0 Introduction**

- 1.1 This report suggests improvements that could be made to the form used for submitting Code of Conduct complaints. It arises primarily from the experience of an Assessment Sub-Committee in considering a complaint where insufficient information had been provided by the complainant to enable the Sub-Committee to make a decision as to whether the complaint should be referred for investigation or other action.

**2.0 Proposal Details**

- 2.1 At its meeting on the 23rd May 2008, the Committee approved the content of the form for submitting a Code of Conduct complaint. At the time, the Committee was anxious to make the form as simple as possible, and took the view that any explanatory text should be included in the separate document "Guidance on making a Complaint to the Standards Committee", which is appended to this report.
- 2.2 However, an Assessment Sub-Committee considered a complaint in October 2008 where it took the view that the complainant had not supplied sufficient information to enable it to make a decision as to whether the complaint should be referred for investigation or other action. The Sub-Committee therefore requested the Monitoring Officer to review the complaint form with a view to drawing a complainant's attention to the need to supply as much information as possible.

- 2.3 The Monitoring Officer has therefore drafted some additional text for inclusion at the top of the complaint form and at section 4 of the form. The added text is shown in italics in the form attached to this report, and is for Members' consideration.
- 2.4 The Assessment Sub-Committee also suggested that the Monitoring Officer should perhaps have sought further information from the complainant before the Sub-Committee considered the complaint.
- 2.5 However, the Standards Board's Guidance on pre-assessment reports and enquiries states that the Monitoring Officer's report to the Assessment Sub-Committee could set out:

"any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:

- a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
- b) minutes of meetings
- c) a copy of a member's entry in the register of interests
- d) information from Companies House or the Land Registry
- e) other easily obtainable documents"

Indeed, in connection with a previous complaint, the Monitoring Officer in accordance with this advice, presented to the Assessment Sub-Committee a number of Council agenda items and minutes and a copy of a Member's register of interests.

However, the Guidance goes on to state that "officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted. Pre-assessment inquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant or the subject member".

- 2.6 In this particular case, the Monitoring Officer had taken the view that she understood the complaint, but that if she had contacted the complainant for further information, this would have been tantamount to carrying out an investigation and would have been inappropriate. Discussions with the Standards Board's legal advisers on this point following the meeting of the Assessment Sub-Committee, confirmed that this approach was correct. It is therefore important that complainants should be made aware at the time of completing the complaint form, of the need to ensure that all possible information is provided.

### **3.0 Details of Consultation**

- 3.1 There has been no consultation on this report.

### **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 The options open to the Committee are to approve the proposed amendments to the complaint form, to approve some other amendments, or to leave the complaint form unamended. The Monitoring Officer would recommend that the form be amended to draw the attention of complainants to the need to supply full and detailed information about the complaint.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None arising from this report.

**FINANCIAL IMPLICATIONS**

None directly arising from this report.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**LEGAL IMPLICATIONS**

None directly arising from this report.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her role as adviser to the Committee.

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs S Taylor

**Telephone:** 01524 582025

**E-mail:** STaylor@lancaster.gov.uk

**Ref:**

**LANCASTER CITY COUNCIL  
GUIDANCE ON MAKING A COMPLAINT TO THE STANDARDS  
COMMITTEE**

**This Guidance should be read before completing the Lancaster City Council Standards Committee Complaint Form.**

**If you have any queries, please contact the Council's Monitoring Officer, Mrs Sarah Taylor, telephone 01524 582025, or email [STaylor@lancaster.gov.uk](mailto:STaylor@lancaster.gov.uk)**

**Is this the correct form?**

The points listed below will help you decide whether this is the correct form to use when making your complaint.

If you submit a complaint, an Assessment Sub-Committee of the Standards Committee will make the decision about what action, if any, to take.

In order for the Sub-Committee to consider your complaint:

- Your complaint must be about one or more named members of the following authorities: Lancaster City Council or a parish or town council within its district. These are Arkholme-with-Cawood, Bolton-le-Sands, Caton-with-Littledale, Cloughton, Cockerham, Ellel, Gressingham, Halton-with-Aughton, Heaton-with-Oxcliffe, Hornby-with-Farleton, Ireby and Leck, Melling-with-Wrayton, Middleton, Nether Kellet, Over Kellet, Over Wyresdale, Overton, Quernmore, Scotforth, Silverdale, Slyne-with-Hest, Tatham, Thurnham, Warton, Wennington, Whittington, Wray-with-Botton, Yealand Conyers and Yealand Redmayne parish councils and Carnforth Town Council.
- Your complaint must be about conduct that occurred while the member(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the authority, or after they have resigned or otherwise ceased to be a member, cannot be considered by the Assessment Sub-Committee
- Your complaint must be that the member(s) has, or may have, breached the relevant Code of Conduct. A copy of the City Council's Code of Conduct is available on the Council's website [www.lancaster.gov.uk/complaints](http://www.lancaster.gov.uk/complaints) and frequently asked questions about the Code of Conduct are available at [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk). You may also contact the Monitoring Officer, contact details above, if you require further information or a copy of the Code of Conduct adopted by any of the parish councils within the district. These are also available from the relevant parish or town council clerk.



- Your complaint must be in writing. If a disability prevents you from making your complaint in writing you may contact the Monitoring Officer (contact details as above) for assistance. We can also help if English is not your first language. We may be able to transcribe your oral complaint, and produce a written copy for approval by you or your representative.

