

Section 1 Members Code of Conduct

Code of Conduct for Members and Guidance

1. Introduction

The Council is determined to provide excellent local government for the people of the Borough. It promotes and maintains high standards of conduct by Members and Co-opted Members and has adopted a Code of Conduct for Members, in line with its obligations under section 27(2) of the Localism Act 2011. To help Members understand their conduct responsibilities, they should make sure they read and understand the General Principles below

2. General Principles of Conduct for Members and Co-opted Members

Members and co-opted Members must behave according to the highest standards of personal conduct in everything they do as a Member. In particular they must observe the following principles of conduct, some of which are set out in law.

2.1 Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2.2 Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

2.3 Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

2.4 Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

2.5 Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

2.6 Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

2.7 Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

2.8 Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

2.9 Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

2.10 Leadership

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

3. Training

Each Member must attend annual training on the Code of Conduct/ethical standards, in addition to any current requirements to receive training for specific Committees, for example Planning & Highways or Licensing Committees.

THE CODE OF CONDUCT

Part 1

GENERAL PROVISIONS

1. Introduction and interpretation

- 1.1 This Code applies to you as a member of the Council.
- 1.2 It is your responsibility to comply with this Code. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and /or disqualification from office for a period of up to 5 years.
- 1.3 In this Code: -
 - 1.3.1 "meeting" means any meeting of:
 - (a) the Council;
 - (b) any of the Council's committees or sub-committees, joint committees or joint sub-committees;
 - 1.3.2 "member" includes a co-opted member and an appointed member.

2. Scope

- 2.1 The Code of Conduct applies to you:
 - (a) Whenever you act in your official capacity, including whenever you conduct the business of your authority or act, claim to act or give the impression you are acting, in your official capacity or as a representative of your authority;
 - (b) At any time, where your conduct has led to a criminal conviction. However, the Code of Conduct does not apply to your private life.
- 2.2 Where you act as a representative of the Council—
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

3.1 You must not:

- (a) do anything which may knowingly cause your authority to breach the Equality Act 2010;
- (b) bully or be abusive to any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

4. You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Council; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

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

6. You:

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

- (b) must, when using or authorising the use by others of the resources of your authority:
 - (i) act in accordance with the Council's reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) The Council's chief finance officer; or
 - (b) The Council's monitoring officer,
- where that officer is acting pursuant to his or her personal statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

DISCLOSABLE PECUNIARY INTERESTS

8. "Disclosable Pecuniary Interests" are defined from time to time by the Secretary of State in Regulations. The Regulations current at the time of adoption of this Code are The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are set out below.

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

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be

	executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Definitions

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"meeting" means any meeting of the Council, the Executive, any of the Council's or Executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

9. Registering and declaring Disclosable Pecuniary Interests

- 9.1 You must, within 28 days of your election or appointment to office as a member or co-opted member notify the Council's Monitoring officer of any Disclosable Pecuniary Interests you have (see paragraph 8 above)
- 9.2 You must, notify the Council's Monitoring Officer within 28 days of becoming aware of any changes to a Disclosable Pecuniary Interest previously notified or of any new Disclosable Pecuniary Interest not previously notified, and provide an update to the Monitoring Officer once every 12 months.
- 9.3 If a Disclosable Pecuniary Interest, has not been entered onto the Council's register, then the member or co-opted member must disclose the interest to any meeting of the Council at which they are present, where they have a Disclosable Pecuniary Interest and where the matter is not a "sensitive interest".
- 9.4 Following disclosure of a Disclosable Pecuniary Interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 9.5 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary Interest.
- 9.6 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website

10 Sensitive Interests

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

11 Effect of Disclosable Pecuniary Interests on Participation

- 11.1 If you are present at a meeting of the authority and you have a Disclosable Pecuniary Interest in any matter to be considered or being considered at the meeting:
 - (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, you must disclose the interest to the meeting.
 - (d) If the interest is not registered and is not the subject matter of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

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

- 11.2 Where an Executive Member discharging a function alone and becomes aware of a Disclosable Pecuniary Interest in a matter being dealt with or to be dealt with by him/her, the Executive Member must notify the Monitoring Officer of the Interest and must not take any steps or further steps in the matter

12 Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter on which you have a Disclosable Pecuniary Interest

