



Committee: STANDARDS COMMITTEE
Date: THURSDAY, 11 OCTOBER 2012
Venue: LANCASTER TOWN HALL
Time: 6.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on 3rd September 2012 (previously circulated).

3. **Declarations of Interest**

To receive declarations by members of interests in respect of items on this agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, members should declare any disclosable pecuniary interests which they have already declared in the Register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

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

5. **Arrangements for Complaints of Breach of Code of Conduct (Pages 1 - 18)**

Report of the Monitoring Officer

6. **Review of the Whistleblowing Policy (Pages 19 - 34)**

Report of the Monitoring Officer

7. **Requests for Dispensations (Pages 35 - 37)**

Report of the Monitoring Officer

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors

Councillors Roger Sherlock (Chairman), Roger Mace (Vice-Chairman), Chris Coates, Sheila Denwood, Billy Hill, Joyce Taylor and David Whitaker

(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.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Wednesday 3rd October 2012.

STANDARDS**Arrangements for Complaints of Breach of Code of
Conduct
11th October 2012****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to review its arrangements for dealing with allegations of breach of the Code of Conduct.

This report is public

RECOMMENDATIONS

- (1) That the Committee considers the issues set out in the report, and highlighted in bold type, and authorises the Monitoring Officer to amend the “Arrangements“ document in accordance with the views expressed by the Committee at this meeting.
- (2) That the Committee approves the Assessment Criteria appended to this report to form an appendix to the “Arrangements” document.
- (3) That the Committee approves the Investigation Procedure, Pre-Hearing Procedure and Hearings Procedure appended to this report.
- (4) That in the light of the views of the Committee on how it would wish to respond to press inquiries, the Monitoring Officer prepare a Press Protocol and revised Protocol on Publicity for Complaints of Breach of the Code of Conduct for consideration at a future meeting.

1.0 Introduction

- 1.1 Section 28(7) of the Localism Act 2011 provides that a relevant authority other than a parish council must have in place arrangements under which allegations (of breach of the Code of Conduct) can be investigated, and arrangements under which decisions on allegations can be made.
- 1.2 Prior to the implementation of the new standards regime on the 1st July 2012, the Committee considered at its meetings in January and June 2012 the arrangements for dealing with allegations, and the attached “Arrangements” document was prepared (Appendix 1). The Committee already had investigation, pre-hearing and hearing procedures which were used under the old regime, but these were not updated at that time.
- 1.3 Members will recall that, under the Local Government Act 2000, there was a very rigid procedure to be followed whenever a complaint was received, in that it was necessary to convene an Assessment Sub-Committee to decide whether the complaint should be investigated or no action taken. In the event

of no action, the complainant had a right to request a review which was carried out by a Review Sub-Committee.

- 1.4 It was envisaged that under the new regime, there would be more flexibility in dealing with and seeking to resolve complaints, and for that reason, the "Arrangements" document, as originally drafted was not particularly detailed. However, the complaints that have been received by the Monitoring Officer since the implementation of the new regime have raised a number of issues that are not specifically covered in the current "Arrangements" document. The Monitoring Officer now feels that it would helpful to her, to the Committee, to complainants and to members who are the subject of a complaint, if the "Arrangements" document were more detailed.
- 1.5 The issues that have arisen are set out below, and **bold type** has been used to identify the matters on which the Committee's views are particularly sought. In preparation for this meeting, the Monitoring Officer has amended the "Arrangements" document (Appendix 2). The changes are tracked, and the document is intended to be a working document which will be finalised in the light of the Committee's views.

2.0 Proposal Details

Arrangements on receipt of a complaint

- 2.1 The arrangements currently provide that 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.
- 2.2 The arrangements do not make it clear whether in all cases the member complained of should be advised of the complaint as soon as it is received, and, if so, whether the Monitoring Officer should provide a summary of the complaint or a full copy. On one hand, it could be argued that the member should be able to see the whole complaint; on the other hand, sight of the actual complaint may make informal resolution less likely. Members will recall that under the previous regime a member was not informed of a complaint until the complaint had been assessed. However, it is not possible to seek informal resolution if the member is not advised of the complaint. **The Committee's views are therefore sought as to whether a member should be routinely informed of a complaint when it is received, and, if so, whether the full complaint or a summary should be provided. The Committee might also wish to consider whether the member should be invited to provide an initial response to the complaint at that stage, prior to any decision on whether the complaint should be investigated.**
- 2.3 The City Council is responsible for dealing with complaints that a member of a parish council, acting as such, has failed to comply with the Code of Conduct. **The Committee's views are sought as to whether, when such a complaint is received, the clerk to the parish council should as a matter of course be advised of the complaint, and, if so, in how much detail.**
- 2.4 If the press become aware of a complaint at this initial stage and request

