

Public Document Pack

Standards Committee

Wednesday, 20th December, 2023

6.00 pm

Meeting Room A

Blackburn Town Hall

AGENDA

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**
Minutes of Previous Meeting 2 - 6
3. **Declarations of Interest**
Declarations of Interest 7
4. **Member/Officer Protocol**
Report - Member- Officer Protocol 8 - 24
Section 3 Protocol on Member Officer Protocol FINAL
5. **Complaints Update**
Report - Complaints December 2023 25 - 28

Date Published: 13th December 2023
Denise Park, Chief Executive

STANDARDS COMMITTEE Wednesday, 27 September 2023

PRESENT – Councillors, Councillor Saj Ali (Chair), Casey, Connor, Fletcher, Raja, Shaw, Slater and Whittingham.

Also Present – Paul Fletcher

OFFICERS – Asad Laher, Chris Bradley, Corinne McMillian & Shannon Gardiner

RESOLUTIONS

1 **Welcome and Apologies**

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Samim Desai, Alan Eastwood and Daniel Wilde.

2 **Minutes of the Previous Meeting**

RESOLVED – That the minutes of the previous meeting held on 22nd June 2023 were agreed and signed as a correct record.

3 **Declaration of Interest**

RESOLVED – There were no Declarations of Interest received.

4 **Committee Membership**

At the committee on 22nd June 2023 it was agreed that officers would contact parish councils regarding the vacant position for a parish member to be on the Committee.

All parishes were contacted and a parish councillor from Livesey parish expressed their interest for the position.

RESOLVED – That the committee recommend the parish member to fill the position and be invited to the next meeting.

5 **Code of Conduct**

Christopher Bradley, Head of Service for Corporate Contracting and Procurement, delivered a presentation to the committee on the Code of Conduct.

Members of the committee were shown scenarios of potential misconduct of the code of conduct. Members discussed each scenario and were advised on the outcome.

The Council adopted a code of conduct in line with the requirements of the Localism Act 2011. The Localism Act placed the Council under a duty to

promote and maintain high standards of conduct for its members and co-opted members.

The code has general principles which Members must behave and observe the following, some which are set out in law:

1. Selflessness
2. Honesty and Integrity
3. Objectivity
4. Accountability
5. Openness
6. Personal judgement
7. Respect for others
8. Duty to uphold the law
9. Stewardship
10. Leadership
11. Training

Failure to follow comply with the code may result in a sanction and 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.

The code of conduct also highlights general obligations which Members must not do such as;

- (a) do anything which may knowingly cause your authority to breach the Equality Act 2010;
- (b) bully, harass 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.

The importance of Disclosable Pecuniary Interests were highlighted and that it is an interest of yourself or 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:

- Employment, office, trade, profession or vacation
- Sponsorship
- Contracts
- Land
- Licences
- Corporate tenancies
- Securities

Disclosable Pecuniary Interest must be submitted to the Monitoring Officer within 28 days of your election or appointment to office as a member of co-opted member. Members must also notify the 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.

RESOLVED – That the presentation be noted.

6 Member Training 2023/24 Update

Asad Laher updated the committee on the local training programme scheduled for 2023/24.

It was highlighted that the Standards Committee has a key role in directing the provision of member development in order to ensure that elected members receive training, which meets their needs as decision makers and ward councillors. The Committee therefore reviews and updates the training and development needs each year, and considers the training programme. The programme includes items that the Committee consider mandatory and areas that it also feels necessary for members to be aware of in carrying out their duties generally as a Councillor and in their specific roles.

The Council offers a training and development programme for Members. This includes:

- An online MeLearning e-learning facility, which has a selection of courses available to all Members
- Mandatory annual training for elected members sitting on Planning & Highways and Licensing Committees
- Essential 'online' training courses for DOJO Cyber Security Awareness and Information Governance for Elected Members

In addition to the above, a local training programme is to be for 2023/24. These will include briefings and presentations delivered online (MS Teams), in-person, or through the 'hybrid' method where an in-person event can be joined remotely by other councillors. Following discussion at the meeting of the Committee in June, items of the local training programme were considered and now been finalised.

The member training and development programmes were split into categories mandatory training, recommended training and briefing sessions.

RESOLVED – That the report and training programme 2023/24 be noted.

7 Complaints Update

Asad Laher, Monitoring Officer, updated the committee on complaints received under the adopted arrangements.

The Monitoring Officer was dealing with two complaints and were being dealt with under the Arrangements. The first complaint involves an allegation of pecuniary interest that has not been declared and therefore presenting a potential conflict of interest when taking part in decision-making at committee.

