



**Committee:** STANDARDS COMMITTEE

**Date:** THURSDAY, 14 JUNE 2012

**Venue:** LANCASTER TOWN HALL

**Time:** 6.00 P.M.

## A G E N D A

1. **Apologies for Absence**

2. **Appointment of Vice-Chairman**

To appoint a Vice-Chairman of the Committee for the 2012/13 municipal year.

3. **Minutes**

Minutes of meeting held on Thursday 3<sup>rd</sup> May, 2012 (previously circulated).

4. **Items of Urgent Business authorised by the Chairman**

5. **Declarations of Interest**

6. **The New Standards Regime under the Localism Act 2011 (Pages 1 - 22)**

Report of the Monitoring Officer

7. **Summary of Complaints (Pages 23 - 25)**

Report of the Monitoring Officer

### ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors

Councillors Chris Coates, Sheila Denwood, Billy Hill, Roger Mace, Roger Sherlock, Joyce Taylor and David Whitaker

Voting Co-optees

Stephen Lamley (Chairman), Margaret Davy, Tony James, David Jordison, Margaret Davy, David Jordison, Sue McIntyre and Frank Senior

**(ii) Substitute Membership**

Councillors

Councillors Shirley Burns (Substitute), Roger Dennison (Substitute), Paul Gardner (Substitute), Kathleen Graham (Substitute), Andrew Kay (Substitute) and Peter Williamson (Substitute)

**(iii) Queries regarding this Agenda**

Please contact Peter Baines, Democratic Services - telephone 01524 582074, or email: [pbaines@lancaster.gov.uk](mailto:pbaines@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,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER, LA1 1PJ

Published on Wednesday 6<sup>th</sup> June 2012.

**STANDARDS COMMITTEE****The New Standards Regime under the Localism Act  
2011  
14th June 2012****Report of the Monitoring Officer****PURPOSE OF REPORT**

To update the Committee on progress with implementation of the Localism Act 2011, and if Regulations and Orders are published before the date of the meeting, to enable it to consider a revised Code of Conduct for recommendation to the Council.

**This report is public**

**RECOMMENDATIONS**

- (1) **That Committee considers the draft Code of Conduct prepared by the Monitoring Officer (and any update circulated before or at the meeting), with a view to making recommendations to Council as to the Code of Conduct it should adopt under the Localism Act 2011**

**1.0 Introduction**

- 1.1 At the time of writing this report, the Monitoring Officer had had sight, through the Association of Council Secretaries and Solicitors (ACSeS) of draft Regulations and implementation Order, and had been advised that the making of the relevant Regulations and Order was imminent.
- 1.2 On that basis, and on the basis of the Committee's previous indication that it would wish to recommend to Council a Code of Conduct that is so far as possible similar to the Council's current code, the Monitoring Officer has prepared the attached draft Code of Conduct for the Committee's consideration. This is in two parts, the first containing general obligations, and the second containing provisions relating to the registration and declaration of interests.
- 1.3 The draft is very much work in progress, and updated drafts may be circulated to Members prior to the meeting.
- 1.4 The Monitoring Officer has also prepared for the Committee's consideration, based on its deliberations at its meeting in January, a document setting out the arrangements to deal with any allegations of breach of the Code of Conduct.

**2.0 Proposal Details**

- 2.1 Appendix 1 to this report is a draft Part A of a new Code of Conduct, dealing with general obligations. In preparing this draft, the Monitoring Officer has tried to update the provisions of the current 2007 Code, whilst keeping those provisions so far as possible unchanged, as requested by the Committee. In particular, the Committee is asked to consider the new paragraph 6 which has

been inserted in the light of the discussions at the Committee's last meetings. The Monitoring Officer felt that it was appropriate to include these provisions in the actual Code rather than the preamble, but the Committee's views on this are sought.