confirmation of, or information about the complaint, it is suggested that the standard response should be that no comment will be made at the pre-assessment stage and that no confirmation will be given as to whether a complaint has been received or not. **The Committee's views on this are sought.**

- 2.5 Members may recall that under the Local Government Act 2000 regime, there was provision for the Assessment Sub-Committee to refer a complaint to Standards for England, and that this applied in particular where the complainant was a senior officer or member of the Council. As indicated above, the current arrangements provide for the Monitoring Officer, following a consultation process, to determine whether or not a complaint is referred for investigation, although she may refer the matter to the Committee if she feels that it would be inappropriate for her to take the decision. The Monitoring Officer is minded that where the complainant is the Chief Executive or a Service Head, or where the complainant or the member complained of is the Leader of the Council, or a Group Leader, she will as a matter of course refer to the Committee the decision as to whether or not the complaint is to be investigated. There may be other circumstances where she considers it inappropriate to make the decision, and will retain the right to refer the matter to the Committee.
- 2.6 Members will recall that under the previous regime, the Standards Committee adopted assessment criteria which were used to assess complaints. The Monitoring Officer considers that it may be helpful to continue to use such criteria, and a draft document is attached at Appendix 3 which, if members agree, could be appended to the "Arrangements" document.
- 2.7 Under the current arrangements, once the decision has been taken either by the Monitoring Officer or the Standards Committee not to refer a complaint for investigation, there is no provision for further consideration of the matter. **The Committee is asked to consider whether, where the decision has been taken by the Monitoring Officer, and that decision is that no action should be taken, that should be the end of the matter, or whether it would wish to consider the complaint itself if the complainant so requests.** The danger of such an approach is that all unsuccessful complainants would be able to use the right of appeal to the Committee, thus removing the current early filtering process for complaints that appear to have no merits.
- 2.8 The current arrangements provide for the Monitoring Officer to report to each scheduled Standards Committee on the number and nature of complaints received and decisions taken on them. Under the previous regime, once a complaint had been assessed by an Assessment Sub-Committee, there was a statutory obligation to publish a summary which included the identity of the member complained of. Those provisions no longer apply. **The Committee is asked therefore to consider whether the report to Committee summarising complaints received and informing the Committee whether or not they were referred for investigation, should be a public report but with the complaints anonymised, or an exempt report with the members complained of and the complainants identified, but for the Committee's benefit only, or whether the public interest requires that in the interests of transparency, information about each complaint including the identity of the member complained of and the complainant should be in a public report.** This may be particularly relevant where a case has been referred for investigation, and the investigation is ongoing. However, even where no action has been taken on a complaint, there are arguments both for and against making public the fact that a complaint has been made against a

named member. There is a need to balance the public interest in openness and transparency with the interests of a member complained of, particularly where a complaint may have no merit.

- 2.9 Before the report referred to in 2.8 above, and as soon as a complaint has been assessed, it is possible that the press may make inquiries if they already have information about the complaint. **The Committee is asked to consider whether it wishes the Monitoring Officer to confirm in response to press inquiries the identity of the member complained of, a summary of the complaint, and whether or not the complaint has been referred for investigation. It would probably be difficult to decline to comment at this stage. The Committee may also wish to consider whether the member complained of should be permitted to make any public comment at the stage. The Council's Protocol under the previous regime prevented members from commenting until after the complaint had been concluded.**

Pre-Hearing and Hearing Procedures

- 2.10 The Monitoring Officer has updated the Investigation Procedure, Pre-Hearing Procedure and Hearing to reflect the new standards regime. **The Committee is asked to approve these amended documents (Appendices 4, 5 and 6 respectively).**
- 2.11 Given that the Committee now comprises seven members only, it would seem appropriate for hearing to be dealt with by the full Committee, rather than by a sub-committee as previously, and the Hearing Procedure has been amended to reflect this.