The second complaint relates to an allegation of 'inappropriate' involvement in a procurement process. The committee will be updated further on the progress of these two complaints at a subsequent meeting.

At the last meeting of the Committee, the Monitoring Officer referred to a member complaint relating to a planning matter. Following the Initial Assessment under the Arrangements the matter was formally investigated to determine whether there had been a breach of the Code by the subject Member. The investigation required collation of facts and information and interviewing relevant officers, the complainants, the subject members and thereafter consulting with the Independent Person. The two complaints were related to two planning applications relating to the same property and concerned the Chair of the Planning & Highways Committee who had become involved with the applicant and the objectors as the property was in his ward. The complainants were also objectors to these planning applications and made a number of allegations against the Chair for breach of the Code, which included:

- contacting the Planning Officer whilst the first application was being considered under the scheme of delegation;
- for not declaring an interest and following the scheme of delegation when considering whether the first planning application should be referred to the Committee for determination;
- for alleged comments made in public at a non-council meeting and alleged posting of comments in a local newspaper.

After a detailed investigation none of the allegations were substantiated and no breach of the code has been found. However, the Monitoring Officer having carefully considered the investigation report had identified a number of learning points and made the following recommendations to assist all members, particularly those serving on the Planning & Highways Committee:

- The internal process for consideration by the Chair of planning applications received (which would usually be determined under officer delegations) for referral to the Planning & Highways Committee be reviewed. There needs to be clear records kept of meetings/consultations, including any declaration of interests by the Chair/Vice-Chair.
- Councillor request for updates on planning applications – it is expected that Councillors would be interested in planning applications in their ward, and would contact the planning department for information (although most information could be obtained from the Council's website). However, they should ensure this cannot be perceived as an attempt to seek to influence or question the planning officer's judgement on the particular applications. To ensure that this does not happen the planning department should also keep a record of enquires made by councillors on specific applications and the responses provided by officers. A suggestion would be to ask councillors to make any enquires by email, and responses to be provided by email. This would also provide some transparency and protect planning officers and councillors against allegations of bias etc. (and the perception of that).

- Members of the Planning & Highways Committee and their involvement with applicants and objectors - advice and training should be provided to members of their role in protecting the integrity of the process by always demonstrating impartiality and avoiding or limiting their involvement with applicants/objectors, to reduce risks of any allegations of bias (or the perception of bias).
- Consider adopting a Planning Protocol for Members.

RESOLVED – That the Committee approved the Monitoring Officers recommendations details in the report relating to planning matter.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **STANDARDS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
ON:	20 December 2023

SUBJECT: Member/Officer Protocol

1. PURPOSE OF THE REPORT

To consider and review of the Protocol on Member/Officer Relations.

2. RECOMMENDATIONS

The Committee is asked to consider the new Council values and behaviours and review of the Protocol on Member/Officer Relations (**Appendix**), and suggest any amendments before recommending to full Council for approval.

3. BACKGROUND

The Protocol on Member/Officer Relations (“the Protocol”) is contained Part 5, Section 3 of the Constitution. Its purpose is stated in paragraph 1.2 as: “...to guide Members and Officers of the Council in their relations with one another”.

The Protocol covers the respective roles and responsibilities of Elected Members and Officers, the legitimate expectations of each other, and specific guidance on a number of issues that commonly arise, including an ‘Advice Note for Elected Members/Officers involvement in respect of family members and social care matters.’ Some of these expectations reflect the principles underlying the Code of Conduct for Members (“the Members’ Code”) and the Officer Code of Conduct (“the Officer Code”). The shared object of these codes is to enhance and maintain the integrity of local government and the Codes, therefore, demand very high standards of personal conduct. Although the Members Code has been subject to some amendments since its formal adoption in 2012 following recommendations by the Committee, the Protocol has not been reviewed for some time.

The Standard’s Committee’s role and function as delegated by the Council is contained in the constitution. It includes assisting councillors and co-opted members to observe the Code of Conduct. The Committee also has a function to monitor the operation of the Council’s standards arrangements and make appropriate recommendations to the Council as it considers appropriate with respect to the maintenance and review of the Code, together with such other codes, procedure, protocol or guidance as the committee considers appropriate.

4. RATIONALE

The Standards Committee has a role to promote and maintain high standards of conduct by councillors and co-opted members, and to assist councillors and co-opted members to observe the Members Code of Conduct. It also has the role to maintain and review a Code of Conduct for Members of the Council. There is also the Protocol on Member/Officer Relations, which the Committee can similarly review and make recommendations.