### **What complaints cannot be made on this form?**

Complaints about Council employees, or about a decision or action of the Council or one of its committees, or about a service provided by the Council or about the Council's procedures, do not fall within the jurisdiction of the Standards Committee. These are dealt with within the Council's general complaints procedure, and further information on this is available on the Council's website [www.lancaster.gov.uk/complaints](http://www.lancaster.gov.uk/complaints) or from Information and Customer Services.

### **What happens once you submit your complaint?**

When you submit your complaint we will write to you to let you know we have received it. At this stage the member(s) that you are complaining about will not be informed of the complaint, and we would ask that you should keep the matter confidential and not make your complaint public.

The Assessment Sub-Committee, which is chaired by a person independent of the City Council and of the parish and town councils, will meet to consider your complaint. This will happen as soon as possible, and in any event within an average of 20 working days of the date we receive your complaint. Meetings of the Assessment Sub-Committee are 'closed', which means that you will not be able to attend. It is therefore very important that you set your complaint out clearly and provide at the outset all the information you wish the Assessment Sub-Committee to consider.

The Assessment Sub-Committee will decide what action, if any to take, using referral criteria which are available on the Council's website [www.lancaster.gov.uk/complaints](http://www.lancaster.gov.uk/complaints) or from the Monitoring Officer. The Sub-Committee may decide to refer your complaint for investigation or for other action, or may decide not to take any action on your complaint

If the Assessment Sub-Committee decides not to refer your complaint for investigation or other action, we will inform you in writing, within five working days, giving you the reasons for this decision. We will also inform the member(s) you have complained about, and, if appropriate the parish or town clerk. We will also explain your right to ask for the decision to be reviewed.

If the Assessment Sub-Committee decides to refer your complaint for investigation or other action, we will inform you in writing. At the same time we write to you, we will also write to the member(s) you have complained about and the parish or town clerk (if applicable). We will send these letters within five working days of the Assessment Sub-Committee reaching its decision. The decision of the Assessment Sub-Committee is made available for public

inspection once the member the complaint is about has been given a summary of the complaint. In very limited situations the member may not be given this summary immediately and if so any public inspection will not happen until the member does get the summary.

If the Assessment Sub-Committee refers your complaint for investigation, you will be contacted by the Investigating Officer. In very serious cases, the Assessment Sub-Committee may ask the Standards Board for England to carry out the investigation.

### **What is meant by 'other action'?**

The Assessment Sub-Committee may decide to refer your complaint for 'other action' instead of referring it for investigation. Other action is a deliberately broad term that may include options such as requiring the person you have complained about to apologise, or undertake training or mediation. The Assessment Sub-Committee will carefully consider the circumstances surrounding your complaint when deciding whether other action is appropriate. If the Assessment Sub-Committee decides to refer your complaint for other action we will explain what this involves.

### **How should you set out your complaint?**

It is very important that you set your complaint out fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish the Assessment Sub-Committee to consider, where possible.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the member(s) complained about has breached the Code of Conduct.

Wherever possible, you should be specific about what you are alleging the member(s) said or did, and the dates of the alleged incidents. You should also confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

### **Who will be told about your complaint?**

The Monitoring Officer and the Assessment Sub-Committee will receive the details of your complaint when it is received. Following the meeting of the

Assessment Sub-Committee, your name and a summary of your complaint will be given to the member(s) you have complained about and to the parish or town clerk (if applicable). If the member you have complained about is also a member of another authority such as the County Council or the Police Authority, it may be necessary for your complaint to be passed to the Monitoring Officer or Standards Committee of that authority.

If you have serious concerns about your name and/or the details of your complaint being passed on in this way, you should complete Part 5 of the complaint form. This will be considered by the Assessment Sub-Committee.

The interests of fairness and natural justice generally require that members complained of have a right to know who has made the complaint and what that complaint is. We are unlikely to withhold your identity or the details of your complaint unless there are exceptional reasons for doing so. Such reasons might be that you would be at risk of physical harm or other victimisation or harassment, or less favourable treatment in terms of any service provision or other contractual relationship with the Council if your identity were disclosed, or that there would be medical risks (supported by medical evidence). Reasons for withholding details of your complaint might be a serious risk of intimidation of witnesses, or a serious risk that evidence may be compromised or destroyed.

If the Assessment Sub-Committee does not grant your request for confidentiality, we will usually allow you the option of withdrawing your complaint. However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation and disclose your name even if you have expressly asked us not to.