3.0 Details of Consultation

- 3.1 There has been no consultation

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The Committee's views are sought on the issues set out above, and will inform the contents of the revised "Arrangements" document.

5.0 Conclusion

- 5.1 The Committee's views are sought

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The arrangements for dealing with complaints should reflect the human rights legislation which demands a fair hearing, but should also reflect the need for transparency in the process.

LEGAL IMPLICATIONS

There are no direct legal implications arising from this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

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 Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

APPENDIX 1

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

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. 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

APPENDIX 2

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

These arrangements are made under sections 28(6) and (7) of the Localism Act 2011, and set out how the City Council will deal with allegations that a city or parish councillor has failed to comply with the relevant Code of Conduct.

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Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided should be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation has been made. The City Council has appointed an Independent Person and two reserves. It is envisaged that a member complained of will not consult with the same Independent Person who is advising the Monitoring Officer or the Committee.

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Making an Allegation

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:

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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. A form for this purpose is available on the Council's website www.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. 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.

Anyone making an allegation should provide full details of the conduct complained of and how it is alleged to constitute a breach of the relevant Code of Conduct. Details of the person making the allegation will generally be provided to the member, unless the Monitoring Officer considers that there are special reasons for keeping this information confidential.

Procedure once an allegation is received

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Once an allegation is received, the Monitoring Officer will advise the member of the

allegation, and invite the member to make any comments. If the allegation relates to a parish councillor, acting as such, the Monitoring Officer will inform the clerk to the parish council of the allegation.

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In appropriate cases, the Monitoring Officer may seek to resolve the matter informally. This may involve the member accepting that his/her conduct was unacceptable and offering an apology.

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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, and will generally do so where the complainant is the Chief Executive or a Service Head, or where the complainant or the member complained of is the Leader of the Council or a Group Leader. There may be other circumstances where the Monitoring Officer considers that it would not be appropriate for her to take the decision.

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Whilst each allegation will be considered on its own facts, the assessment criteria (Appendix 1) will be applied in considering whether or not an allegation should be investigated.

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

If an allegation is not referred for investigation, the complainant has no right of appeal.

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. The Investigation Procedure is attached at Appendix 2.

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 will hold a hearing at which the member complained of may respond to the investigation report and the Committee will determine whether the member did fail to comply with the Code and what action, if any is appropriate. The Committee's Pre-hearing and Hearing Procedures are attached at Appendices 3 and 4. The Hearing Committee will be advised by an Independent Person and by the Monitoring Officer.

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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

October 2012

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LANCASTER CITY COUNCIL STANDARDS COMMITTEE – ASSESSMENT CRITERIA

A. The Monitoring Officer will reject a complaint if it fails to meet one or more of the following tests:

A1 The complaint is against one or more named Members or co-opted Members of the Council or a parish or town council within the district.

A2 The member complained of was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.

A3 The complaint, if proven, would be a breach of the Code of Conduct under which the member was operating at the time of the alleged misconduct.

B. The Monitoring Officer (following consultation with the Independent Person, the Chairman (or Vice-Chairman of the Committee) and the Chief Executive, if appropriate) or the Standards Committee may decide to refer a complaint for investigation:

B1 Where the complaint discloses a potential breach of the Code of Conduct sufficiently serious, if proven, to warrant a sanction, and where it would be in the public interest to investigate

C. Circumstances where the Monitoring Officer (following consultation with the Independent Person, the Chairman (or Vice-Chairman of the Committee) and the Chief Executive, if appropriate) or the Standards Committee may decide that no action should be taken in respect of a complaint:

C1 Where the complaint is about someone who is no longer a member of the city council or a parish or town council

C2 Where a substantially similar allegation has previously been made by the complainant to the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority

C3 Where the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now. It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, it may be appropriate to refer the complaint for investigation or other action.