13 Offences

It is a criminal offence to:

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

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

Part 3

OTHER INTERESTS

14 Notification of Other Interests

- 14.1 In addition to Disclosable Pecuniary Interests you must, within 28 days of your election or appointment to office as a member or co-opted member notify the Monitoring Officer in writing of details of your interests within the following categories, for inclusion in the register of interests:

- (a) Details of any body of which you are a member or in a position of general control or management to which you are appointed or nominated by your authority;
 - (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (c) Details of any gift or hospitality with an estimated value of at least £25 that you have received in connection with your role as a member of the Council, and details of the donor
- 14.2 You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.
- 14.3 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.
- 14.4 Where a Disclosable Pecuniary Interest is notified to the Monitoring Officer under Part 2, paragraph 9 above it need not be separately notified or separately registered again as an interest under this Part 3 of the Code.

15 Disclosure of Other Interests

- 15.1 Subject to 15.2 to 15.5, where you have an interest described in paragraph 14 above or in 15.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 15.2 You have an interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association.
- 15.3 Where you have an interest in any business of the authority of the type mentioned in paragraph 14(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 15.4 Where you have an interest by virtue of paragraph 14 but, by virtue of paragraph 17 below, (Sensitive interests) relating to it is not registered in the register of members' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.
- 15.5 Where you have an interest in any business of your authority by virtue of paragraph 14 or 15.2, and you have made an Executive Decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

16 Non participation in case of certain other interests

16.1 Where you have an interest in any business of your authority by virtue of paragraph 14 or 15.2 **AND** the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest **AND** where that business:

- (a) affects your financial position or the financial position of a person or body through whom the interest arises ;or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises,

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

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

16.2 Where you have an interest in any business of your authority to which paragraph 16.1 applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

16.3 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 16.1 that relates to the functions of your authority in respect of:

- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (b) an allowance, payment or indemnity given to members;
- (c) any ceremonial honour given to members; and
- (d) setting council tax or a precept under the Local Government Finance Act 1992.

16.4 Where, as an Executive Member, you may discharge a function alone, and you become aware of an interest under paragraph 16.1 in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

17 Sensitive interests

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

BLACKBURN WITH DARWEN BOROUGH COUNCIL

Arrangements for dealing with complaints about the Code of Conduct for Members

1. Introduction

- 1.1 These "Arrangements" are made under section 28 of the Localism Act 2011 and set out how you may make a complaint that a Member, Co-opted Member, Parish or Town Council Member has or may have failed to comply with the Code of Conduct for Members (Appendix 1), and sets out how Blackburn with Darwen Borough Council ("the Council") will deal with allegations of a failure to comply with the Code of Conduct.
- 1.2 The person making the complaint will be referred to as "the complainant" and the person against whom the complaint is made will be referred to as the "Subject Member".
- 1.3 No member or officer will participate in any stage of the Arrangements (other than as a witness) if he or she has, or may have, any personal conflict of interest in the matter.

2. Making a complaint

- 2.1 A complainant must be made in writing on the Council's standard form (available on the Council's website) either by post or e-mail to; The Monitoring Officer, HR & Legal, D Floor, Tower Block, Town Hall, Blackburn BB1 7DY.[*email details*]
- 2.2 The complainant must provide their name and a contact address or an email address, so that the Council can acknowledge receipt of the complaint, request any further information and keep the complainant informed of its progress. If the complainant would like to keep their name and address confidential, they must indicate this in writing, in which case the Council we will not disclose the complainant's name and address to the Subject Member until their request for confidentiality has been considered by the Monitoring Officer Section 5 (Confidentiality) below.
The Council will not investigate anonymous complaints, unless there is a clear public interest in doing so.
- 2.3 The Monitoring Officer will acknowledge receipt of the complaint within five working days of receiving it, and will keep the complainant informed of the progress of your complaint. At the same time the Monitoring Officer will write to the Subject Member (and in the case of a complaint about a Town/Parish Councillor to the Clerk of the Town/Parish Council also) with details of the allegations (subject to any representations from the complainant on confidentiality, which are accepted as valid by the Monitoring Officer under Section 5 (Confidentiality) below).
- 2.5 The Subject Member may, within five working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

3. Initial Assessment of Complaint

- 3.1 The Monitoring Officer will review the complaint and, following consultation with the Independent Person take a decision (initial assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.