- 2.2 Appendix 2 to this report is a draft Part B of a new Code of Conduct dealing with the declaration and registration of interests. Section 1 of this Part deals with disclosable pecuniary interests, and reflects the provisions of the Localism Act 2011 and draft Regulations which define disclosable pecuniary interests.
- 2.3 With regard to disclosable pecuniary interests, the Monitoring Officer would recommend that the Council Procedure Rules be amended to require a member with a disclosable pecuniary interest to leave the room whilst any discussion and voting takes place. This would replicate the position under the current Code.
- 2.4 The Act and draft Regulations do not require a member to update the registered disclosable pecuniary interests unless and until an item of business relating to such an interest arises. The Committee may wish to consider recommending a local requirement in the Code to register disclosable pecuniary interests as and when they arise.
- 2.5 Section 2 of Part B deals with other interests that do not fall within the definition of disclosable pecuniary interests. This Section is broadly a simplified version of the current Code, and the Committee's views on it are sought. In particular, the Committee may wish to consider the appropriate threshold for registering and declaring gifts and hospitality.
- 2.6 A copy of the current 2007 Code is attached at Appendix 3 for ease of reference.
- 2.7 Draft arrangements for dealing with allegations of breach of the Code of Conduct are attached at Appendix 4. These are based on the Committee's discussions at its meeting in January 2012.

**3.0 Details of Consultation**

- 3.1 Appendices 1 and 2 are working documents as the final government Regulations and Orders had not at the time of writing this report been published. The Monitoring Officer has received advice from ACSes and has had discussions with fellow Monitoring Officers

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

- 4.1 The appendices are for discussion, with a view to the Committee making recommendations to Council. However, much will depend on whether Regulations and Orders are made prior to the meeting, and whether the commencement date is known by then.

**.5.0 Conclusion**

Any further information that becomes available will be reported in advance of or at the meeting.

<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>LEGAL IMPLICATIONS</b></p>

The Code of Conduct will need to comply with the Localism Act 2011 and Regulations made thereunder.

**FINANCIAL IMPLICATIONS**

None arising from this report.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:**

None

**Information Services:**

It will be a requirement for the registers of interests of the City Council and the parish councils within its district to be available on the City Council's website.

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

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

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring officer in her capacity as adviser to the Standards Committee

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs Taylor

**Telephone:** 01524 582025

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

**Ref:**

## **LANCASTER CITY COUNCIL**

### **DRAFT CODE OF CONDUCT**

#### **PREAMBLE TO THE CODE OF CONDUCT**

This Preamble provides an explanatory introduction to the Members' Code of Conduct. It does not form part of the Code of Conduct, and in the event of any conflict between the Preamble and the Code, the Code shall take precedence.

##### **Introduction**

The City Council has adopted the following code dealing with the conduct that is expected of members and co-opted members of the Authority when they are acting in that capacity, as required by section 27 of the Localism Act 2011 ("the Act").

The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Members and the Code sets out the standards that the Council expects Members to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code and the Protocols contained in the Council's Constitution, as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years.

Members have a responsibility to ensure that they comply with the Code of Conduct in all respects. They should regularly review their personal circumstances and intended actions in the context of the Code.

If in doubt, Members should seek advice from the Monitoring Officer or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Members themselves.

Members should not do anything in their capacity as councillors, which they could not justify to the public or could not justify by law. Members' conduct and what the public believe about their conduct will affect the reputation and credibility of Members and the Council as a whole.

It is not enough to avoid impropriety; perception is also important. Members should at all times avoid any occasion for suspicion and any appearance of improper conduct.

##### **SEVEN GENERAL PRINCIPLES OF CONDUCT**

The Code is intended to be consistent with the following seven principles, as required by the Act.

##### **Selflessness**

1. Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity**

2. Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity**

3. In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

**Accountability**

4. Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness**

5. Holders of public office should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

**Honesty**

6. Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest

**Leadership**

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

## **DRAFT CODE OF CONDUCT**

### **Part A General provisions**

#### **Introduction and interpretation**

1. —(1) This Code applies to **you** as a member of an authority.  
(2) You should read this Code together with the general principles prescribed by the Secretary of State.  
(3) It is your responsibility to comply with the provisions of this Code.  
(4) In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;

(c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

### **Scope**

2. —(1) Subject to sub-paragraph (2) you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

### **General obligations**

3. —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach the Equality Act 2010 (or subsequent legislation)

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—



- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5.** You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council or the office of councillor into disrepute.

**6.** You must:

(a) champion the needs of residents- the whole community and in a special way your constituents, including those who did not vote for you - and put their interests first, and

(b) deal with representations or inquiries from residents and visitors, fairly, appropriately and impartially

**7.** You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**8.** —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance (section 151) officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

# **DRAFT**

## **Code of Conduct Part B - Interests**

### **Section 1**

#### **Disclosable Pecuniary Interests**

This part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

#### **1. Notification of disclosable pecuniary interests**

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions:

- (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
- (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.
- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant

authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the foregoing “relevant authority” means the city Council; “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above..