### **What to do when you have completed the form**

The completed Complaint Form should be sent by post or electronically to the Monitoring Officer, Mrs Sarah Taylor, Town Hall, Lancaster LA1 1PJ.  
STaylor@lancaster.gov.uk



# STANDARDS COMMITTEE COMPLAINT FORM

*Before completing this form, you are advised to read the Council's "Guidance on Making a Complaint to the Standards Committee." This is available on the Council's website or on request from the Monitoring Officer, tel 01524 582025.*

## Your details

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer

- Other council officer or authority employee
- Other (      )

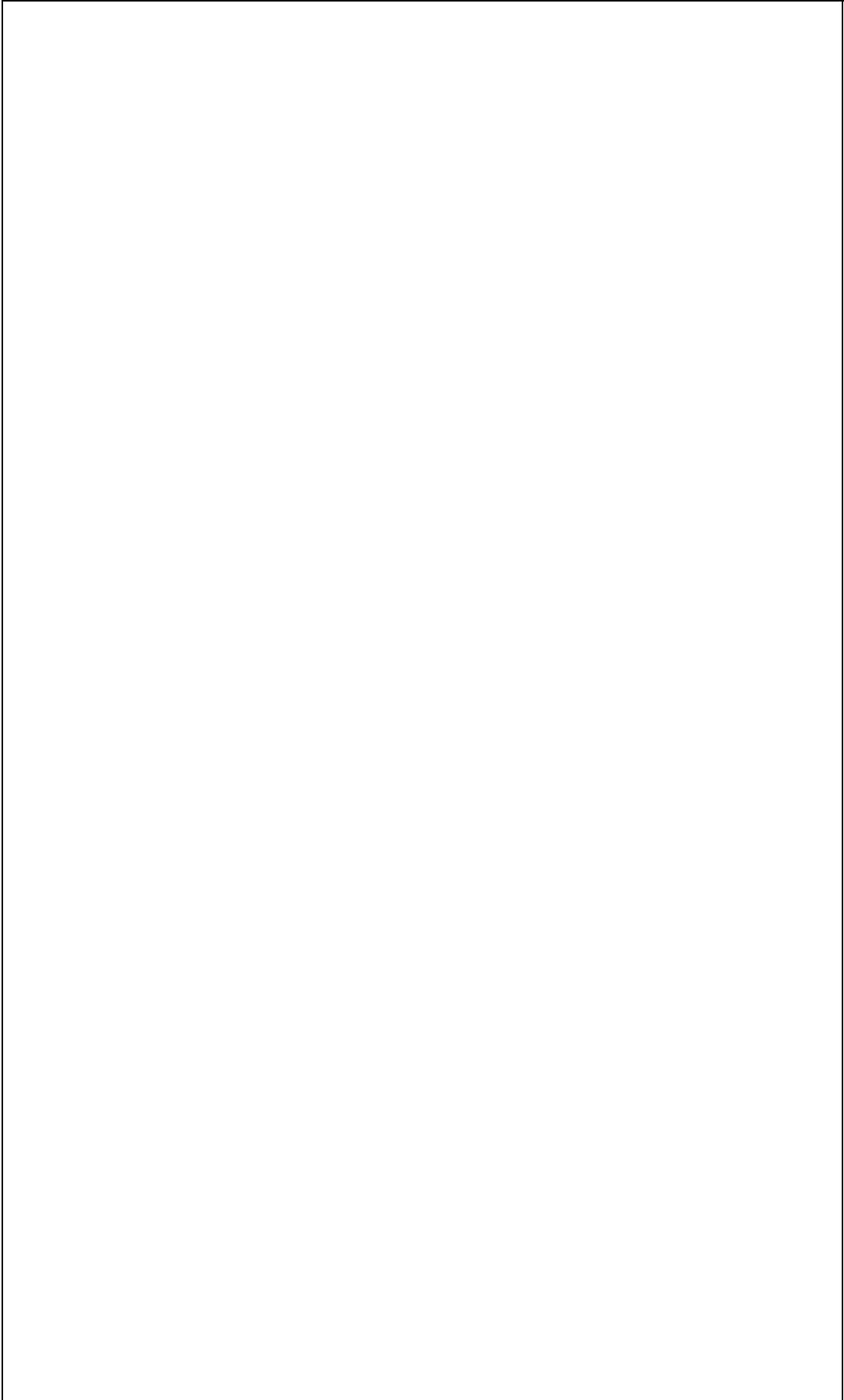
**Making your complaint**

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section (*and/or* on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct. *Before completing this section, you are recommended to read the section headed "How you should set out your complaint" in the Council's "Guidance on making a complaint to the Standards Committee".*

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form. *It is important that you provide as much information as possible at this stage*



**Only complete this next section if you are requesting that your identity is kept confidential (please see Guidance Notes)**

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**Equality Monitoring information**

We are required to monitor ethnic or national origin to ensure that we do not inadvertently discriminate against members of a particular group. It would, therefore be helpful if you would complete the ethnic monitoring section of the form, although this is not compulsory.

The answers will be removed and kept entirely separate from your complaint and will be completely confidential. They will be used for statistical purposes only, and individuals will not be identified.

**Your ethnic origin**

<b>Asian or Asian British</b>	
<b>Black or Black British</b>	
<b>Chinese</b>	
<b>White: British</b>	
<b>White: Irish</b>	
<b>White: Other</b>	



**STANDARDS COMMITTEE****THE CASE TRIBUNALS (ENGLAND) REGULATIONS 2008  
22nd January 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise the Committee of new Regulations amending the sanctions available to the Adjudication Panel.

**This report is public**

**RECOMMENDATIONS**

(1) That the report be noted.

**1.0 Report**

1.1 The Case Tribunals (England) Regulations 2008 came into force on the 12th December 2008. These complement the Standards Committee (England) Regulations 2008 and make provision about the sanctions available to a case tribunal of the Adjudication Panel for England.

1.2 In particular, these Regulations ensure that from the 12th December 2008, case tribunals will have the power to censure a member, require the member to apologise, attend training, or enter into a process of conciliation. These sanctions were previously available only to councils' Standards Committees.