5. LEGAL IMPLICATIONS

The legal framework is in relation to the Members Code of Conduct. The current Council Code of Conduct and complaint processes was adopted in line with the Council's obligations under section 27 (2) of the Localism Act 2011 and complies with the requirements under section 28 of the Act. Any recommendations for revisions to the current Code of Conduct would be subject to approval by full Council.

In addition, the Protocol on Member/Officer Relations reflect the principles underlying the Code of Conduct for Members and as such the Committee may review the Protocol. Any recommendations for amendments to the Protocol would be subject to approval by full Council.

The Standard's Committee's role and function as delegated by the Council is contained in the constitution. It includes assisting councillors and co-opted members to observe the Code of Conduct. The Committee also has a function to monitor the operation of the Council's standards arrangements and make appropriate recommendations to the Council as it considers appropriate with respect to the maintenance and review of the Code, together with such other codes, procedure, protocol or guidance as the committee considers appropriate.

6. POLICY IMPLICATIONS

The Member's Code of Conduct the Officer Code of Conduct and the Protocol on Member/Officer Relations forms part of the Council's governance framework, and are necessary to promote and maintain high ethical standards, and to ensure public confidence. The Protocol guides Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

7. FINANCIAL IMPLICATIONS

None.

8. CONSULTATIONS

The Standards Committee regularly reviewed the Council's arrangements for promoting and maintaining high standards of conduct. All Members will be briefed on the Protocol on Member/Officer Relations as part of the Member Training programme. Senior officers will also be briefed so they are clear on their respective roles, duties and expectations of each other.

Chief Officer/Member

Contact Officer: Asad Laher, Deputy Director – Legal & Governance and Monitoring Officer.

Date: 11th December 2023

Background Papers: None

Section 3 Protocol on Member/Officer Relations

A. INTRODUCTION

1. Purpose of the Protocol

- 1.1 An effective working relationship between members and officers is critical to the successful operation of the Council's business and to maintaining confidence in the machinery of local government in Blackburn with Darwen.
- 1.2 The purpose of this protocol is to guide members and officers of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues, which most commonly arise.

2. Status of the Protocol

- 2.1 This Protocol has been endorsed by the Council's Standards Committee and approved by Council.

3. Roles and Responsibilities – Elected Members

- 3.1 Members are elected democratically. It is their policies, ideas and decisions which people vote for. Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability and scrutiny ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by the organisation. Members are the advocates for their constituents and deal with individual casework. Members are responsible for making the most senior appointments in the Council through the Chief Executive and Chief Officer Employment Committee.
- 3.2 Members are responsible to the electorate and serve only so long as their term of office lasts.

4. Roles and Responsibilities - Officers

- 4.1 The role of officers is to deliver services according to the policies and requirements set by Members, to draft policy proposals which accord with the overall framework set by members, to give professional advice in the course of policy development and to manage the organisation.
- 4.2 Directors are responsible for appointments of staff below Chief Officer level. Officers are accountable to their Director. They work to the instructions of their Director and not to individual members - whatever office a Member might hold.
- 4.3 Officers are responsible for operational delivery of services and Members should not interfere with this. For example in relation to procurement of contracts matters whilst members are responsible for overall strategy and oversight of procuring contracts they should not attempt to influence the outcome of the procurement process, unless specifically agreed to be part of the evaluation panel. If they are aware of a local provider's capable of meeting Council requirements they can pass this information to

the relevant procuring officer but should not attempt to influence the process any further.

B. LEGITIMATE EXPECTATIONS

1. What members can expect of officers

Members can expect officers:

- To do their job effectively and efficiently
- To strive to provide services which offer best value
- To behave in a manner which accords with the standards set by the Council
- To be helpful, respectful and courteous
- To assist members in carrying out their role as elected members (but not in any party political or campaigning activity, or with private business)
- To deal with members' enquiries fairly and efficiently
- To be open and honest with members.
- To work with all members equally and fairly
- To act lawfully
- To give advice or recommendations based on reasoned options
- To ensure that members have all the information necessary to make informed judgments
- To maintain confidentiality where it is proper for them to do so
- Not to canvass members or otherwise seek to gain favour from them for personal or career advantage
- To have regard to social hours and generally to be sensible about contacting members at potentially inconvenient times, unless in an emergency or otherwise agreed.
- To remember that they are employed by Blackburn with Darwen Council as a whole and not by any part of the Council or individual member

2. What officers can expect of members

Officers can expect members:

- To accept that officers are accountable to their Manager
- To be helpful, respectful and courteous to officers
- Not to become involved in the day to day management of the Council
- To accept that officers act independently of political bias
- To fully consider advice and recommendations for the purpose of making informed judgments
- Not to ask officers to breach Council policy or procedures, or to act unlawfully, or outside the terms of their job
- Not to exert influence or pressure, or request special treatment,
- Not to request unauthorised access to resources or information held by the Council
- To treat officers in a reasonable manner
- To be open and honest with officers
- To act lawfully and to maintain confidentiality when appropriate to do so
- To remember that Officers have a duty to support all parts of the organisation
- To respect that officers have private lives and not to contact them outside normal working hours, or at home, unless in an emergency, or if the officer is officially working from home, or otherwise agreed.

