



Committee: STANDARDS COMMITTEE
Date: THURSDAY, 22 JANUARY 2015
Venue: MORECAMBE TOWN HALL
Time: 6.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on 10th June 2014 (previously circulated).

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

4. **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.

5. **Review of Arrangements for dealing with Complaints and Appointment of Vice-Chairman** (Pages 1 - 3)

6. **Protocol on Licensing Procedure** (Pages 4 - 11)

7. **Raising Concerns (formerly Whistleblowing) Policy** (Pages 12 - 24)

8. **Exclusion of the Press and Public**

The committee is recommended to pass the following recommendations in relation to the following item:

"That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the

grounds that it could involve the possible disclosure of exempt information, as defined in paragraph 1 of schedule 12A of that act.”

Members are reminded that, whilst the following item has been marked as exempt, it is for the committee itself to decide whether or not to consider it in private or in public. In making the decision, members should consider the relevant paragraph of schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their decision, members should also be mindful of the advice of council officers.

9. **Summary of Complaints** (Pages 25 - 28)

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Roger Mace (Chairman), Roger Sherlock (Vice-Chairman), Chris Coates, Caroline Jackson, Jane Parkinson, Joyce Taylor and David Whitaker

(ii) Substitute Membership

Councillors Shirley Burns, Roger Dennison, Melanie Forrest, Kathleen Graham, Margaret Pattison and Peter Williamson

(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,
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Published on Wednesday 14th January 2015.

STANDARDS COMMITTEE**Review of Arrangements for Dealing with Complaints
and Appointment of Vice Chairman
22nd January 2015****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to review its arrangements for dealing with complaints.

This report is public

RECOMMENDATIONS

- (1) That with effect from the next municipal year, it be a requirement that the Vice-Chairman of the Committee be from a different group from the Chairman, and that Council be requested to amend the Constitution accordingly.
- (2) That with effect from the next municipal year, where a complaint is received about the conduct of a city councillor who is of the same group as the Chairman of the Committee, the Monitoring Officer consult with the Vice-Chairman rather than the Chairman at all relevant stages of the complaints procedure, and that the Committee's arrangements be amended accordingly.

1.0 Introduction

- 1.1 Members may recall that under the previous standards regime prior to the Localism Act 2011, complaints were assessed initially by an ad hoc sub-committee of three, chaired by an independent member of the Committee and that the protocol was that such a sub-committee would not include an elected member of the same group as the member complained of or the complainant.
- 1.2 When the procedures changed following the implementation of the Localism Act 2011, the new arrangements approved by the Committee provided for decisions at a number of stages of the procedure to be taken by the Monitoring Officer in consultation with the Chairman, the Independent Person and the Chief Executive. There has always been an understanding that if the Chairman has a conflict of interest, consultation will be with the Vice-Chairman rather than the Chairman.
- 1.3 This has worked well, because, fortuitously, since 2012, the Committee has in each year appointed a Vice-Chairman who has not been of the same group as the Chairman. However, there is no guarantee that this will always be the case.

2.0 Proposal Details

- 2.1 In order to ensure the continuation of the current practice of consulting with the Vice-Chairman when the Chairman may be perceived to have a conflict of interest, it is recommended that Council be requested to amend the Constitution to require that with effect from the next municipal year the Vice-Chairman of the Standards Committee be from a different group from the Chairman.
- 2.2 The greatest likelihood of a perception of a conflict of interest arises where the Chairman is a member of the same group as a member complained of. It is recommended therefore that the Committee's arrangements for dealing with complaints be amended to provide that, in those circumstances, the Monitoring Officer will consult with the Vice-Chairman rather than the Chairman at all relevant stages of the complaints procedure.
- 2.3 Where a complaint is made by a city councillor about another city councillor, there could also be a perception of a conflict of interest where the Chairman (or Vice-Chairman) is consulted and is of the same group as the complainant. It is impossible to cover all the possible scenarios, but it is anticipated that in such circumstances the Monitoring Officer would discuss with both the Chairman and the Vice-Chairman any possible perceived conflicts of interest so that the procedure is as transparent as possible.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The Monitoring Officer has reviewed the arrangements for dealing with complaints, and is proposing the changes set out in this report in order to formalise the good practice that has developed since the implementation of the new standards regime. There is no legal requirement to make the changes, but it is felt that to do so would be helpful for providing a transparent process for dealing with future complaints.