1.3 Making these sanctions available to case tribunals will allow them to deal proportionately with cases that are referred to them, for example, because they are seen as very serious, but which the tribunals conclude are not so serious. It will also enable tribunals to deal appropriately with cases referred to them because a standards committee is conflicted out.

1.4 The Regulations also make provision about certain administrative procedures to be followed in relation to cases before the Adjudication Panel and its case tribunals.

**2.0 Conclusion**

2.1 The Committee is requested to note the report.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None arising from this report.

**FINANCIAL IMPLICATIONS**

None arising from this report.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**LEGAL IMPLICATIONS**

None arising from this report.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her role as the Committee's adviser.

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs S Taylor

**Telephone:** 01524 582025

**E-mail:** STaylor@lancaster.gov.uk

**Ref:**

**STANDARDS COMMITTEE****WHISTLEBLOWING POLICY  
22nd January 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to review the Council's Whistleblowing Policy.

**This report is public**

**RECOMMENDATIONS**

- (1) That the Committee review the Whistleblowing Policy and approve the amendments as set out in Appendix 1 to the report.**
- (2) That the Monitoring Officer report to the Committee annually on the operation of the Policy.**

**1.0 Introduction**

- 1.1 The Council's Whistleblowing Policy was introduced in 1999 having been approved by the then Finance and Corporate Policy Strategy Committee. It was last amended in September 2002 following consultation with the Joint Consultative Committee (JCC)..
- 1.2 The Terms of Reference of the Standards Committee include "monitoring and reviewing as necessary the operation of the Council's Whistleblowing Policy".
- 1.3 Over the years, the Policy has been little used, and it is proposed now to update the Policy and at the same time to publicise it through the monthly "First Brief", to ensure that employees are aware of its existence and how to use it.

**2.0 Proposal Details**

- 2.1 The proposed amended version of the Policy is attached at Appendix 1, and the current Policy and Code of Practice is at Appendix 2. The Code of Practice seems to duplicate much of the Policy, and there seems to be no good reason for having two separate documents. The changes that are being proposed are mainly drafting changes and do not alter the substance of the Policy. The Monitoring Officer, in reviewing the Policy, has considered examples of good practice from other local authorities, and a Code of Practice published by the British Standards Institution.

2.2 It is proposed that the amended Policy should be re-launched to employees through the Council's "First Brief" procedure, which is a monthly briefing for all employees. This will ensure that employees know how they can raise any concerns covered by the Policy.

2.3 To enable the Committee to fulfil its responsibility to monitor and review the Policy, it is recommended that the Monitoring Officer should report to the Committee on an annual basis.

**3.0 Details of Consultation**

3.1 The views of the Joint Consultative Committee (JCC) are being sought and will be reported orally at the meeting.

**4.0 Options and Options Analysis (including risk assessment)**

4.1 The options open to the Committee are to amend the Policy as appended to this report, or to make other amendments, or to leave the current Policy unchanged. The Monitoring Officer's recommendation would be to approve the amendments in Appendix 1.

<p><b>CONCLUSION OF IMPACT ASSESSMENT</b>  <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b></p> <p>None arising from this report.</p>	
<p><b>FINANCIAL IMPLICATIONS</b></p> <p>None arising from this report.</p>	
<p><b>SECTION 151 OFFICER'S COMMENTS</b></p> <p>The Section 151 Officer has been consulted and has no further comments.</p>	
<p><b>LEGAL IMPLICATIONS</b></p> <p>The Policy will accord with the provisions of the Public Interest Disclosure Act 1998.</p>	
<p><b>MONITORING OFFICER'S COMMENTS</b></p> <p>The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.</p>	
<p><b>BACKGROUND PAPERS</b></p> <p>None</p>	<p><b>Contact Officer:</b> Mrs S Taylor  <b>Telephone:</b> 01524 582025  <b>E-mail:</b> STaylor@lancaster.gov.uk  <b>Ref:</b></p>

Appendix 1



# Whistleblowing Policy

**LANCASTER  
CITY COUNCIL**

*Promoting City, Coast & Countryside*

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## WHISTLEBLOWING POLICY

### IMPORTANT

**This Policy affects you. Please read it carefully.**

The law requires the Council to protect you should you raise a concern internally within the Council if you know or suspect that:

- **Possible corruption or malpractice is taking place**
- **The law or Council rules are being broken**
- **The health and safety of any person is being endangered**
- **Damage to the environment is taking place**

#### 1. INTRODUCTION

- 1.1 Employees, members, or contractors are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may appear easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment, the Council encourages all employees and others with serious concerns about any malpractice in the form of irregularity, wrongdoing or serious failures of standards of work, to come forward and voice those concerns. This policy document makes it clear that employees can do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or blowing the whistle outside.
- 1.3 Employees should note that the Public Interest Disclosure Act 1998 provides protection for good faith whistleblowing on malpractice/wrongdoing. The Act also encourages the Council, as an employer, to establish a policy and procedure to allow employees to raise such concerns. This Whistleblowing Policy has been drawn up to enable you to raise concerns without fear of reprisal and to ensure that they are dealt with effectively by the Council. This Policy supports the Council's Anti Fraud and Corruption Policy.
- 1.4 This policy has been discussed with the relevant trade unions and professional organisations and has their support.