The complaint will be rejected if;

- The complaint is not against one or more named Members or co-opted Members of the Council or a Town/Parish Council within its district;
- The Subject Member was not in office at the time of the alleged conduct and a Code of Conduct was in force at the time.
- The complaint, if proven, would not be a breach of the Code of Conduct under which the Subject Member was operating at the time of the alleged misconduct.
- The complaint is anonymous (unless the Monitoring Officer determines that it is the public interest to consider it)

- 3.2 If the complaint has not been rejected on the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be considered;

- Whether a substantially similar allegation has previously been made by the complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether 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;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
 - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
 - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- Whether the complaint suggests that there is a wider problem throughout the Authority;

- Whether (after the Monitoring Officer making preliminary enquiries) it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation.

Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the Authority (in appropriate cases) makes a reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

The Monitoring Officer will consult with the Independent Person and then give his decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question of how to proceed to a Sub-Committee of the Standards Committee.

4. Additional Information

- 4.1 The Monitoring Officer may require additional information before coming to a decision and may request information from the Subject Member.
- 4.2 Where the complaint relates to a Town/Parish Councillor, the Monitoring Officer may also inform the Clerk of the Town/Parish Council of the complaint and seek the views of the Clerk of the Town/Parish Council before deciding whether the complaint merits formal investigation or other action.
- 4.2 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code.

5. Confidentiality

- 5.1 If a complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.
- 5.2 As a matter of fairness and natural justice the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if on request from the complainant, or otherwise, they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the complainant's identity being disclosed.

- 5.3 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the Subject Member.

6. Investigation

- 6.1 The Monitoring Officer will appoint an investigating officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer from another council, or an external investigator.
- 6.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of Council resources and shall be interpreted in line with these principles.
- 6.3 The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to the Monitoring Officer decision on confidentiality.
- 6.4 At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account before issuing their final report to the Monitoring Officer.

7. Investigating Officer finding of no failure to comply with the Code of Conduct

- 7.1 Where the Investigating Officer's report does not find that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.
- 7.2 The Monitoring Officer will write to the complainant and the subject Member (and to the Clerk of the Town/Parish Council, where the complaint relates to a Town/Parish Councillor), with a copy of the decision and the Investigating Officer's report.
- 7.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

8 Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct.

Where the Investigating Officer's report does find that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Hearings Panel or resolved the matter under section 9 below without the need for a hearing.

9. Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the complainant and

seek to agree a fair resolution. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Subject Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Town/Parish Council (if appropriate) for information, but will take no further action. If the complainant or the Subject Member refuses the resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a hearing without further reference to the complainant or the Subject Member.

10. Hearing

Where, in the opinion of the Monitoring Officer, a resolution without a hearing is not appropriate or the complainant and/or Subject Member refuses to co-operate, then the Monitoring Officer will report the Investigating Officer's findings to the Hearings Panel which will conduct a hearing before deciding whether the Subject Member has failed to comply with a Code of Conduct and, if so, what action (if any) to take in respect of the Member.

The new Standards Committee will agree and adopt a procedure for local hearings.

11. Constitution of the Hearings Panel

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Council have decided that it will comprise of at least one of the independent members co-opted to the Standards Committee and three members of the Council drawn from at least two different political parties. Where the complaint is about a Town or a Parish Council Member, the Hearings Panel will include at least one of the Town/Parish Council Members co-opted to the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

12. The Independent Person

The Independent Person must be a person who has applied for the post following advertisements of a vacancy for the post, and approved by a positive vote from a majority of all the Members of the Council at a meeting of the full Council.

A person is not eligible for appointment if they:

- are, or have been within the past five years a Member, co-opted Member or officer of the Council;
- are, or have been within the past five years a Member, co-opted Member or officer of a Town or Parish Council within the Borough; or
- are a relative or close friend of a person within bullet points 1 or 2 above.

For this purpose, "relative" means that:

- Spouse or civil partner;
- Living with the other person as husband and wife or as if they were civil partners;
- Grandparents of the other person;
- A lineal descendant of a grandparent of the other person;
- A parent, sibling or child of the person within the above bullet points;
- A spouse or civil partner of a person within the above bullet points; or
- Living with a person within the above bullet points or as husband and wife or as if they were civil partners.