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

The rationale of the proposed changes is to ensure fairness and the perception of fairness in dealing with complaints.

LEGAL IMPLICATIONS

The legal implications are included 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 as the adviser to the Committee.

BACKGROUND PAPERS

None

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Ref:

STANDARDS COMMITTEE

Protocol on Licensing Procedure 22nd January 2015

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider a draft Protocol on Licensing Procedure for inclusion in the Council's Constitution.

This report is public

RECOMMENDATIONS

- (1) **That the draft Protocol on Licensing Procedure appended to this report be recommended to the Council Business Committee for inclusion in the Council's Constitution.**

1.0 Introduction

1.1 Members will be aware that Part 7 of the Council's Constitution contains a Protocol on Planning Procedure which gives guidance to members of the Planning and Highways Regulatory Committee on their role in determining planning applications, and guidance to other members who may be contacted by applicants and objectors on planning matters. The Protocol was approved by this Committee before inclusion in the Constitution.

1.2 In reviewing the Constitution, the Monitoring Officer felt that it would be helpful to members to have a similar protocol to deal with licensing matters, both those that fall within the terms of reference of the Licensing Act Committee, and those that are dealt with by the Licensing Regulatory Committee. It is considered that it will be particularly helpful to have such a Protocol in place to assist new members following the elections in May 2015.

2.0 Proposal Details

2.1 Accordingly, a draft Protocol has been prepared and is appended to this report. The draft was considered and noted by the Licensing Regulatory Committee and the Licensing Act Committee at their respective meetings in November and December, and referred to this Committee. As the body responsible for advising the Council on local protocols regarding the conduct of members, this Committee is now asked to consider the draft Protocol and to recommend the Council Business Committee to approve its inclusion in the Council's Constitution.

3.0 Options and Options Analysis (including risk assessment)

- 3.1 The options open to the Committee are to approve the revised protocol appended to this report, or to approve it with further amendments. The officer preferred option is to approve the revised Protocol as drafted.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None directly arising from this report.	
LEGAL IMPLICATIONS	
The Protocol will provide guidance to members, and minimise the risk of legal challenge to licensing decisions.	
FINANCIAL IMPLICATIONS	
None directly 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, as adviser to the Standards Committee.	
BACKGROUND PAPERS	Contact Officer: Mrs S Taylor Telephone: 01524 582025 E-mail: STaylor@lancaster.gov.uk Ref:
None	

DRAFT

Protocol on Licensing Procedure

1 Introduction

The purpose of this protocol is to provide Members with guidance regarding their role in determining licensing applications and other related issues, whether in the Licensing Act Committee or the Licensing Regulatory Committee. It also provides guidance to ward members, who are not members of either Committee.

The protocol is designed to offer guidance to help Members understand their role and the responsibilities associated with that role, and to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

In summary, the most important issues for Members to consider are as follows:

- The Code of Conduct, and in particular whether a Member has an interest as defined in the Code, and if so whether that interest precludes the Member from participating in a particular item of business.
- Aside from the Code of Conduct, whether there is any other reason why a Member should not participate in a particular decision
- The need to exercise care and caution in any contact with applicants and objectors
- The dangers of lobbying or being lobbied

The protocol is a public document, forming part of the Council's Constitution, and is available on the Council's website. When contacted on licensing issues, Members may wish to consider providing a copy of the protocol to the person who has contacted them, if that would assist in explaining their role in the licensing process.

2 Natural Justice

These principles apply throughout public administration. They are fundamental principles of administrative law and should be adhered to when determining any licensing application, to ensure that there is no procedural impropriety.

The two principles of Natural Justice are :-

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

3 The Rule Against Bias

Bias is an attitude of mind which prevents the decision-maker from making an objective determination of the issue to be decided. Procedural impropriety does not require actual bias; an appearance of bias is sufficient. The test is whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. Bias may arise by virtue of a member being closely connected with a person who has a vested interest in a licensing application or matter.