C. SPECIFIC GUIDANCE

1. Officer/Member relationships

Personal relationships

- 1.1 It is clearly important that Senior Officers should have a close working relationship with Executive Members, opposition Group Spokesmen, Scrutiny Committee Chairmen and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the individual's ability to deal impartially with others.
- 1.2 Members must not sit on a Council body or assume an Executive role responsible for any officer with whom they have a close personal relationship.

Members' Constituency Role & Individual Officers

- 1.3 A member may be asked for advice and support by an officer who is one of their constituents. Officers are entitled to seek such assistance in the same way as any other member of the public. However, members should be careful not to prejudice the Council's position in relation to employment matters in respect of an officer.

Dealings with officers

- 1.4 Members, as citizens, will deal routinely with officers of the Council. However, when acting as Councillors, members should take care not to place officers (and in particular officers with less experience on lower grades) in a difficult position for example by seeking information from them which is not in the public domain or by requesting special treatment for themselves or another person.

Giving Instructions to Officers

- 1.5 Members should not give instructions to staff unless they are authorised to do so under the Council's Constitution. Any such instructions should be addressed to the relevant Chief Officer.

Complaints about officers or services

- 1.6 Members have the right to criticise reports or the actions taken by officers, but they should always:
- avoid personal attacks on officers
 - ensure that criticism is constructive and well-founded.
- 1.7 Members should avoid undermining respect for officers at meetings, or in any public forum including through the press. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority. It is important to note that this requirement is not intended to prevent members from undertaking polite but robust and probing scrutiny of the work of Officers.
- 1.8 Complaints about officers or Council services should be made to the Director of the service where the member feels the fault lies.

Officers and Whole Council

- 1.9 Officers are required at all times to serve the whole Council and will need to exercise judgement in fulfilling this obligation. Members must recognise this obligation on officers.
- 1.10 Directors are responsible for the contents of all reports submitted in their name. The advice contained in such reports is independent and members must not seek to suppress or amend any aspect of such advice.

2. Support to Members and Party Groups

Equipment, accommodation and staff resources

- 2.1 Members are provided with ICT (information and communication technology) equipment to enable them to better perform their policy and constituency role as elected members.
- 2.2 Members are also provided with accommodation sufficient for their needs.
- 2.3 Members should not use – and officers should not provide - such equipment and support services in connection with party political or campaigning activity or for purposes not related to Council business.
- 2.4 Where it would otherwise cause undue inconvenience the Council may permit Members to use equipment for personal as well as Council business. This permission may extend to the use of Personal Computers, mobile phones etc. Members who use such equipment on personal business must abide by any specific conditions attached to such usage including conditions as to payment and/or compliance with Council's IT and data policies.
- 2.5 All requests for support which require staff resources will be subject to the request not being unreasonable, not placing undue demands on resources and there being sufficient resources available to meet the request.
- 2.6 Officer support which is made available is to be used to support Council business only and not for general party political activities.

Officers and Political Party Group Meetings

- 2.7 It is usual practice for officers to provide support for individual party groups and there is a common understanding that the Chief Executive and Directors will ensure that such support is provided. However, no individual Officer can be *required* to attend a political group meeting or to write a report for such a meeting.
- 2.8 Officer support to individual political groups must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Officers should not be expected to be present when matters of party business are being discussed.
- 2.9 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Officers are more likely to feel unable to attend such meetings. Where they do attend they may not be able to provide the same level of

information and advice as they would to a member only meeting and in certain circumstances may feel constrained to refuse to give advice.

- 2.10 When Officers attend such meetings the members present are responsible for the proper behaviour of non-Members present.
- 2.11 Officers will respect confidentiality in respect of issues discussed at Group meetings. If non-Members are present then Officers must be careful not to discuss any confidential information as non-Members will not be bound by the same duties of confidentiality. Members should not expect Officers to disclose confidential information to non-Members.

Meetings with Individual Members

- 2.12 Group leaders, Executive Members, Committee Chairs and Vice Chairs and Opposition Spokespersons are entitled to private and confidential briefings from a Director on matters of policy which have already been or may be discussed by the Council or which are within its decision-making process. Normally such briefings will be organised on a Portfolio basis but separate meetings may be arranged with individual Directors where appropriate.
- 2.13 Officers will respect confidentiality in respect of issues discussed at such meetings.