13. Action

Where a Hearings Panel find that a Subject Member has failed to comply with the code of conduct, the Council has delegated to the Hearings Panel such of its powers to take action in respect of Subject Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Panel may –

- Publish its findings in respect of the Subject Member's conduct;
 - Report its finding to Council (or to the Town/Parish Council) for information;
 - Recommend to Council that the Subject Member be censured;
 - Recommend to the Subject Member's group leader (or in the case of ungrouped members) recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
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- Recommend to the Leader of the Council that the Subject Member be removed from the Executive, or removed from their portfolio responsibilities;
 - Instruct the Monitoring Officer to (or recommend that the Town/Parish Council) arrange training for the Subject Member;
 - Recommend to Council (or recommend to the Town/Parish Council) that the Subject Member be removed from all outside bodies, appointments to which they have been appointed or nominated by the Council (or by the Town/Parish Council);
 - Withdraw (or recommend to the Town/Parish Council) that it withdraws facilities provided to the Subject Member by the Council such as a computer, website and/or e-mail and internet access; or
 - Placing such restrictions on Subject Member's access to staff which may be reasonable in the circumstances and in accordance with the Member/Officer Protocol provided that such restrictions do not impede the Subject Member from carry out their duties as a Councillor

14 Withdrawal of a Complaint

In the event that a complainant withdraws a complaint at any time prior to a decision having been made by a Hearings Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint but shall, in taking such a decision take into account any issues which may arise under Paragraph 3.1(c) of the Code of Conduct.

15 Revision of these Arrangements

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matters.

16. Appeals

Subject to judicial review or a decision of a Local Government Ombudsman, there is no right of appeal against the decision of a Monitoring Officer or of the Hearings Panel.

Section 2 Officers' Code of Conduct

Employee Code of Conduct

1. Introduction

Blackburn with Darwen Borough Council is committed to achieving and maintaining the highest possible standards of conduct.

The Employee Code of Conduct (hereafter referred to as the "Code") is part of the Council's Constitution and outlines the standards of behaviour expected of all employees – morally, ethically and legally.

It forms part of your terms and conditions of employment and applies to all employees. You are required to abide by the standards detailed within it.

The Code is not intended to prohibit social involvement or restrict you in your day to day life and dealings outside work. It is, however, important that you are aware of your actions and how these may impact on the Council's principles of accountability and responsibility.

The Code cannot cover all areas that are likely to arise in practice, but the principles of the Code will apply in order to ensure the integrity of the Council is maintained at all times.

2. Conduct and Standards

You are expected to give the highest possible standard of service and conduct so that the public have confidence in your integrity. This also protects you from any misunderstanding and unfair criticism. Where it is part of your duties to provide advice to councillors and fellow employees, you should do so with impartiality.

You should always be aware of your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

Any departure from these high standards will be treated as a serious matter and could lead to action under the Council's Disciplinary Policy and/or in conjunction with other applicable policies. This may result in formal action up to and including dismissal, and, where necessary through the process of the law, for example, criminal proceedings.

2.1 Behaviours Framework

The Council has developed a Behaviours Framework that employees are expected to demonstrate, which define a Blackburn with Darwen Borough Council employee and is based on its four corporate values:

- Customer;
- Listening;
- Teamwork;
- Honesty.

Employees serving the public must practice and exhibit these through the course of their work

There are six behaviours which sit behind and support the values and underpin the specific requirements set out within the framework.

Further information on the Behaviours Framework can be accessed by the following intranet link:

[Intranet > Human Resources > Advice > BwD Borough Council Behaviour Framework](#)

[http://cms.intra.blackburn.gov.uk/upload/pdf/Behaviours_Framework - v4.0 July 2013.pdf](http://cms.intra.blackburn.gov.uk/upload/pdf/Behaviours_Framework_-_v4.0_July_2013.pdf)

2.2 Equality Issues

In addition to the requirements of the law you should ensure that you comply with Council policies relating to equality issues, both with regard to employment and service delivery.