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

If Members are in any doubt about the application of the Code of Conduct, they should seek advice early, from the Monitoring Officer, Deputy Monitoring Officer or one of their staff. Failure to comply with the Code of Conduct may have implications for the individual Member, as there may be a complaint to the Standards Committee. There may also be implications for the decision making process, with criticism of the relevant Committee and possible challenge to the decision on the basis that a Member with an interest remained within the meeting room and tainted the integrity of the decision.

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

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

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

Predisposition is acceptable; predetermination is not.

The decision making body must consider all relevant information before coming to its decision. The Member's mind should not be closed until the final decision is made. A Member's mind will be closed if they have already come to a decision on an application prior to entering the meeting room. This is predetermination.

A decision will be open to challenge if a Member appears to have already decided how they will vote at the meeting so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what Members have said at meetings or written in correspondence. However, it should be noted that Section 25 of the Localism Act 2011 provides that in the event that a decision is challenged, the court will not find that a member had a closed mind when making the decision just because of any previous conduct which might have indicated what view the member took, or would or might take, in relation to the matter. Simply listening to or receiving viewpoints from interested parties, seeking information through appropriate channels, or making comments, will not necessarily constitute predetermination, provided that the Member makes it clear that they are keeping an open mind.

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

5 **Declarations of Interest and Leaving the Meeting Room**

Disclosable pecuniary interests are defined in Regulations made under the Localism Act 2011, and the statutory provisions regarding such interests are reflected in Section 1 of Part B of the Council's Code of Conduct. If a Member has a disclosable pecuniary interest in any item of business before the Committee, the law requires the Member not to participate. The Council Procedure Rules require the Member to leave the meeting. This applies whether or not the Member is a member of the Committee, a ward member or an applicant or objector. If a Member with a DPI wishes to attend a meeting, the Member must obtain a dispensation.

Section 2 of Part B of the Council's Code of Conduct defines "other" interests which Members are required to register. These include details of any body to which the Member is appointed by the Council, and details of any body exercising functions of a public nature or directed to charitable purposes or whose principal purpose includes the influencing of public opinion or policy, of which the Member is a member or holds a position of general control or management. Where an item for consideration by the Committee relates to such a registered interest, the interest must be declared at the meeting.

In addition, where a decision might reasonably be regarded as affecting the well-being or financial position of a Member, or that of a relative or close associate of theirs, the Member must declare an "other" interest at the meeting. The phrase "close associate" is not defined in the Code, but covers both social and business associations. Simply knowing the applicant does not necessarily equate to an interest.

Where a Member has an "other" interest as set out in Section 2 of Part B of the Code of Conduct, in a licensing application being considered by a Committee, the Member must give careful consideration as to whether that interest is one which precludes them from participating in the debate and decision making. This will be the case if the interest is one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest. In other words, the interest must be perceived as likely to harm or impair the Member's ability to judge the public interest. However, a member will only be precluded from participating if the item of business affects the financial position of the Member or the person or body through whom the interest arises, or relates to a licensing application by or on behalf of such a person.

Under the Council Procedure Rules, a Member who is precluded from participating in a decision must leave the chamber – the Member is not permitted to return to the public gallery for the debate and should not be seen by other Members when they are making the decision. If a Member with such an interest was present or could be seen to watch the proceedings, this could be sufficient to taint the process.

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

Members who have licensing interests or other interests that would prevent them from voting on a regular basis should avoid serving on a Licensing Committee.

6. **Party Politics**

A Member must not blindly follow the recommendations of their political party. A decision on a particular licensing application should not be dictated by party politics. Party whips should never be used. The Licensing Act Committee and Licensing Regulatory Committee sit in a quasi-judicial manner and each decision is made on its own merits, within the legislation and any licensing policy or guidelines adopted by the relevant Committee. Each decision has to be made on the information put before the Committee.

7. **Media Exposure**

A Member of the Licensing Act Committee or Licensing Regulatory Committee should never make any public declaration on an application. If a Member makes a statement that is one sided prior to the application being determined, then that Member is at risk from an allegation of bias i.e. they have not kept their mind open until all matters are before them. In these

circumstances it may be inappropriate for the Member to take part in the decision making process to ensure the decision is not tainted.

8. **Lobbying**

Those who may be promoting or be affected by a licensing decision may often seek to influence it. Whilst lobbying of members is legitimate, and certain members may make representations on behalf of applicants or other interested persons, there must be neither actual bias nor an appearance of bias in decision making.