## **2. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council’s website.

## **3. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011..

## **4, Non participation in case of disclosable pecuniary interest**

a) If you are present at a meeting of the Council, Cabinet. or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- You may not participate in any discussion of the matter at the meeting.
- You may not participate in any vote taken on the matter at the meeting.
- If the interest is not registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

b) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5. Dispensations**

The Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## **6. Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

### **7. Notification of changes**

Whilst not a requirement of the statute, the Council under this Code of Conduct requires you to notify the Monitoring Officer within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

## **Section 2 Other Interests**

### **8. Notification of Other Interests**

In addition to the foregoing, you must, within 28 days of this Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, for inclusion in the register of interests:

- (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (c) Details of any gift or hospitality with an estimated value of at least £ that you have received in connection with your role as a member of the Council, and details of the donor.

You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

### **9. Disclosure of Other Interests**

(1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8 above or in paragraph (2) below in any business of your authority, and

where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) You have an interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association.

(3) Where you have an interest in any business of the authority of the type mentioned in paragraph 8(2)(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph 11, sensitive information relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.

(5) Where you have an interest in any business of your authority by virtue of paragraph 8 or 9(2), and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## **10. Register of interests**

(1) Any interests notified to the Monitoring Officer will be included in the register of interests.

(2) A copy of the register will be available for public inspection and will be published on the authority's website.

(3) Where a disclosable pecuniary interest is notified to the Monitoring Officer it need not be separately notified or separately registered as an interest under this section of the Code.

## **11. Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

## **12. Non participation in case of certain other interests**

(1) Where you have an interest in any business of your authority by virtue of paragraph 8 or 9(2) **AND** the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest **AND** where that business—

(a) affects your financial position or the financial position of a person or body through whom the interest arises ;or

(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises,

you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

Note: In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

(2) Where you have an interest in any business of your authority to which paragraph 12(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) an allowance, payment or indemnity given to members;

(iii) any ceremonial honour given to members; and

(iv) setting council tax or a precept under the Local Government Finance Act 1992.

(4) Where, as an executive member, you may discharge a function alone, and you become aware of an interest under paragraph 12(1) in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## LANCASTER CITY COUNCIL

### CODE OF CONDUCT

#### Part 1 General provisions

##### Introduction and interpretation

1. —(1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

##### Scope

2. —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.



(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

**3.** —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

**4.** You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5.** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

**6.** You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7.** —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

**Personal interests**

8. —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person

to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

**9.** —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

**10.** —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

**12.** —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being

considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### Part 3 Registration of Members' Interests

#### **Registration of members' interests**

**13.** —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### **Sensitive information**

**14.** —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

# DRAFT

## LANCASTER CITY COUNCIL

### LOCALISM ACT 2011 SECTION 28

#### ARRANGEMENTS FOR DEALING WITH ALLEGATIONS THAT A MEMBER OF THE CITY COUNCIL OR A MEMBER OF A PARISH COUNCIL WITHIN THE DISTRICT OF THE COUNCIL HAS FAILED TO COMPLY WITH THE RELEVANT CODE OF CONDUCT

An allegation that a city councillor or parish councillor has failed to comply with the requirements of the relevant Code of Conduct must be made in writing to:

Mrs S Taylor, Monitoring Officer, Lancaster City Council, Town Hall, Lancaster LA1 1PJ

An allegation may be sent by email to [STaylor@lancaster.gov.uk](mailto:STaylor@lancaster.gov.uk)

The allegation 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, Carnforth, Caton-with-Littledale, Cloughton, Cockerham, Ellel, Gressingham, Halton-with-Aughton, Heaton-with-Oxcliffe, Hornby-with-Farleton, Ireby and Leck, Melling-with-Wrayton, Middleton, Morecambe, 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.

The allegation 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](http://www.lancaster.gov.uk). The Code of Conduct adopted by a parish or town council is available on that council's website or from the relevant parish or town council clerk.

#### Procedure once an allegation is received

Once an allegation is received, the Monitoring Officer will seek informal resolution wherever possible.

If informal resolution is not possible, the Monitoring Officer will, in consultation with the Independent Person, the Chairman (or Vice-Chairman) of the Standards Committee, and, if appropriate the Chief Executive, determine whether the complaint merits formal investigation, or whether no further action should be taken.

The Monitoring Officer may refer particular complaints to the Standards Committee if she feels that it would be inappropriate for her to take the decision.