All members of the local community, customers and other employees have a right to be treated with fairness and equity in accordance with equality legislation. The Council's equality statement can be accessed by the following link:

[Intranet > Human Resources > Policies > Equality Act 2010 Statement](#)
<http://cms.intra.blackburn.gov.uk/server.php?show=ConWebDoc.54083>

2.3 Dress and Personal Appearance at Work

You are reminded that standards of dress, personal appearance and hygiene, including standards required in the interests of health and safety, can affect public confidence and you should therefore make yourself aware of and comply with expected standards for your particular employment.

2.4 Health and Safety

In the interests of the public and colleagues, you must adhere to the Council's Health and Safety arrangements.

You must not act wilfully, intentionally or recklessly in a way that could place the public, your colleagues, or yourself at risk, and you must adhere to the duty of care outlined in the Council's Health and Safety Policy. This is particularly the case where there is direct responsibility for a service user's welfare. The Health and Safety Policy can be accessed by the following link:

[Intranet > Health and safety > Policies](#)
<http://cms.intra.blackburn.gov.uk/server.php?show=nav.2381>

2.5 Wages and Recoupment

There may be times where, for one reason or another, there has been an overpayment made to salary. You are reminded that you have an obligation to contact the HR Service and report any overpayment if you suspect this has occurred. The Council reserves the right to require repayment, either by deduction from salary or other accepted method. In each case individual

circumstances will be taken into account when deciding the period over which the repayment is to be made.

3. Disclosure of Information and Confidentiality

3.1 Media and Social Media

You should not contact or disclose information relating to the work of the Council to the media, other than as part of your job or as an official spokesperson of the Council. If you are contacted or asked for an opinion, you should refer the enquiry to the Council's Public Relations and Communications Team.

You must not disclose any information on your own personal pages via social media, for example, Facebook, Twitter etc which is, or may be, protected under the Data Protection Act 1998 relating to Council business, service users, employees or Councillors and you must take care to ensure that any use of social media does not bring the Council into disrepute nor is defamatory or libellous.

Where there is a reasonable belief that the use of social media has been used inappropriately then you should raise this with your line manager or Head of Service, alternatively the Whistleblowing Policy can be referred to. Examples where it may have been used inappropriately include:

- it highlights potential criminal activity;
- the disclosure of confidential information;
- where the suspicion arises that there has been fraud, dishonesty or corruption;
- where there is the potential to bring the Council into disrepute.

The Whistleblowing Policy can be used to raise genuine concerns regarding any aspect of the Council's work and can be accessed using the following link:

[Intranet > Human Resources > Policies > Whistleblowing
http://cms.intra.blackburn.gov.uk/server.php?show=ConWebDoc.50256](http://cms.intra.blackburn.gov.uk/server.php?show=ConWebDoc.50256)

3.2 Data Protection

All information containing personal data relating to members of the public and employees must be obtained, held and dealt with fairly and lawfully in accordance with the Data Protection Act 1998. Any information relating to Council business, its service users, employees or Councillors must not be used or given out in any manner that does not comply with that Act, except where this has been expressly authorised.

You must be aware of which information within your authority can be disclosed and which cannot, and act accordingly. You should not use any information you may come across in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way. The handling and sight of information should always be treated as being confidential. If in doubt, you should check with your line manager or Head of Service.

You should not prevent another person from gaining access to information to which that person is entitled by law, for example, requests made under the Freedom of Information Act.

3.3 Intellectual Property

Intellectual property is a general term that includes inventions, creative writings and drawings. If any of these are created by you in the course of your employment, for example, plans, then as a general rule they belong to the Council and therefore cannot be sold or lent to any other person or organisation without prior written permission of the Council.

3.4 General Disclosures in relation to Council Executive Reports

The law requires that most of the work undertaken by the Council should be open to inspection and that certain types of information should be available to Elected Members, Government Departments, service users and the public. There are exceptions to this which include:

- confidential or "exempt from publication" information discussed at meetings of the Council, the Executive Board, Executive Member meetings, committees and other meetings when the press and public have been excluded;
- commercially sensitive information in relation to contracts for the supply of goods and/or services;
- personal information relating to service users, employees and Elected Members.

In particular, you should not disclose (without express permission) information relating to Part II agenda items and reports. No reports relating to staffing, financial, commercial, disciplinary, political or other confidential matters should be provided or discussed without the express agreement of the Council, Chief Executive or a departmental Director.