C4 Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter

C5 Where the allegation discloses a potential breach of the Code of Conduct, but the complaint does not appear serious enough to warrant further action

C6 Where the complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the complaint

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR CASES REFERRED FOR INVESTIGATION

1. When an allegation is referred by the Monitoring Officer or the Standards Committee for investigation, the Monitoring Officer will within five working days, inform the member who is the subject of the allegation of failure to comply with the code of conduct, ("the Subject Member"), the person who made the allegation ("the Complainant"), and the clerk to any parish council concerned that the matter has been referred for investigation.
2. The Monitoring Officer will appoint an Investigating Officer who may be an officer of the Council, or an external investigating officer. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation, and may obtain such professional advice as may be necessary. The Monitoring Officer will advise the Subject Member and the Complainant of the appointment of the Investigating Officer.
3. The Investigating Officer may make such inquiries as he/she thinks necessary or expedient for the purposes of conducting the investigation, and may request any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.
4. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Member. The Subject Member will be advised that he/she may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish.
5. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.
6. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Member and the Complainant for review and comment, and will indicate that it does not necessarily represent the Investigating Officer's final finding.
7. If the Investigating Officer issues a draft report, he/she will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report.
8. The Investigating Officer's final report will include all relevant documents, and copies of all witness statements obtained during the course of the investigation. The report will commence with a statement of the Investigating Officer's finding.

The finding will be either that there has been a failure to comply with the code of conduct of the authority concerned, or as the case may be any other authority concerned (“a finding of failure”), or that there has not been a failure to comply with the code of conduct of the authority concerned, or as the case may be, of any other authority concerned (“a finding of no failure”).

9. The Investigating Officer will submit the final report to the Monitoring Officer.

APPENDIX 5

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

PRE-HEARING PROCEDURE

1. Where an investigation report has found that there has been a breach of the Code of Conduct, and the matter cannot otherwise be resolved by local resolution, for example by the Subject Member admitting the breach and apologising, a hearing will be arranged. The hearing will generally be a meeting of the Committee convened specifically for that purpose..
2. A copy of the investigation report will be sent to the Subject Member, the complainant, the clerk to the parish council if the complaint relates to the Subject Member's conduct as a parish councillor, and to the Independent Person.
3. The Subject Member will be asked for a written response within fifteen working days, which response shall set out the Subject Member's reply to the Investigating Officer's report and shall state whether he/she
 - disagrees with any of the findings of fact in the report, giving the reasons for any disagreement
 - wishes to be represented by a solicitor or barrister, or by any other person
 - wishes to give evidence to the Committee, either orally or in writing
 - wishes to call relevant witnesses to give evidence to the Committee
 - wishes any part of the hearing to be held in private
 - wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the public

Forms will be provided for this response.

4. The Subject Member shall be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.
5. Upon receipt of the Member's response, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not he/she
 - wishes to call relevant witnesses to give evidence or submit written or other evidence to the Committee
 - wishes any part of the hearing to be held in private
 - wishes any part of the report or other relevant documents to be withheld from the public
6. Upon receipt of the Investigating Officer's response, the Monitoring Officer or other legal adviser will consider the responses of the Subject Member and the Investigating Officer and set a date for the hearing in consultation with the chairman of the Committee.
7. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the Committee may limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the

evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.

8. Nothing in this procedure shall limit the Chairman of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.
9. The Monitoring Officer/Legal Adviser, in consultation with the Chairman and the Independent Person, will:
 - confirm a date, time and place for the hearing
 - confirm the main facts of the case that are agreed
 - confirm the main facts that are not agreed
 - provide copies of any written evidence to the relevant parties
 - confirm which witnesses will be called by the parties
 - provide the parties with copies of the proposed procedure for the hearing, specifying which parts of the matter, if any, may be considered in private

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

HEARING PROCEDURE

1. The Hearing Committee shall decide, on a balance of probabilities, on the evidence presented to it, whether the complaint is upheld.
2. All matters shall be decided by a simple majority of votes cast. If there are equal numbers, the Chairman shall have a second and casting vote.
3. The Independent Person shall attend the hearing in an advisory, non-voting capacity.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed.
5. The Procedure for the hearing shall be as follows, but the Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such variation is necessary in the interests of fairness.
6. The Subject Member may be represented or accompanied during the meeting by a solicitor or barrister, or with the permission of the Committee, another person. It is the responsibility of the Subject Member to arrange any representation.
7. The Committee may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Committee will be shared with the Subject Member and Investigating Officer if they are present at the hearing.
8. At the start of the hearing, the Chairman shall introduce each of the members of the Committee, the Independent Person, the Subject Member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Committee will follow in the conduct of the hearing.
9. The Committee shall then confirm that it is quorate, and deal with any disclosures of interests.
10. If the Subject Member is not present at the start of the hearing:
 - The Chairman will ask the Monitoring Officer/Legal Adviser whether the Subject Member has indicated his/her intention not to attend the hearing
 - The Committee shall then consider any reasons which the Subject Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend
 - If the Committee is satisfied with such reasons, it shall adjourn the hearing to another date
 - If the Committee is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the Subject Member, or to adjourn the hearing to another date.