If a member of the Licensing Act Committee or Licensing Regulatory Committee is lobbied, that member can:

- listen to what is being said
- give procedural advice (eg where and when any meeting is to be held, advise which licensing officer to approach, or how to make representations)
- refer the lobbyist to a ward member who does not sit on the relevant licensing committee or to a licensing officer
- report instances of significant, substantial or persistent lobbying to the Monitoring Officer

9. **The Role of Members and Officers**

All members and officers must ensure that contact between them in connection with licensing matters accords with the requirement of mutual respect and should not undermine the good working relationships which are critical to the success of the City Council and good local government.

Officers are available to discuss the issues relating to licensing applications with members and to inform them of all the facts and circumstances relating to the application.

10. **Ward Members/Committee Members**

It should be noted that a member of the Licensing Act Committee or the Licensing Regulatory Committee who is the member for a ward which would be directly affected by a licensing application, or who is the ward member for an individual who has an application or other matter for consideration by one of the committees, is most at risk of allegations of bias, and is most likely to be put under pressure to represent those interests in the decision making process. When a member participates in making a licensing decision, their overriding duty is to the community as a whole, and a member should not favour or appear to favour any person, company, group or locality.

It is for this reason that the Council's statement of policy under the Licensing Act 2003 provides that any sub-committee which deal with individual applications will not include any member who represents the ward in which the premises which are the subject of the application are situated.

For the same reason, it is strongly recommended that where the Licensing Regulatory Committee or a sub-committee of the Licensing Act Committee is considering an application or matter relating to an individual, a member for the ward in which that individual resides and who has had contact with that individual on the matter should not sit as a member of the Committee for that item.

If a member of the Licensing Act Committee or Licensing Regulatory Committee wishes to represent an applicant or other interested party, the member may do so, but should do so as a representative, and should not sit as a member of the Committee for that item.

11. **Speaking at Licensing Committees by Members who are not Members of the Committee**

A Member who is not a member of a Licensing Act Sub-Committee may speak on an application or matter if the member has made relevant representations in their own right, or may speak as the representative of or witness for any party to the proceedings.

At Licensing Regulatory Committee, agenda items which relate to individual licence holders or applicants are generally held in private because the matters include exempt or confidential information. A member who is not sitting as a member of the Licensing Regulatory Committee may act as a representative or witness in any such item before the Committee. However, no other member is permitted to attend for such items when the press and public are excluded.

Public speaking is permitted at meetings of the Licensing Regulatory Committee on public reports. A Member who is not a member of the Committee and who wishes to speak on such an item may do so, but must register in accordance with the Committee's arrangements for public speaking.

12. **Non –Committee Members**

Members who do not sit on a Licensing Committee need to be careful when discussing with Committee members issues relating to matters which may come before the Committee. It is unacceptable for the non-licensing member to attempt to obtain a commitment as to how another member might vote.

13. **Membership of other Committees**

There is acceptance that a member may legitimately consider matters in several capacities, as different factors may apply to different decisions. For example, where premises require both a licence and planning permission members may sit on both the Licensing Act Committee and the Planning and Highways Regulatory Committee. While the statutory regimes in such cases are different, the considerations to be taken into account may be similar, and Members should carefully consider whether anything they have said in making the earlier decision would demonstrate a pre-determination of the second decision.

14. **Contact with Applicants and other Interested Persons**

Members should refer those who approach them for assistance on procedural or technical licensing matters to relevant officers.

Members who wish to consider a licensing application should not attend formal or informal meetings with applicants or other interested persons.

15. **Hospitality Offered to Members**

It is advisable in all circumstances to simply refuse any hospitality. To accept creates the risk that there has been undue influence on the licensing process. In the rare event that the hospitality of an estimated value in excess of £50 is accepted it must be registered in the register of interests under Paragraph 8 of Section 2 of Part B of the Council's Code of

Conduct. It must also be declared as an “other” interest at any meeting where an item of business relating to the source of the hospitality is considered.

16. **Site Visits/Vehicle Inspections**

Site visits by members of the Licensing Committees are generally unnecessary. However, in exceptional cases members may not be able to appreciate points being put to them at a hearing without a site inspection. In matters relating to taxis, Members may need to undertake a vehicle inspection.