4. Corruption

You must ensure that you use public funds entrusted to you in a responsible and lawful manner.

You must be aware that it may be deemed to be corrupt if you receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity and could amount to a criminal offence as well as gross misconduct and so place you at risk of a criminal sanction as well as disciplinary proceedings. This includes bribing another person, being bribed and/or bribing a foreign public official.

Failing to prevent bribery is also considered to be a 'corporate offence'. Under this, the Council will be guilty of an offence if an "associated person" bribes someone else with the intention to obtain or retain business, or a business advantage, for the Council. "associated persons" may include employees, agents and subsidiaries.

Further information on the Bribery Act 2010 can be accessed by the following link:

[Intranet > Human Resources > Policies > The UK Bribery Act 2010
http://cms.intra.blackburn.gov.uk/server.php?show=ConWebDoc.57535](http://cms.intra.blackburn.gov.uk/server.php?show=ConWebDoc.57535)

5. Gifts and Hospitality

With the exception of gifts of a token value, you should refuse any gift or hospitality offered to you or members of your family. All gifts or offers of hospitality over the token value must be recorded on the form attached to Standing Financial Instruction 21 (SFI 21) which must be sent to the Director. Nothing over the token value must be accepted without the written consent of the Director.

A gift should only be accepted where it is reasonable and justifiable and is on a scale appropriate to the circumstances, for example, the gift has a token face value of up to £25 (e.g. calendars, pens, key rings, diaries, calendars or other promotional items). As a general rule, therefore, anything with a value of £25 or more must be registered.

No personal gifts from either existing or potential contractors or suppliers should be accepted and gifts should not take the form of cash, bonds or benefits such as hotel accommodation or tickets to major sporting events.

Examples of hospitality are free meals, tickets to attend sporting or entertainment events, or working lunches from potential or current contractors and outside suppliers or people or organisations subject to decisions by the Council.

Normally, visits to exhibitions, inspection of equipment and attendance at conferences by employees will be at the Council's expense. There may be occasions where it may be in the Council's interest to accept offers from outside agencies, organisations or individuals, for example, offers of hospitality which form part of the life of the community or where the Council needs to be represented. The decision to attend will be made by the departmental Director. When receiving authorised hospitality, you should be particularly sensitive with regard to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

If there is any doubt, the approval of the line manager (or the Director where gifts or hospitality above the token value are received directly or without warning) should be sought before accepting any gift or hospitality or the offer should be declined politely.

For further information and guidance on accepting gifts and hospitality, including the value of such goods, please refer to Standing Financial Instruction 21 (SFI 21):

[http://cms.intra.blackburn.gov.uk/upload/doc/SFI 21 Gift and Hospitality Dec12.doc](http://cms.intra.blackburn.gov.uk/upload/doc/SFI_21_Gift_and_Hospitality_Dec12.doc)

6. Sponsorship – Giving and Receiving

The requirements of this Code concerning the acceptance of gifts or hospitality also apply to where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service or where the Council through sponsorship, grant aid, financial or other means, give support in the community, you must follow the requirements of this Code concerning conflicts of interest and complete the Register of Interest Form (SFI 12).

[Intranet > Human Resources > Forms > Register of Interest Form](#)
http://cms.intra.blackburn.gov.uk/upload/doc/SFI_12_Register_of_Interest.doc

7. The Selection of Developers, Consultants or Contractors

The need for accountability and openness is crucial during any tendering exercise. Any relationship, of a private or business nature, with any current or proposed external contractor(s) and/or supplier(s) of services to the Council must be declared to the departmental Director **prior to** any involvement in the tendering or contract process.

No part of the community should be discriminated against when assessing or awarding contracts.

Orders and contracts must be awarded fairly against other tenders, in accordance with the Council's Financial Regulations, Standing Financial Instructions and Contracts and Procurement Procedure Rules. No special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process.

You should not behave in a manner that gives the impression that you are in a position of favouring one party over another, or in your dealings, behave in such a way that seeks or implies a gift, loan, fee, reward or advantage, or any offer of such is required in return for an award of contract.