11. After the preliminary procedures, the Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.
12. If there is disagreement, the Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Committee, witnesses can be called to give relevant evidence. The Subject Member, the Committee members and the Independent Person may ask questions of the Investigating Officer or any witness.
13. The Subject Member or his/her representative will then present the evidence that is relevant to the facts in dispute. With the permission of the Committee, witnesses can be called to give relevant evidence. The Investigating Officer, the Committee members and the Independent Person may ask questions of the Subject Member or any witnesses.
14. If the Subject Member disagrees with any relevant fact in the report without having given prior notice, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation, the Committee may continue with the hearing, relying on the information in the report, may allow the Subject member to make representations about the issue and invite the Investigating Officer to respond and call any witnesses as necessary, or may postpone the hearing to arrange for appropriate witnesses to be present.
15. The Committee will consider in private, with the Independent Person, all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct. Depending on the complexity of the case, this may be done in two stages, with the Committee first hearing evidence and making findings of fact, and then hearing representations as to whether, on those facts, there has been a failure to comply with the Code of Conduct and making a finding on that issue.
16. At any stage in the consideration of the matter, the Committee may return to ask further questions of the Investigating Officer or the Subject Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
17. At the conclusion of the Committee's deliberations, the Chairman will advise the Subject member and the Investigating Officer of their findings.
18. If the Committee concludes that the Subject Member has failed to comply with the Code of Conduct, the Chairman will invite representations from the Investigating Officer and the Subject Member as to what action, if any, it should take, and will take advice also from the Independent Person. The Committee may ask questions of the Subject Member and the Investigating Officer. The Subject Member will be invited to make any final relevant points.
19. The Committee shall then consider in private, with the Independent Person whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect.
20. The sanctions open to the Committee are:
 - to censure the Subject Member
 - to report its findings to full Council

- to recommend the Subject Member's Group leader to remove the member from any or all Committees, or, if appropriate, to recommend the Leader to remove the member from Cabinet
 - to withdraw 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/Committees
21. If the finding relates to the Subject Member's conduct in his/her capacity as a parish councillor, the Committee will report its findings to the parish council, and may make recommendations to the parish council on sanctions.
 22. In deciding to impose a sanction, the Committee shall consider all the relevant circumstances.
 23. The Chairman will announce the decision of the Committee. Written notice of the findings of the Committee will be given as soon as is reasonably practicable to the Subject Member. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Committee will be sent to the clerk to the parish council.
 24. The Committee may consider making any recommendations to the authority concerned with a view to promoting higher standards of conduct among its members.
 25. The decision of the Committee, whether or not there has been a finding of breach of the Code of Conduct, will be made public.

STANDARDS COMMITTEE**Review of the Whistleblowing Policy
11th October 2012****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider and approve a revised Whistleblowing Policy, to be known as the "Raising Concerns Policy"

This report is public

RECOMMENDATIONS

- (1) **That the revised Raising Concerns Policy appended to this report be approved**

1.0 Introduction

- 1.1 In conjunction with an Internal Audit report on reviewing corporate whistleblowing arrangements, Internal Audit and the Head of Governance as Monitoring Officer, have been reviewing the Council's Whistleblowing Policy to ensure that it is up to date and follows best practice.
- 1.2 The existing policy is appended to this report for members' information, together with the proposed revised version, which has been the subject of consultation with the trade unions.
- 1.3 The policy has been updated to ensure that it reflects best practice, and, in the review process, it has been compared with the policies of other local authorities.
- 1.4 The Policy has previously been called the "Whistleblowing Policy". However, the term 'whistleblowing' has in the past been confused with anonymous informing which could have a negative impact in terms of encouraging officers to raise any concerns they may have. Some organisations refer to "Raising Concerns" or "Speaking Up", in order perhaps to make it more clear what the policy is about. It was felt that "Raising Concerns" was perhaps a more appropriate title.
- 1.5 In conducting the review, the opportunity has been taken to take account of a Lancashire Supporting People "Safeguarding and Protection From Abuse Validation Inspection" on the sheltered housing service the council provides for Lancashire Supporting People. This is part of the accreditation to provide the service. The action required following the inspection was "to update the whistle blowing policy to include names and contact details for current external regulatory or professional bodies that are relevant to the work of the council given that potential users of the policy may not appreciate who the relevant bodies are or how to contact them." As a result, Appendix B has been amended to include the Homes and Communities Agency and Lancashire Supporting People.