#### 2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:
  - ❑ Encourage you to feel confident in raising serious concerns and to question and act upon concerns about misconduct or malpractice;
  - ❑ Provide avenues for you to raise those concerns internally and receive feedback on any action taken, and to provide information about how, in exceptional circumstances, matters can be raised externally;

- ❑ Reassure you that genuine concerns will be taken seriously and in the interests of all concerned will be dealt with properly, quickly and discreetly;
- ❑ Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- ❑ Reassure you that as much as possible will be done to protect confidentiality, and that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith;
- ❑ Reassure you that whistleblowing procedures can be independent from line management

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These concerns may include:

- ❑ Conduct which is an offence or a breach of law
- ❑ Disclosures related to miscarriages of justice
- ❑ Health and safety risks, including risks to the public as well as other employees
- ❑ Damage to the environment
- ❑ The unauthorised use of public funds
- ❑ Non-compliance with Council rules, policies and procedures
- ❑ Unauthorised use or misuse of the Council's financial or other resources, including information
- ❑ Possible fraud and corruption
- ❑ Sexual or physical abuse of clients,
- ❑ Other inappropriate or unethical conduct, or
- ❑ The deliberate concealment of information about any of the above.

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council, can be reported under the Whistleblowing Policy. This may be about something that:

- ❑ Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- ❑ Is against the law or against Council's Procedural Rules or Financial Regulations and Policies; or
- ❑ Falls below established standards of practice; or
- ❑ Amounts to improper conduct.

The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

2.4 This policy does not replace the Council's complaints procedure.

### 3. **SAFEGUARDS**

#### 3.1 **Preventing Harassment or Victimisation**

3.2 The Council is committed to good practice and high standards and wants to be supportive of employees.

3.3 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Council and to the people you are providing a service to. The Council has a "*Preventing Harassment At Work Policy*", a copy of which has been issued to all employees. This policy makes it clear that the Council will not tolerate harassment or



victimisation. The Council will take action to protect you when you raise a concern in good faith.

3.4 This does not mean if you are already the subject of any disciplinary or redundancy procedures, that those procedures will be halted as a result of the whistleblowing..

### 3.5 **Confidentiality**

The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. However, it must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

### 3.6 **Anonymous Allegations**

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.

3.7 In exercising the discretion, the following factors will be taken into account:-

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

### 3.8 **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## 4. **HOW TO RAISE A CONCERN**

4.1 As a first step, you should normally raise concerns with:-

- your Line Manager;
- your Supervisor;
- your Service Head; or
- your trade union representative;

If your concern is serious or you suspect that your immediate management are involved, then please raise it with one of the following officers:

Sarah Taylor                      Head of Legal and Human Resources and Monitoring Officer – ext 2025

Elaine Frecknall                Human Resources Manager – ext 2076

Derek Whiteway                Internal Audit Manager – ext. 2028

Nadine Muschamp                Head of Financial Services and Section 151 Officer – ext. 2117

Mark Cullinan            Chief Executive – ext. 2011

- 4.2 Alternatively, you may wish to raise your concern with your local Councillor or the Chairman of the Standards Committee, who can then advise you on taking the matter forward and with whom it is most appropriate to do so.
- 4.3 Public Concern at Work is a registered charity that promotes accountability and good governance in organisations and responsibility amongst individuals. It can give you free, confidential advice at any stage about how to raise a concern about serious malpractice/wrongdoing at work. It may be contacted by telephone, 0207 404 6609, or by e mail, [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)
- 4.4 Concerns are best raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer. The earlier a concern is expressed, the easier it is to take action.
- 4.5 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 4.6 **YOU CAN OBTAIN HELP, ADVICE AND GUIDANCE ON RAISING CONCERNS FROM ANY OF THE OFFICERS NAMED ABOVE.**
- 4.7 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. However, you should be careful not to convey the concern to anyone other than someone who has a right to know or the proper authority to deal with the concern. If the concern relates to fraud, you need to be careful that the individual against whom the concern is raised is not accidentally “tipped off”, as incriminating evidence could be destroyed.
- 4.8 If you do not wish to raise the concern personally, you may invite your trade union, professional association or local Councillor to raise a matter on your behalf.
5. **HOW THE COUNCIL WILL RESPOND**
- 5.1 It is a manager’s responsibility:
- to deal with any concerns that are raised with the manager in accordance with this Policy,
  - to ensure that concerns are treated seriously and investigated as appropriate,
  - to ensure that appropriate arrangements are made if the individual wishes to raise the matter in confidence,
  - to ensure that anyone raising a concern in accordance with the terms of the Policy is protected from reprisal, and
  - to notify the Monitoring Officer of any concerns that are brought to the manager’s attention.
- 5.2 The action taken by the Council will depend on the nature of the concern. The matters raised may:
- be resolved by agreed action without the need for investigation
  - be investigated internally;

- be referred to the Police;
- be referred to the External Auditor; or
- form the subject of an independent inquiry

5.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns which fall within the scope of specific procedures (e.g. discrimination issues) will normally be referred for consideration under those procedures. During these initial inquiries, the officer concerned may seek advice from more senior officers, the Monitoring Officer and/or other relevant specialists or professionals within the Council as appropriate whilst protecting details relating to the concern (including your identity) as far as possible.