If you are involved in the selection or supervision of contractors who you have previously had, or currently have a relationship or any other official relationships with contractors or potential contractors in a business or personal capacity, you should declare that relationship in writing via the Register of Interest Form to your departmental Director. Where there are concerns from any party with regard to a relationship with an external contractor and/or supplier, then the Whistleblowing Policy should be referred to.

Where you are aware of confidential information on tenders or costs for contractors, this information should not be disclosed to any unauthorised party or organisation.

A link to the Council's Contract and Procurement Procedure Rules is below:

[Resources > Finance > Procurement > Strategy and Rules](#)
[http://cms.intra.blackburn.gov.uk/upload/doc/Contract and Procurement Rules Review Apr2013 20130430115801](http://cms.intra.blackburn.gov.uk/upload/doc/Contract_and_Procurement_Rules_Review_Apr2013_20130430115801)

8. Financial, Personal and Conflicts of Interests

For the purposes of this Code, the following are examples of who should declare an interest. The list is not exhaustive:

- If you have a direct or indirect financial interest in a company or organisation which trades, or could potentially trade with the Council;
- If you or your spouse/partner have a direct personal, financial and other interest which may conflict with the business of the Council or with your employment with the Council.

8.1 Personal commitments

A personal commitment outside work which may conflict with your employment in the Council must be declared on a Register of Interest Form (SF1 12). This includes being employed by, or receiving any kind of payment including those 'in kind', such as a gym membership, from a company or organisation which has a contract with the Council. Other examples include:

- directorships, including non-executive directorships of, or employment by, public or private companies likely or possibly seeking to do business with the Council;
- close relative, spouse or partner who has directorship of public or private companies likely or possibly seeking to do business with the Council;
- outside interests that may have conflicting time demands and so could possibly affect the performance of duties in the Council. Examples include, second or third jobs, management of companies, etc;
- remunerated or honorary positions and other connections with organisations which may give rise to a conflict of interests;
- representational or other non-financial interests in areas covering Council business.
- tenancy or licence agreements with the Council;
- employees who may have small personal interests whereby they do not have contractual relations with the Council but may sell goods on a small scale to employees of the Council. It is arguable that they may be using their position within the Council to secure sales. Although individually these may not be large amounts, over a period of time, it could amount to a substantial sum;
- Membership of a Secret Society.

You should disclose any land, (other than your home), or business in which you have an interest which is, or likely to be, the subject of a Council decision.

The departmental Director will maintain a confidential register of all declared interests to ensure standards of conduct are maintained. This will be reviewed annually by the Council's Monitoring Officer. If your circumstances change you can make a voluntary declaration by completing and submitting the Register of Interest Form (SF1 12).

If you have a personal interest in a matter raised at a meeting where you are in attendance or advising on the matter, this must be declared immediately and you must take no further part. Such a declaration made at an official meeting will be recorded formally in the minutes of the meeting.

The Council requires that you declare if you are a member of any Secret Society.

A Secret Society can be defined as:

"Any lodge, chapter, society, trust or regular gathering or meeting which is not open to members of the public, who are not members of that lodge, chapter, society, trust, regular gathering or meeting"

"A society which as part of membership obliges a member to make a commitment, whether by oath or otherwise, of allegiance to the lodge, chapter, society, trust, regular gathering or meeting" and

"Includes, whether initially or subsequently, a commitment, whether by oath or otherwise, of secrecy about the rules, membership, or conduct of the lodge, chapter, society, trust, regular gathering or meeting".

Please note that a lodge, chapter, society, trust, regular gathering or meeting as defined above, should not be regarded as a Secret Society if it forms part of the activity of a generally recognised religion.

8.2 Commitments outside Work

You should ensure that you are clear about your contractual obligations to the Council and should not take part in any other business or take outside activity which conflicts with the Council's interests. Any interest in which you, your spouse or partner have a financial/indirect interest including being employed by, or receiving any kind of remuneration or benefit 'in kind' from an organisation which has a contract with the Council should be declared using the Register of Interest Form. It is a criminal offence to fail to comply with this provision.

The only exception to the legal requirement to disclose a financial/indirect interest is where the interest is so distant or small that no reasonable person would expect it to influence you if you might have dealings with the organisation concerned. In such cases it need not be disclosed.