3. Information Sharing

Local Information

- 3.1 It is essential that members should be fully informed about matters on which they may be required to make decisions or which affect their Wards.
- 3.2 Directors must ensure that all relevant staff are aware of the requirement to keep local members informed of issues affecting their ward and that the timing of such information allows members to contribute to any proposed decisions.
- 3.3 If a public meeting is organised by the Council to consider a local issue, all the members representing the Wards affected should be invited to attend the meeting.
- 3.4 Similarly, whenever the Council undertakes any form of consultative exercise affecting a particular Ward or Wards, the local Ward members should be notified at the outset of the exercise.

Information Sharing with Individual members or Political Groups

- 3.5 Individual members may request any Director to provide them with factual information. There is much information which will be freely shared with members. However, if a Director considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she may decline to provide that information unless the Member establishes a legal right to that information. Any requests made for information shall be kept confidential.
- 3.6 The legal rights of members to information are contained within statute, the Constitution and in common law. The law in relation to information sharing is complex. This section provides an overview of some key principles. It is not intended to be a detailed examination of the specific legal provisions.

- 3.7 In summary, as members of the public, members have the right to see agendas, reports and background papers relating to meetings of the Council and its Committees even where they are not members of the Committee in question. However, this right does not extend to seeing papers which contain confidential or exempt information such as information relating to individual service users or information which is commercially confidential.
- 3.8 Under the Council's Constitution these same rights apply to matters to be dealt with by the Executive Board. In addition members have the right to see other documents which relate to business to be transacted at Committee or the Board. Certain confidential and exempt information is excluded from this right.
- 3.9 Members also have a right to see information relating to any decision of an individual Executive member once the decision has been made. Once again certain confidential and exempt information is excluded from this right.
- 3.10 Under common law principles Members have the right to access information held by the Council where it is reasonably necessary to enable the Member to properly perform their duties as a Member. This is known as the "Need to Know". This means that information must not be used for party political purposes. The common law "Need to Know" is the prima facie right of Members to inspect documents of the authority which exist as Members are under a duty to keep themselves informed of Council business which relate to their role as elected representatives. Thus, this right applies to Members who do not have statutory rights to exempt or confidential information and to other documents held by the Council under local government legislation or the Freedom of Information Act 2000.

For example, a Member is likely to have a prima facie "Need to Know" where they have a legitimate Ward problem and needs access to the documents that are relevant to that specific problem. Also, for example, an Executive Member whose Portfolio covers the matter in question and they need to be aware of what is occurring for the purpose of their Executive position.

Access to information on the basis of a 'Need to Know' does not exist where the Member is considered to be "fishing" for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient. It should be noted that some material (for example if commercial sensitive) may be redacted from information that is disclosed, if this does not affect the ability of a Member to exercise their role as an elected representative.

There will also be a range of documents which, because of their nature are either not accessible by Members (such as the personal records of an individual) or are accessible only by the political group forming the administration and not by the Members of other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against the Council's and the public interest. Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one political group will not have a "Need to Know" and therefore, a right to inspect, a document which forms part of the internal workings of another political group. It is for the Director of the Department which holds the document in question, to determine whether an individual member has a need to know. The Director may consult the Deputy Director, Legal & Governance in particular cases of difficulty.

- 3.11 In many cases a need to know can be presumed. However, where members wish to see documents containing confidential information, that request will need to be specifically justified if the information is to be provided.
- 3.12 Where confidential information has been shared it must only be used by the Member for the purpose for which it was provided (i.e. in connection with the proper performance of the Member's duties as a Member of the Council). It should not be circulated without the approval of the relevant Director. Failure to comply with this rule may breach the Code and, in certain circumstances may be a criminal offence.
- 3.13 There are separate rules under the Local Audit and Accountability Act 2014 which give members (as well as residents and journalists) the right to information about the Council's finances.
- 3.14 Where a Member has a financial or personal interest in a matter the Member will only be entitled to the same access as would be the case for a private individual. In these circumstances, the Member must make it clear that they are acting in their private capacity and not as a Member.

Information Sharing and Scrutiny

- 3.14 Scrutiny Committees have additional rights to information which are set out in the Access to Information and Decisions and Attendance at Public Meetings Rules within the Constitution. Briefly these rules enhance individual members' rights so as allow the Committee to have access to documents which contain information where that information is relevant to an action or decision which is being scrutinised or is within the Committee's work programme. This provision allows the Committee to have access to confidential or exempt information.
- 3.15 When a decision has been subject to call in, the relevant Director should produce a pack of the documents relevant to the decision which may be accessed by members of the Scrutiny Committee. Where that pack would be very large the Director should attempt to identify the most important documents and draw Members attention to these.