5.4 Within ten working days of a concern being received, the Council will write to you:-

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter, and who is dealing with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made; and
- telling you whether further investigations will take place, and if not, why not (eg there is no substantive case, or the matter can be resolved without investigation, or other formal channels should be used to raise the issue.)

5.5 The amount of contact between the officers considering the issues and you, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

5.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

5.7 Where an investigation is appropriate, the Monitoring Officer will appoint an appropriate Investigating Officer who will investigate the facts surrounding the initial concern and report his/her findings to the Monitoring Officer. In some circumstances the Investigating Officer may seek information from other officers of the Council or individuals outside the Council. Those asked to provide information will be informed:

- that the information is being requested in connection with an investigation in response to a whistleblowing complaint;
- of the way in which the information they provide is likely to be used;
- that they have a right to a formal meeting and representation if they wish;
- of the need to maintain confidentiality .

5.8 The Monitoring Officer is responsible for deciding at which point the individual against whom the concern is raised is to be notified of the concern raised and the evidence supporting it. Where the individual has not been notified and the Investigating Officer feels that the investigation cannot progress without such notification, he/she will liaise with the Monitoring Officer.

- 5.9 If at any time in the course of the investigation there is evidence of criminal activity, the Investigating Officer will inform the Monitoring Officer and a referral will be made to the Police. If at any time there appears to be evidence of a disciplinary case to answer, the Monitoring Officer will refer the matter to the relevant manager to be dealt with in accordance with the Council's Disciplinary Policy and Procedure.
- 5.10 On completion of the investigation, the Investigating Officer will report the facts and his/her conclusions to the Monitoring Officer, who will decide what further action, if any, is required.
- 5.11 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.
- 5.12 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations. Where working practices have been found to be at fault, you will be informed as to what action has been taken to correct them. However, it may not be possible to tell you the precise action being taken where this would infringe a duty of confidence owed by the Council to someone else.

## 6. **HOW THE MATTER CAN BE TAKEN FURTHER**

- 6.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:-
- The External Auditor (if you believe that there has been financial or procedural impropriety).
  - A relevant professional body or regulatory organisation (if you believe professional misconduct has taken place).
  - The Police (if you believe that a criminal act has been committed).
  - Your Solicitor (if you believe that you have suffered loss as a result of what has happened and/or wish to receive further personal advice).
- 6.2 If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information.

## 7. **THE RESPONSIBLE OFFICER**

- 7.1 The Head of Legal and Human Resources as Monitoring Officer has overall responsibility for the maintenance and operation of this policy, and will receive copies of all correspondence and documentation relating to any concern raised under the policy. A record of concerns raised and the outcomes will be maintained by her but in a form which does not endanger your confidentiality. She will report as necessary to the Council's Standards Committee, whose Terms of Reference include monitoring and reviewing as necessary the operation of the Council's Whistleblowing Policy.

Appendix 2



# Whistleblowing Policy & Code of Practice

**Lancaster City Council**

**LANCASTER  
CITY COUNCIL**

*Promoting City, Coast & Countryside*

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## WHISTLEBLOWING POLICY

### IMPORTANT

**This Policy affects you. Please read it carefully.**

The Law requires the Council to protect you should you raise a concern internally within the Council if you know or suspect that:

- **Possible corruption or malpractice is taking place**
- **The Law or Council rules are being broken**
- **The health and safety of any person is being endangered**
- **Damage to the environment is taking place**

### 1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may appear easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment, the Council encourages all employees and others with serious concerns about any aspect of the Council's work, to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that employees can do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or blowing the whistle outside.
- 1.3 Employees should note that the law – through the Public Interest Disclosure Act – now requires the Council to protect employees should they raise a concern internally within the Council, if they know or suspect that any of the above matters are taking place. The Act also encourages the Council, as an employer, to establish a policy and procedure to allow employees to raise such concerns. This Whistleblowing Policy has been drawn up to enable you to raise concerns without fear of reprisal and to ensure that they are dealt effectively with by the Council.
- 1.4 This policy has been discussed with the relevant trade unions and professional organisations and has their support.

### 2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:
  - Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
  - Provide avenues for you to raise those concerns and receive feedback on any action taken;

- ❑ Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- ❑ Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- ❑ Conduct which is an offence or a breach of law
- ❑ Disclosures related to miscarriages of justice
- ❑ Health and safety risks, including risks to the public as well as other employees
- ❑ Damage to the environment
- ❑ The unauthorised use of public funds
- ❑ Possible fraud and corruption
- ❑ Sexual or physical abuse of clients, or
- ❑ Other unethical conduct.

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council, can be reported under the Whistleblowing Policy. This may be about something that:

- ❑ Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- ❑ Is against the Council's Standing Orders and policies; or
- ❑ Falls below established standards of practice; or
- ❑ Amounts to improper conduct.

2.4 This policy does not replace the Council's complaints procedure.

### 3. **SAFEGUARDS**

#### 3.1 **Preventing Harassment or Victimisation**

3.2 The Council is committed to good practice and high standards and wants to be supportive of employees.

3.3 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Council and to the people you are providing a service to. The Council has a "*Preventing Harassment At Work Policy*", a copy of which has been issued to all employees. This policy makes it clear that the Council will not tolerate harassment or victimisation. The Council will take action to protect you when you raise a concern in good faith.