1.6 A set of Frequently Asked Questions (FAQs) and answers has also been developed to support the Policy, and this will be available on the Council's intranet..

1.7 The draft revised policy was circulated to the trade unions on the 8th August 2012 for their comments. Unison responded to the effect that they welcomed the changes and had no further comments.

2.0 Proposal Details

2.1 Approval of the whistleblowing policy falls within the terms of reference of this Committee, and the attached revised "Raising Concerns Policy" is therefore submitted for approval by the Committee.

2.2 It is intended that the Committee will continue to review the operation of the policy on an annual basis, in January each year.

3.0 Details of Consultation

3.1 The trade unions were consulted on the draft revised policy.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options open to the Committee are to approve the attached revised policy, or to approve it with amendments, or not to approve an amended policy. The officer recommendation is to approve the attached revised policy, which it is considered reflects best practice.

CONCLUSION OF IMPACT ASSESSMENT

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

None directly arising from this report.

LEGAL IMPLICATIONS

There are no direct legal implications arising from this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

Human resources will be responsible for including the policy within the induction process, and for ensuring that managers understand their role and responsibilities under the policy.

Information Services:

None

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 Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:



Raising Concerns (formerly “Whistleblowing”) Policy

**LANCASTER
CITY COUNCIL**

Promoting City, Coast & Countryside

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RAISING CONCERNS 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 All of us might at some time have concerns about what is happening at work. Employees, members, or contractors are often the first to realise that there may be something seriously wrong within the Council. Usually these concerns are easily resolved. However when they are major concerns about serious malpractice, unlawful conduct, financial irregularities or dangers to the public or the environment, it can be difficult to know what to do. You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You 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 Lancaster City Council is genuinely committed to providing an environment of openness and accountability where individuals feel that they are able to raise concerns regarding serious malpractice. We would encourage all employees 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. Therefore, the Council has introduced this policy and procedure to enable you to raise your concerns about such possible malpractice at an early stage and in the right way. If something is troubling you, which you think we should know about or look into, please use this procedure. If you follow its advice, the Council assures you that your concerns can be raised in confidence, as far as possible, and without any fear of reprisal. This 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 amended the Employment Rights Act 1996 and provides protection for raising concerns in good faith about 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 Raising Concerns 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. In some organisations a policy such as this is known as a "Whistleblowing Policy"
- 1.4 This policy has been discussed with the relevant trade unions 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 procedures for raising concerns can be independent from line management

2.2 There is a difference between a grievance and a "raising concerns" disclosure.

A grievance will concern an employee personally, i.e. the individual may have a complaint about their working conditions, their pay or working hours or the amount of work that they are expected to do. This is not a "raising concerns" matter and should not be reported as such.

A disclosure will concern the conduct of another person or persons in the workplace, whether or not that conduct affects the complainant personally.

There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This 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 Raising Concerns 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.

3. **SAFEGUARDS**

3.1 **Preventing Harassment or Victimisation**

- 3.2 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 you raise a genuine concern under this policy, you will not be at risk of losing your job. Provided you are acting in good faith, it does not matter if you are mistaken; no action will be taken against you.

The Council has a "*Preventing Harassment at Work Policy*". 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.

- 3.3 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 raising a concern. It should also be noted that these arrangements do not guarantee protection for any substantive misconduct which you may have been involved in.

3.4 **Raising a Concern Openly**

- 3.5 The best culture is where an employee who has a concern feels it is safe and acceptable to raise the concern openly (where those involved know what the issue is and who has raised it). This openness makes it easier for the Council to assess the issues, to work out how to investigate the matter, to get more information, to understand any hidden agendas, to avoid witch hunts and to minimize the risk of a sense of mistrust or paranoia developing.

3.6 **Raising a concern confidentially**

- 3.7 While openness is the ideal, the Council recognises that officers may nonetheless want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent unless required by law.