4. Correspondence

- 4.1 Correspondence, including e-mails, between an individual member and officer, should not normally be copied by the officer to any member, unless the member who initiated the correspondence copied it to other members in which case the officer should normally copy his correspondence to those other members.
- 4.2 Members can expect Officers to treat their correspondence with the utmost discretion. However, Officers and particularly more junior officers may need to seek advice on answering Members' queries and Directors need to be able to monitor the quality of information being supplied. For that reason correspondence may, where necessary be copied by an Officer to his /her Manager, Director, the Director of Finance, the Deputy Director, Legal & Governance, or the Chief Executive but should not normally be circulated more widely.

5. Members roles in representing individual citizens

5.1 Members should not normally appear before a quasi-judicial body administered by the Council to represent an individual citizen. Note separate arrangements are in place to facilitate representation for Planning & Highways Committees.

5.2 If a Member proposes to attend a meeting between an officer and a citizen, they should advise the appropriate Chief Officer in advance of this intention.

6. Members involvement in respect of Family members and social care matters

6.1 In the event that any Member's relative becomes the subject of any Policies/Procedures/Applications related to the conduct of the Council's social care responsibilities the following protocol is to be observed to allow the member to fulfil their family role aside other citizens of the Borough whilst ensuring they do not compromise their role as Member's.

- 1 The Member should notify the Monitoring Officer or relevant Chief Officer (DCS or DASS) and may ask for advice or clarity.
- 2 The Member must not seek to influence the Officers/Members who are conducting the proceedings on behalf of the Council – and approved processes will be followed in the same way as for any other citizen of the Borough. (See Code of Conduct references in Guidance – Appendix A).
- 3 At all times during and after the conclusion of the matter, the Member must behave in accordance with The Code of Conduct.
- 4 Dependent upon the particular circumstances of the matter and the legislative framework, the respective Chief Officer may or may not be able to share further information with the Member involved.
- 5 Dependent upon the nature of the matter, a member may request to be temporarily relieved of individual portfolio or committee/sub-committee responsibilities should they identify a potential conflict of interest.

Further information is available via a Guidance note for Members from the Monitoring Officer approved by the Standards Committee on 8th January 2015 and is attached as Appendix A to this Protocol.

7. Public statements and dealings with the media

- 7.1 Officers responding to requests from the media must do so in accordance with the corporate media protocol.
- 7.2 Officers will not assist in party political publicity and all publicity issued by the Council will abide by the provisions of the Local Government Act 1986 and the Code of Conduct issued under the Local Government Act 1988.
- 7.3 When making public statements on matters affecting the Council officers should follow the following principles:
 - Statements should be made without political bias;
 - Statements should not be made where they could reasonably be regarded as bringing the Council into disrepute;

Officers should not normally express a view in public as to decisions which members ought to take. This principle does not, of course, prevent officers giving professional advice to decision making bodies. It is also not intended to prevent officers giving advice in respect of planning applications and similar matters.

APPENDIX A
ADVICE NOTE FOR MEMBERS/OFFICERS
INVOLVEMENT IN RESPECT OF FAMILY MEMBERS AND SOCIAL CARE
MATTERS

Introduction

In the event that any Member's relative becomes the subject of any Policies/Procedures/Applications related to the conduct of the Council's social care responsibilities the following protocol is suggested be observed to allow the member to fulfil their family role aside other citizens of the Borough whilst ensuring they do not compromise their role as Member's.

- 1 The Member should notify the Monitoring Officer or relevant Chief Officer (DCS or DASS) and may ask for advice or clarity.
- 2 The Member must not seek to influence the Officers/Members who are conducting the proceedings on behalf of the Council – and approved processes will be followed in the same way as for any other citizen of the Borough. (See Code of Conduct references below).
- 3 At all times during and after the conclusion of the matter, the Member must behave in accordance with The Code of Conduct.
- 4 Dependent upon the particular circumstances of the matter and the legislative framework, the respective Chief Officer may or may not be able to share further information with the Member involved.
- 5 Dependent upon the nature of the matter, a member may request to be temporarily relieved of individual portfolio or committee/sub-committee responsibilities should they identify a potential conflict of interest.

If these arrangements are followed, this protects both the Council and the Member from potential challenge.