A site visit / vehicle inspection is a formal part of the licensing hearing process, and may be made either prior to the hearing or at the conclusion of the evidence. All members of the relevant committee must attend and will be accompanied by an officer.

Members should keep together as a group and not engage individually in discussions with any applicant, objector or third party who may be present. It is acceptable for Members to ask questions to seek clarification on matters relevant to the site visit / vehicle inspection.

17. **Training**

In accordance with the Council’s Constitution, members should not participate in decision making meetings dealing with licensing matters unless they have attended training provided for members of the relevant Committee.

18. **Enforcement of the Protocol**

This Protocol is ancillary to the Council’s Code of Conduct and is designed to help Members understand their role in the licensing process. It is intended to minimise the prospect of legal or other challenge to decisions.

Members should note that this Protocol is for guidance. The breach of its terms will not necessarily result in the decision being invalidated, but may well lead to a decision being challenged. A breach of the Council’s Code of Conduct may lead to a complaint to the Council’s Standards Committee and will be dealt with in accordance with the Standards Committee’s arrangements under the Localism Act 2011 for dealing with such complaints. A breach of this Protocol is not in itself a breach of the Council’s Code of Conduct Code but any complaint of a breach of the Protocol would be investigated by the Monitoring Officer and subsequently reported to the Standards Committee.

If Members have any concerns about the above they should contact the Chief Officer (Governance).

STANDARDS COMMITTEE

**Raising Concerns (formerly Whistleblowing) Policy
22nd January 2015**

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider minor revisions to the Raising Concerns Policy, and to note that no disclosures have been made under the policy since its review in October 2012.

This report is public

RECOMMENDATIONS

- (1) That the revised Raising Concerns Policy appended to this report be approved, and that it be noted that no disclosures have been made under the policy since the last report in October 2012.**

1.0 Introduction

- 1.1 The Raising Concerns (formerly Whistleblowing) Policy was revised and approved in October 2012. Approval of the policy falls within the terms of reference of this Committee.
- 1.2 In June 2013, the Enterprise and Regulatory Reform Act 2013 made some amendments to the Employment Rights Act 1996. In particular, the amendments provide that a disclosure no longer has to be made in good faith to be protected under the legislation, but that a disclosure will only be protected if it is, in the reasonable belief of the worker making the disclosure, “in the public interest”.
- 1.3 Some minor textual amendments have been made to the Council’s policy to take account of these amendments. The opportunity has also been taken to update the job titles of officers referred to in the Policy. The revised policy is appended to this report, and the amendments have been tracked for ease of reference.
- 1.4 No disclosures have been made under the policy since the previous report to this Committee in October 2012.
- 1.5 When no concerns are raised under the policy it is always difficult to assess whether this is because there are no concerns, or because employees do not know how to raise concerns or are reluctant to do so. Information about the Policy was circulated to all officers in late 2012. Since early 2013, the policy has been referred to in the corporate induction process, and it will also be included in the management and employee development programme which is being prepared for the next twelve months. Following this meeting, Chief Officers will be asked to ensure that all managers are aware of the policy and the “frequently asked questions” on the intranet, and that the information is cascaded to all staff. A copy of this report has also been sent to trade union

representatives.

2.0 Conclusion

2.1 The Committee is recommended to approve the attached revisions to the policy.

**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 are 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

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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 and the Enterprise and Regulatory Reform Act 2013 have amended the Employment Rights Act 1996. The legislation and provides protection for workers who raise legitimate concerns in the public interest 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 be made in the public interest and 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~~**Chief Officer**; 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 Chief Officer (-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~~Chief Officer (-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.

Designated Officers

Appendix A

Name	Position	Contact
Sarah Taylor	Head of Chief Officer (Governance) and Monitoring Officer	582025 staylor@lancaster.gov.uk
Stuart Hampson	Human Resources <u>and</u> <u>Organisational</u> <u>Development</u> Manager	582076 shampson@lancaster.gov.uk
Derek Whiteway	Internal Audit Manager	582028 dwhiteway@lancaster.gov.uk
Nadine Muschamp	Head of Chief Officer (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

Freepost 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 [111012220115](#)

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