3.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

#### 3.5 **Confidentiality**

The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

#### 3.6 **Anonymous Allegations**



This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.

3.7 In exercising the discretion, the following factors will be taken into account:-

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

### 3.8 **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

## 4. **HOW TO RAISE A CONCERN**

4.1 As a first step, you should normally raise concerns with:-

- your Line Manager;
- your Supervisor;
- your Service Head;
- your trade union representative;

If your concern is serious or you suspect that your immediate management are involved, then please raise it with either:

**Roger Muckle** Corporate Director (Central Services) and Monitoring Officer – ext. 2022

**Katie Wilson** Principal Personnel Officer – ext. 2039

**Derek Whiteway** Internal Audit Manager – ext. 2045

**Nadine Muschamp** Head of Financial Services and Section 151 Officer – ext. 2112

**Mark Cullinan** Chief Executive – ext. 2011

At the Town Hall, Lancaster.

Alternatively, if you prefer you may contact one of the following:

- The Chairperson of the Standards Committee**
- The organisation “Public Concerns at Work”**

4.2 If you are unsure who to raise your concern with, or would like any advice or assistance, please contact any of the above named Officers.

- 4.3 Alternatively, you may wish to raise your concern with your local Councillor or Committee Chair. That Councillor can then advise you on taking the matter forward and with whom it is most appropriate to do so.
- 4.4 Concerns are best raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.
- 4.5 To help you raise a concern, attached to this Policy is a standard reporting form. If you have a concern, please complete this form and send it to the appropriate officer as shown. The earlier you express the concern, the easier it is for the Council to take action.
- 4.6 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 4.7 **YOU CAN OBTAIN HELP, ADVICE AND GUIDANCE ON RAISING CONCERNS FROM ANY OF THE OFFICERS NAMED ABOVE.**
- 4.8 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 4.9 If you do not wish to raise the concern personally, you may invite your trade union, professional association or local Councillor to raise a matter on your behalf.

5. **HOW THE COUNCIL WILL RESPOND**

- 5.1 The action taken by the Council will depend on the nature of the concern. The matters raised may:
- be investigated internally;*
  - be referred to the Police;*
  - be referred to the District Auditor;*
  - form the subject of an independent inquiry*
- 5.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns which fall within the scope of specific procedures (e.g. discrimination issues) will normally be referred for consideration under those procedures.
- 5.3 Some concerns may be resolved by agreed action without the need for investigation.
- 5.4 Within ten working days of a concern being received, the Council will write to you:-
- acknowledging that the concern has been received;*
  - indicating how it proposes to deal with the matter;*
  - giving an estimate of how long it will take to provide a final response;*
  - telling you whether any initial enquiries have been made; and*

- *telling you whether further investigations will take place, and if not, why not.*

- 5.5 The amount of contact between the officers considering the issues and you, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 5.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- 5.7 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.
- 5.8 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

## 6. **HOW THE MATTER CAN BE TAKEN FURTHER**

- 6.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:-

- The District Auditor (if you believe that there has been financial or procedural impropriety).
- A relevant professional bodies or regulatory organisations (if you believe professional misconduct has taken place).
- The Police (if you believe that a criminal act has been committed).
- Your Solicitor (if you believe that you have suffered loss as a result of what has happened and/or wish to receive further personal advice).

- 6.2 If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information or that disclosure would be a breach of qualified privileged.

## 7. **THE RESPONSIBLE OFFICER**

- 7.1 The Corporate Director (Central Services) as Monitoring Officer has overall responsibility for the maintenance and operation of this policy. A record of concerns raised and the outcomes is maintained by him but in a form which does not endanger your confidentiality. He will report as necessary to the Council.

# CODE OF PRACTICE ON WHISTLEBLOWING

## 1. INTRODUCTION

- 1.1 “Whistleblowing” means action by an employee to disclose malpractice in the form of irregularity, wrong doing or serious failures of standards of work.

- 1.2 It is in the interests of all concerned – the Council, employees, whistleblowers and anybody accused of failure, that Whistleblowing is dealt with properly, quickly and discreetly.
- 1.3 This Code of Practice supplements the Council's policy on Whistleblowing.

## 2. **STATUS OF THE CODE OF PRACTICE**

- 2.1 The Code of Practice is complementary to the Council's Code of Conduct for Employees and the Council's Whistleblowing Policy.
- 2.2 This Code of Practice is based on the model as drawn up by the Local Government Association (LGA) and the Local Government Management Board (LGMB).

## 3. **PURPOSE AND SCOPE OF THE CODE**

- 3.1 The Council's Whistleblowing Policy is designed to allow employees to disclose malpractice internally, which is more likely to uphold the reputation of the Council and maintain public confidence than either public disclosures or allowing malpractice to fester.
- 3.2 The Council is committed to the highest possible standards of openness, probity and accountability. In accordance with this commitment, the Council encourages employees and others with serious concerns about aspects of the Council's work and to come forward and voice those concerns.
- 3.3 An employee's concerns about malpractice may in this context include a reasonable belief that one or more of the following has occurred or is likely to occur:
  - Conduct which is a criminal offence or a breach of law
  - Disclosure related to miscarriages of justice
  - Dangerous procedures risking health and safety, including risks to the public as well as other employees
  - Damage to the environment
  - The unauthorised use of public funds
  - Fraud and corruption
  - Sexual or physical abuse of clients; or
  - Other unethical conduct.
- 3.4 The overriding concern for the Council and its employees is that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