More background information:

(i) The Council

For example, looking at social case matters - The Council has certain statutory duties it must fulfil which it must do so with no favour to one citizen over another and at all times **act in the best interests** of the 'vulnerable adult' or 'child' (depending on the type of case). Clearly it must also **be seen to act all times** be act in the best interests of the 'vulnerable adult' or 'child' (depending on the type of case).

(ii) The Member

Clearly the member has a family duty and expectation placed upon them and this can be a very emotional and personally distressing time on occasions. This family event however may come into conflict with their role as Member given the duties placed upon the Council only briefly outlined in example in (i) above.

It would be very easy for the member to find themselves in direct conflict with the Code of Conduct if they attempt to influence (or even give the impression of seeking to influence) any formal proceeding the Council is carrying out under its statutory obligations.

The Members Code of Conduct is quite explicit in parts in this respect Paragraph 2 (See Constitution) refers:-

"2 - 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 – Honestly 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

2.7 – 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.”

The current Protocol on Member/Officer relations is also very explicit (see Constitution):

“Members can expect officers to:

To do their job effectively and efficiently

To act lawfully

To maintain confidentiality where it is proper for them to do so

Officers can expect of members:

Not to become involved in the day to day management of the Council

Not to ask officers to breach Council policy or procedures, or to act unlawfully, or outside of the terms of their job

Not to exert influence or pressure, or request special treatment

Not to request unauthorised access to resources or information held by the council

To act lawfully and to maintain confidentiality when appropriate to do so”

What else could we do to help the member and support the protocol being applied reasonably?

It would be advisable to protect the Member and Council further, to instruct another local authority to conduct the case matter in such situations like this example if they arise. This may also include should the matter require legal support, to instruct outside Council ensuring there can be no accusations of the Member not following the Code of Conduct by exerting influence on staff and also protect the social work employees from accusations that they only made case assessment decisions as they were aware of the member family relationship.



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
ON:	20 December 2023

SUBJECT: **Complaints Update**

1. PURPOSE OF THE REPORT

To update the Committee on complaints received under the adopted Arrangements for dealing with Member complaints for alleged breach of the Member's Code of Conduct.

2. RECOMMENDATIONS

The Committee is asked to:

- note the update report on complaints received by the Monitoring Officer.
- consider the Monitoring Officer's recommendations detailed in the report.

3. BACKGROUND

The Committee has a role in promoting and maintaining high standards in the conduct of council and Parish/Town Councils business, and in the conduct of Members, and may make appropriate recommendations in this regard. The Committee also has a role in the provision of training, guidance and assistance for Members in relation to the Council's Code of Conduct for Members.

Under the adopted Arrangements for dealing with complaints about the Code of Conduct for Members, the Monitoring Officer receives formal complaints and undertakes an Initial Assessment following consultation with the Independent Person.

Members of the Committee will be aware that not all complaints are continued for various reasons (unsubstantiated complaints, vexatious complaints etc.). However, it is important that the Committee is made aware of receipt of these and legitimate complaints that are being processed and progressed.

In view of the Committee's over-arching role, it is to be informed of all complaints submitted and their progress at its meetings where appropriate, subject to confidentiality of certain detail and information. This would enable the Committee to consider any particular issues that are highlighted and make appropriate recommendations to Council.

Currently, there are no 'live' complaints and the two complaints that were reported at the meeting of the Committee on 22 September have now been concluded.

The first complaint related to an allegation of a pecuniary interest that had not been declared, and therefore alleging a potential conflict of interest when taking part in decision-making at committee. In accordance with the adopted Arrangements, the Subject Member was asked to respond to the allegations made against him. The Subject Member confirmed that he did not have any pecuniary interest in any of the businesses referred to by the complainant, and that his involvement as evidenced by the complainant was purely voluntary. The complainant did not provide any further evidence to substantiate the allegation, nor was any evidence apparent from general enquiries. In any case, there had not been any matters relating to those businesses that were considered by the committee, to which the Subject Member was appointed to.

Therefore, following consultation with the Independent Person it was determined at the Initial Assessment stage of the process that there had been no breach of the Code by the Subject Member and the matter was not pursued further under the Arrangements. However, the Monitoring Officer advised the Subject Member about the issue of perception that led to the complaint made against him, in that it is possible that people seeing him involved publically in a business would assume links to it. He was also advised that it would not be appropriate (and could be regarded as a breach of the Code) for a councillor with knowledge to be seen in a business that is in clear breach of any regulatory conditions. The Subject Member was also reminded to consider their position on any committee, should any matter relating to the businesses with his perceived links come before it for determination, and seek advice from the Monitoring Officer or the Legal officer supporting the committee.