The Monitoring Officer will report to each scheduled Standards Committee meeting on the number and nature of complaints received and decisions taken on them.

#### Investigation

Where a complaint is referred for investigation, the Monitoring Officer will arrange for the investigation to be undertaken by an officer of the Council, or by an external investigator.

If the investigating officer finds no evidence of failure to comply with the Code, the Monitoring Officer is authorised to close the matter, in consultation with the

Independent Person, Chairman (or Vice-Chairman) and, if appropriate, the Chief Executive. However, the Monitoring Officer may refer the matter to the Standards Committee if she considers this would be appropriate. The Monitoring Officer will in any event provide a summary to the next meeting of the Standards Committee.

Where a formal investigation finds evidence of failure to comply with the Code, there may yet be an opportunity for local resolution, avoiding the need for a hearing. Sometimes the investigation report can cause a member to recognise that the conduct was at least capable of giving offence, and the complainant may be satisfied by recognition of fault or an apology. The Monitoring Officer has authority to agree a local resolution, in consultation with the Independent Person, the Chairman (or Vice-Chairman) and, if appropriate, the Chief Executive, subject to the complainant being satisfied with the outcome, and subject to a summary report to the Standards Committee.

In all other cases where the formal investigation finds evidence of a failure to comply with the Code, the Standards Committee (or a Sub-Committee) will hold a hearing at which the member complained of may respond to the investigation report and the Committee (or Sub-Committee) will determine whether the member did fail to comply with the Code and what action, if any is appropriate.

The sanctions open to the Standards Committee are to censure, to report the findings to full Council, (in effect “naming and shaming”), to recommend the member’s Group Leader to remove the member from any or all Committees, to withdraw Council facilities, such as a computer, or exclude the member from the Council’s offices with the exception of meeting rooms as necessary for attending meetings of Council/Committee. There is no right of appeal.

With regard to parish councillors, the Standards Committee may make a recommendation to the parish council on action to be taken in respect of the councillor. Parish councils will be under no obligation to accept any such recommendation.

Monitoring Officer

June 2012



**STANDARDS COMMITTEE****SUMMARY OF COMPLAINTS****14th June 2012****Report of the Monitoring Officer****PURPOSE OF REPORT**

To update the Committee with a summary of progress on recent complaints of alleged breach of the Code of Conduct.

**This report is public**

**RECOMMENDATIONS**

(1) That the report be noted.

**1.0 Introduction**

1.1 The Committee regularly receives update reports on allegations of breach of the Code of Conduct, and the latest summary is attached to this report.

**2.0 Details**

2.1 The previous review report received by the Committee was in January 2012, and the attached summary covers complaints which were outstanding at that meeting or have been received since that meeting.

2.2 At the time of writing this report, no information was available as to whether the government would be making an Order setting out transitional provisions for dealing with complaints still under consideration on the date of implementation of the new standards regime. Any update will be given at the meeting.

**3.0 Details of Consultation**

3.1 There has been no consultation.

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

4.1 The overview of complaints is for noting.

**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 capacity as adviser to the Standards Committee.

**BACKGROUND PAPERS**

None

**Contact Officer:** Mrs S Taylor

**Telephone:** 01524 582025

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

**Ref:**

**STANDARDS COMMITTEE 14TH JUNE 2012 – SUMMARY OF COMPLAINTS**

<b>REF</b>	<b>SUBJECT MEMBER</b>	<b>COMPLAINANT</b>	<b>DATE OF COMPLAINT</b>	<b>DATE OF ASSESSMENT SUB-COMMITTEE</b>	<b>SUMMARY OF COMPLAINT</b>	<b>OUTCOME</b>
7/11	City Councillor	Council officer	19/10/11	4/11/11	Failing to treat with respect	Referred to MO for investigation. Hearing to take place 11/6/12
1/12	Parish Councillor	Member of the public	23/1/12	8/2/12	Requesting member of public to leave council meeting	No action
2/12	Parish Councillor	Member of the public	24/1/12	8/2/12	Contacting complainant by telephone	No action
3/12	10 City Councillors	Member of the public	20/3/12	18/4/12	Various matters at Planning Committee	No action
4/12	City Councillor	Council officer	20/3/12	4/4/12	Using position to confer advantage on another/disrepute	Referred to MO for investigation
5/12	Parish Councillor	City Councillor	13/4/12	18/4/12	Disrespect/bullying	No action