3.8 **Anonymous Allegations**

We hope you will feel able to put your name to your allegation as concerns expressed anonymously are much less powerful. However, they will be considered at the discretion of the Council.

- 3.9 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.

3.10 **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, we would hope that you feel able to raise concerns initially with:-

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

This may be done orally or in writing. At this stage you should indicate if you want to raise the matter in confidence so that appropriate arrangements can be made when taking a matter forward.

If your concern is serious or you suspect that your immediate management are involved, then please raise it with one of the designated officers listed at Appendix A.

4.2 Alternatively, you may wish to raise your concern with your local Councillor, 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

4.4 Whilst it is not necessary to put concerns in writing, the Investigating Officer will need to keep details of the background and history of the concern. You will need to provide 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 You are not expected to prove beyond doubt the truth of an allegation, but 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 LISTED IN PARAGRAPH 4.1, OR THE DESIGNATED OFFICERS (as Appendix A).**

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 organisation or local Councillor to raise a matter on your behalf.

4.9 If you suspect malpractice of any kind you should not:

- Ignore the matter
- Approach or accuse individuals directly
- Try to investigate the matter yourself

- Convey your suspicions to anyone other than those with the proper authority to deal with the matter
- Be afraid of raising your concern, as this policy will afford you protection.

4.10 **Raising a concern if you work for a Contracting Organisation or Agency or in a Shared Service**

Contractor or Agency workers who become aware of possible malpractice within the Council should raise the problem in writing with the Procurement Manager, or the Head of Governance (Monitoring Officer).

Employees of a contracting organisation who become aware of possible malpractice within their own organisation should use their own internal procedures for reporting the matter. However, if the issue is not resolved and is affecting the delivery of the Council's services, then the problem should be raised as above.

Likewise, employees who work in a shared service but are not employed by this Council should initially raise any concerns under the relevant policy of their employing Council. However, if they feel unable to do so, or the issues is not resolved, and it affects this Council, then they should raise the matter with any of the officers designated in Appendix A.

5. **HOW THE COUNCIL WILL RESPOND**

5.1 It is a manager's responsibility:

- to deal with any concerns that are raised with them in accordance with this policy,
- to notify the Monitoring Officer of any concerns that are brought to the manager's attention which cannot be immediately resolved by the manager themselves,
- 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, and
- to ensure that anyone raising a concern in accordance with the terms of the policy is protected from reprisal.

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. equality 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 five 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 (e.g. 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 organisation representative or work colleague 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 "raising concerns" 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 decision will be made as to whether a referral should 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**

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). Richard.Lee@KPMG.co.uk or tel 0161 246 4661
- Lancashire Constabulary Headquarters (if you believe that a criminal act has been committed). Tel 0845 1253545
- 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).
- A relevant professional or regulatory organisation (See Appendix B)

6.1 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 Governance 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 Raising Concerns Policy.

8. **FURTHER GUIDANCE**

In support of the policy a set of Frequency Asked Questions can be found on the Intranet along with guidance showing the various stages involved in the process.

Designated Officers

Appendix A

Name	Position	Contact
Sarah Taylor	Head of Governance and Monitoring Officer	582025 staylor@lancaster.gov.uk
Stuart Hampson	Human Resources Manager	582076 shampson@lancaster.gov.uk
Derek Whiteway	Internal Audit Manager	582028 dwhiteway@lancaster.gov.uk
Nadine Muschamp	Head of Resources and Section 151 Officer	582117 nmuschamp@lancaster.gov.uk
Mark Cullinan	Chief Executive	582011 mcullinan@lancaster.gov.uk

Alternatively you may wish to contact your local councillor (details can be found on the Council's website).