The second complaint relates to an allegation of 'inappropriate' involvement in the Council's procurement process, which was also reported by the Lancashire Telegraph on 9 September 2023. As expected, the Council did maintain confidentiality and provided no comments as the matter was still in the process of being formally considered. The complaint was made by Mr Rick Moore, Deputy Chairman of Blackburn Conservative Association, after examining some email correspondence obtained through a request made under the Freedom of Information Act. The complaint was made against Councillor Qesir Mahmood, Deputy Leader and Executive Member for Growth & Development. The complaint also related to a senior officer of the Council, which was considered separately whilst the complaint against Councillor Mahmood was dealt with in accordance with the adopted Arrangements, and included consultation with the Independent Person. The Monitoring Officer also reviewed some relevant factual information that was made available to him.

The Initial Assessment was undertaken to determine whether the matter merits further consideration/investigation, or another course of action. The following was determined:

- The procurement of the upvc window/doors referred to in the complaint was in relation to the former prayer shelter and not the new prayer facility as suggested by Mr Moore, which was a single contract procured later and in accordance with the Council's Contract and Procurement Procedure Rules. Nevertheless, the supply/installation of the upvc window/doors to the former prayer shelter was also procured by other officers in accordance with the Council's Contract and Procurement Rules.

- Although Councillor Mahmood suggested obtaining a quotation from a local supplier, there is no evidence to suggest that Councillor Mahmood influenced or interfered in any way with the procurement exercise. This is supported by the fact (evidenced by Council records) that the supplier suggested by Councillor Mahmood was not awarded the contract for the supply/installation of the upvc window/doors. Councillor Mahmood denies that he has any links with the local supplier, and there is no factual evidence to suggest that he had a disclosable pecuniary interest which should have been disclosed.

The Initial Assessment therefore, found no evidence to suggest that Councillor Mahmood sought to involve himself with the procurement of new prayer shelter facility, nor did he sought to “interfere” with the Council’s procurement of some other minor works and services.

There were no issues identified that could potentially constitute a breach of the Member’s Code of Conduct by Councillor Mahmood, and therefore the matter was not pursued further under the adopted Arrangements.

The Monitoring Officer however, noted Mr Moore’s reference to the Protocol on Member/Officer Relations and role of councillors in operational management matters. Although this is outside the Code, it has also been raised generally and is already on the Standards Committee and governance work programme for review. The Monitoring Officer recommends that the following the review of the Protocol, briefings are provided to both Councillors and officers so they are clear on their respective roles, duties and expectations of each other.

4. RATIONALE

The Committee has a role in promoting and maintaining high standards of conduct and make appropriate recommendations to Council in this regard. The Committee should therefore be informed and updated of the complaints received by the Monitoring Officer and update its progress.

5. LEGAL IMPLICATIONS

The Localism Act 2011 (“the Act”) places the Council under a duty to promote and maintain high standards of conduct for members (and co-opted members). This was delegated by the Council in August 2012 to the Standards Committee. Under the Constitution, the Standards Committee also has a role in assisting councillors (and co-opted members) to observe the Members Code of Conduct, and make appropriate recommendations to the Council with respect to:

- promoting and maintaining high standards of conduct and
- the provision of training, guidance and assistance for Members in relation to the Members’ Code of Conduct.

The Act also requires local authorities to adopt a Code of Conduct that is consistent with the ‘Nolan’ principles, and include provisions to regulate pecuniary and other interests. In addition, the local authorities are required to put in place arrangements for dealing with complaints both about Council

Members and Parish/Town Council members. Under these arrangements, local authorities must appoint at least one 'Independent Person' who must be consulted before making a decision on a Member conduct complaint.

The Council has delegated authority to the Monitoring Officer to handle complaints and refer an investigation finding of breach to the Hearing Panel of the Standards Committee. The Monitoring Officer must handle the complaints in accordance with the Arrangements for dealing with complaints about the Code of Conduct for members

6. POLICY IMPLICATIONS

A good governance framework in local authorities is necessary to promote and maintain high ethical standards, and to ensure public confidence. In this regard, the Committee must have confidence that complaints made for alleged breaches of the Code are considered impartially and objectively, and in accordance with the arrangements adopted by the Council.

7. FINANCIAL IMPLICATIONS

None.

8. CONSULTATIONS

The Committee has a role in promoting and maintaining high standards of conduct. This report seeks to update the Committee of recent complaints received and progress, which would inform the Committee when considering any general recommendations to Council in relation to promoting and maintaining high standards of conduct.

Chief Officer/Member

Contact Officer: Asad Laher, Deputy Director – Legal & Governance and Monitoring Officer.

Date: 8 December 2023

Background Papers: None