## 4. LANCASTER CITY COUNCIL'S WHISTLEBLOWING POLICY

### 4.1 The Council's Whistleblowing Policy:-

- (a) sets out who and what it applies to;
- (b) provides for matters to be dealt with quickly;
- (c) makes clear the Council is committed to tackling malpractice;
- (d) ensures that employees know that malpractice will be dealt with seriously;
- (e) ensures that as much as possible is done to ensure confidentiality for the whistleblower;
- (f) ensures that allegations and responses to them are properly recorded;
- (g) sets out the relationship between the policy and other Council procedures (e.g. that whistleblowing will not halt disciplinary or redundancy procedures against the whistleblower);
- (h) is capable of independence from line management;
- (i) reminds employees that in exceptional circumstances, matters can be raised externally.

## 5. PROCEDURE

### 5.1 Where an employee has concerns about malpractice and is not appropriate to raise them through other procedures such as grievance procedures, they should be raised with either:

- (a) their line manager, supervisor or Service Head; or failing that
- (b) a nominated officer of the Council; or failing that
- (c) their trade union representative; or failing that
- (d) the Chairperson of the Standards Committee; or failing that
- (e) an independent person or organisation designated for the purpose by the Council.

### 5.2 The Whistleblowing Policy sets out the actions that will be taken when concerns or allegations are raised which are within the policy.

### 5.3 When it is apparent from investigation that the person making the disclosure has acted frivolously, maliciously or for personal gain, the Council may decide to take disciplinary action. (Disciplinary codes may need to be amended or clarified accordingly.)

**STANDARDS COMMITTEE**

**WORK PROGRAMME  
22nd January 2009**

**Report of the Monitoring Officer**

**PURPOSE OF REPORT**

To enable the Committee to approve a work programme for the forthcoming year.

**This report is public**

**RECOMMENDATIONS**

**(1) That the work programme attached to the report be approved.**

**1.0 Introduction**

1.1 It is considered good practice for the Standards Committee to have a published work programme, although it is inevitable that this may change from time to time as and when consultation papers are published or new legislation implemented.

**2.0 Proposal Details**

2.1 A draft work programme is attached for Members' consideration, and the Committee is asked to approve the programme with or without amendments.

2.2 Members will note that the work programme provides for a review in June 2009 of its assessment criteria and other procedures for dealing with complaints. This will be a year after the implementation of the new system for the handling of complaints locally. Members will also note that there is reference in the work programme to an ethical governance survey. The Council's External Auditor has recently recommended that an "ethical survey" be conducted with members and officers to assess standards of ethical behaviour and to enable the Council to demonstrate awareness of the importance of high standards. The Monitoring Officer, with the Internal Audit Manager, will be progressing a survey along the lines recommended by the External Auditor, and the results will be reported to this Committee.

2.3 The work programme will be a living document and will be updated as and when required.

**3.0 Details of Consultation**

3.1 There has been no consultation.

**4.0 Options and Options Analysis (including risk assessment)**

4.1 It is open to the Committee to approve the work programme with or without amendment.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)  None arising from this report.	
<b>FINANCIAL IMPLICATIONS</b>  None directly arising from this report.	
<b>SECTION 151 OFFICER'S COMMENTS</b>  The Section 151 Officer has been consulted and has no further comments.	
<b>LEGAL IMPLICATIONS</b>  None directly arising from this report.	
<b>MONITORING OFFICER'S COMMENTS</b>  The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.	
<b>BACKGROUND PAPERS</b>  None	<b>Contact Officer:</b> Mrs S Taylor <b>Telephone:</b> 01524 582025 <b>E-mail:</b> STaylor@lancaster.gov.uk <b>Ref:</b>

**STANDARDS COMMITTEE – WORK PROGRAMME 2009**

NO	ACTION	MEETING DATE	PROGRESS
1.	Consider any further government consultation on proposed revised Code of Conduct	9th April 2009 (or special meeting to coincide with consultation)	
2.	Consider revised Code of Conduct and arrangements for implementation	9th April 2009 or June 2009, or special meeting depending on timing	
3.	Consider training requirements on new Code of Conduct for city and parish councillors	June 2009 or special meeting depending on timing	
4.	Receive information about number of Code of Conduct complaints received and action taken	April and September 2009	
5.	Annual review of registration of interests	June 2009	
6.	Consider Protocol for dealing with press inquiries about Code of Conduct complaints	April 2009	
7.	Review complaint form and information for complainants	22nd January 2009 and June 2009	
8.	Review local assessment criteria, pre-hearing, hearing and investigation procedures	June 2009	
9.	Review procedure for considering allegations of breach of Protocols	June 2009	
10.	Receive report on previous Annual Assembly and consider future attendance	January 2009 and annually	



NO	ACTION	MEETING DATE	PROGRESS
11.	Consider any consultation on new Regulations relating to Joint Committees and Dispensations and/or contents of new Regulations	As required	
12..	Dealing with requests for dispensations	As and when required	
13.	Dealing with Code of Conduct complaints	Sub-Committees as and when required	
14.	Review Whistleblowing Policy and its operation	January 2009 and annually	
15.	Review Planning Protocol	September 2009	
16	Review result of ethical governance survey	April 2009	