If in any doubt, you should check out the particular situation with your line manager.

8.3 Secondary Employment

The Council stresses to employees of all grades, that you should not undertake outside work if your official duties overlap in some way with your proposed work, and/or if it causes a conflict of interest, or if it makes use of material to which you have access by virtue of your position (for example, an architect or planner who draws up plans within his or her own authority for an applicant for planning consent). It is irrelevant whether or not the work is paid.

Where there is a possibility of a conflict of interest, you must put a request in writing, seeking permission from your appropriate Director before undertaking any other employment, or private work. The letter must provide clear details of the work to be undertaken, the hours of work, the work location and the remuneration involved.

Until you receive written approval **no** additional employment or private work must be undertaken. Failure to seek and obtain written permission could lead to action being taken in accordance with the Disciplinary Policy.

8.4 Whole time service

If your SCP point is at or above NJC scale 29 (£24,894 as at 2013/2014) you must not take up any paid or unpaid employment, run a business, or take up any other additional appointment, without first receiving the express consent, in writing, from your relevant Director.

Where you disagree with any decision you have the right to appeal to your departmental Director and they will arrange for a review of the decision.

You should not use Council facilities e.g. email, internet, telephones, printers and/or photocopiers for undertaking any outside work interests. Similarly you should be aware that correspondence and incoming telephone calls related to outside work are not allowed.

9. Recruitment Policy and Employment Policies

The Council's Recruitment and Selection Policy and Equality Act 2010 Statement must be followed when recruiting to any post within the Council.

In order to avoid any possible accusation or appearance of bias, you will not be involved in any recruitment and selection exercise for any employee who is a relative, partner, friend or any person in respect of whom the your involvement could reasonably be perceived to be prejudiced or biased.

For the same reasons, you should not be involved in any decisions on discipline, grievance, promotion or pay where there is a direct or indirect link to the employee who is the subject of such procedures.

You must immediately report to you respective Head of Service if there are any individual attempts made to influence you in any way regarding the use or application of policies.

10. Personal Relationships

If you become involved in a personal relationship with someone you manage, or you manage a relative or close personal friend, you should immediately advise your line manager or Head of Service who will consider the individual circumstances and any implications regarding continued management to avoid any accusation or appearance of bias. Relevant issues will be considered on a case by case basis.

11. Political Awareness and Impartiality

Councillors and employees are public servants; however, they do have clearly different and distinct roles and responsibilities.

Councillors are responsible to the electorate whilst in office and you are responsible for undertaking assigned duties and responsibilities appropriate to your job role with the Council.

You must, at all times, be impartial in your dealings with Councillors from all political parties.

You may be required to advise political groups in the course of your duties and in doing so you must not compromise your political neutrality.

You must not at any time allow your own personal or political views or interests to influence you in the work you undertake on behalf of the Council.

12. Politically Restricted Posts

The Local Government and Housing Act 1989 contain provisions to restrict the political activity of senior employees.

If you hold a politically restricted post you are disqualified from membership of any Local Authority, other than a parish or community council, from being an MP or MEP and as such cannot have an active political role either in or outside the workplace.

The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post. Further information on this can be found under the policy at:

[Intranet > IT projects and news > Guide to managing change > Remodelling](#)
<http://cms.intra.blackburn.gov.uk/server.php?show=ConWebDoc.43927>

13. Related Documents

The Employee Code of Conduct must be applied in conjunction with the Council's other relevant policies, these include:

- the Terms and Conditions of Employment – both national and local;
- the Councils Contract Procedure Rules;
- Financial Regulations including Standing Financial Instructions;
- Standing Orders;
- departmental or locally held rules, policies and procedures of conduct that are issued from time to time;
- legislation such as the Local Government and Housing Act 1989 etc.

The Employee Code of Conduct must also be applied in conjunction with relevant professional Codes of Practice such as:

- General Social Care Code of Conduct;
- Health and Social Care Workers in England;
- Solicitors Regulation Authority Code of Conduct.

14. Further Guidance

If you require further advice regarding the application of the Employee Code of Conduct please contact the appropriate Human Resources Team for your Programme Area – (**Intranet > Human Resources > Contacts**).

15. Approving Body & Date

LJNCC (Council) – Wednesday 23 October 2013