Regulatory Bodies

Appendix B

Health and Safety Executive

Marshall House
Ringway
Preston
PR1 2HS
01772 836222

The Environment Agency

Rio House
Waterside Drive
Aztec West
Almondsbury
Bristol BS12 4UD
0800 807060

The Information Commissioner

Wycliffe House
Water Lane
Wilmslow
SK9 5AF
08456 306060

HM Revenues and Customs

Freeport RSBT - YCYX - JYTK
HM Revenue and Customs
Tax Evasion Hotline Team
Albert Bridge House
1 Bridge Street
Manchester
M60 9DX
0800 788 887

The Food Standards Agency

Room 111C
Aviation House
125 Kingsway
London WC2B 6NH
020 7276 8120

Homes and Communities Agency

Arpley House
110 Birchwood Boulevard
Birchwood
Warrington
WA3 7QH

In addition, staff working within the Supporting People contract may contact:
Lancashire Supporting People

The Supporting People Team
Lancashire County Council
Preston
PR1 3EA

STANDARDS COMMITTEE

**Requests for Dispensations
11th October 2012**

Report of the Monitoring Officer

PURPOSE OF REPORT
To enable the Committee to consider requests for dispensations under section 33 of the Localism Act 2011, to enable all councillors to participate and vote on matters relating to the setting of the council tax, and housing matters..
This report is public

RECOMMENDATIONS

- (1) **To grant the requests for dispensations as set out in the report, with the dispensations being effective until the next Council elections in 2015**
- (2) **To delegate authority to the Monitoring Officer to grant dispensations in similar terms on the written request of any other councillors following the meeting.**

1.0 Introduction

- 1.1 Section 31(4) of the Localism Act provides that a member who has a disclosable pecuniary interest in any matter to be considered at a meeting may not participate in any discussion, or vote on the matter. However, by virtue of section 33, an authority may, on a written request by a member, grant a dispensation relieving the member from either or both of the restrictions in Section 31(4).
- 1.2 Section 33(2) provides that a dispensation may be granted where the authority:
 - (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation
- 1.3 The granting of dispensations falls within the terms of reference of the

Standards Committee. The Localism Act 2011 specifically provides that Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation. Dispensations may be granted for a period of up to four years.

- 1.4 Under the previous Code of Conduct, there was specific provision that members would not have a prejudicial interest where an item of business related to a number of functions of the Council, including setting the council tax, and housing matters (where the member was a tenant of the Council and the item did not relate to the member's particular tenancy or lease).
- 1.5 Under the Localism Act 2011, members' interests in land and property are disclosable pecuniary interests. As property interests give rise to a council tax liability, it is likely that when the council tax is being set, the majority of members will have a disclosable pecuniary interest. On that basis, to ensure that Council is able to make the necessary decisions, and that members do not inadvertently breach the statutory requirements, the Monitoring Officer invited all councillors whose property interests make them liable to council tax to apply for a dispensation to enable them to participate and vote on matters relating to the setting of the council tax.
- 1.6 Applications have been received from Councillors Bevan, Brookes, Budden, Burns, Charles, Gardner, Greenall, Hall, Harrison, Jackson, Johnson, Knight, Mace, Parkinson, Redfern, Rollins, Scott, D. Smith, Sowden, Sykes, Whitaker and Williamson. Any applications received after preparation of this report will be reported at the meeting.
- 1.7 The Committee may consider that, if dispensations are not granted, to allow both participation and voting, the number of members prohibited from participating in the business of setting the council tax would be so great as to impede the transaction of the business. Further, given that the interests of members are no different from the interests of any other council tax payers, the Committee may consider it in any event appropriate to grant the dispensations.
- 1.8 Likewise any members who are Council tenants or leaseholders, were invited to apply for a dispensation to enable them to participate and vote in respect of matters relating to the housing functions of the Council, except any decision that relates specifically to the individual member's tenancy or lease.
- 1.9 An application has been received from Councillor Harrison.
- 1.10 Given that the interests of members who are council tenants are no different from the interests of other council housing tenants, the Committee may consider it appropriate to grant the dispensation.

2.0 Proposal Details

- 2.1 The Committee is therefore recommended to grant the dispensations as requested. This would replicate the position under the previous Code of Conduct, prior to the Localism Act 2011.
- 2.2 If dispensations are to be granted, it would seem appropriate for them to take effect until the next council elections in 2015.
- 2.3 The Committee may also wish to consider delegating authority to the Monitoring Officer to grant dispensations in similar terms in the event of written requests being received from other councillors after 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 options open to the Committee are to approve or not to approve the requests for dispensations. The grounds for granting dispensations are set out above

5.0 Conclusion

5.1 The Committee is recommended to grant the dispensations.

CONCLUSION OF IMPACT ASSESSMENT

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

None directly arising from this report.

LEGAL IMPLICATIONS

The legal implications are set out in the report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

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 S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: