

## **STANDARDS COMMITTEE**

THURSDAY, 15TH MARCH, 2018, 6.00 PM

CROSS ROOM, CIVIC CENTRE, WEST PADDOCK, LEYLAND PR25  
1DH

### AGENDA

- |  |                 |
|--|-----------------|
| <b>1 Apologies for Absence</b>   |                 |
| <b>2 Declarations of Interest</b>  |                 |
| <b>3 Minutes of the Last Meeting</b>   | (Pages 3 - 6)   |
| Held on Thursday, 7 December 2017, to be signed as a correct record.                                     |                 |
| <b>4 Minutes of the meeting of the Standards Committee Initial Assessment Hearing Panel</b>              | (Pages 7 - 8)   |
| To confirm the attached minutes of the meeting of the panel held on 16 January 2018 as a correct record. |                 |
| <b>5 Protocol Relating to Independent Persons</b>  | (Pages 9 - 14)  |
| Report of the Interim Monitoring Officer attached.   |                 |
| <b>6 Review of Local Government Ethical Standards</b>  | (Pages 15 - 46) |
| Report of the Interim Monitoring Officer attached.   |                 |

Heather McManus  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Standards Committee Councillors Linda Woollard (Chair), Carol Chisholm (Vice-Chair), Colin Coulton, Bill Evans, Susan Jones, John Rainsbury, Barrie Yates, D Haley (Independent Person) and B Parsonage (Independent Person)

The minutes of this meeting will be available on the internet at [www.southribble.gov.uk](http://www.southribble.gov.uk)

#### Forthcoming Meetings

6.00 pm Thursday, 7 June 2018 - Cross Room, Civic Centre, West Paddock, Leyland PR25 1DH

This page is intentionally left blank

## **MINUTES OF STANDARDS COMMITTEE**

**MEETING DATE** Thursday, 7 December 2017

**MEMBERS PRESENT:** Councillors Linda Woollard (Chair), Carol Chisholm (Vice-Chair), Bill Evans, Susan Jones and Barrie Yates

**INDEPENDENT PERSON:** Barry Parsonage

**OFFICERS:** Caroline Elwood (Interim Corporate Governance Manager), Andy Houlker (Senior Democratic Services Officer) and Dave Whelan (Legal Services Manager/Monitoring Officer)

**OTHER MEMBERS AND OFFICERS:** 0

**PUBLIC:** 0

### **15 Apologies for Absence**

Apologies for absence were received from Councillor Coulton and David Haley (Independent Person).

### **16 Minutes of the Last Meeting**

RESOLVED (Unanimously):

That the minutes of the meeting of the Committee held on 21 September 2017 be approved as a correct record.

### **17 Declarations of Interest**

There were no declarations of interest.

### **18 Minutes of the meeting of the Standards Committee Initial Assessment Hearing Panel**

RESOLVED (Unanimously by those members of the Panel present):

That the minutes of the meeting of the Initial Hearing Panel held on 21 November 2017 be approved as a correct record.

### **19 Annual Report and Update**

The Council's Monitoring Officer presented the Annual Report on work carried out over the last 12 months. This had been a busy and productive year and included; the appointment of a second Independent Person to assist the Monitoring Officer, the development of a Social Media Protocol, amending/updating the Hearing and

Investigation Procedure for Dealing with Complaints, reviewing the Code of Conduct for Elected Members and the development of Guidance relating to it.

It had also been a busy year for dealing with complaints against members under the Code of Conduct for Elected Members.

As well as reporting on all of the above information was also provided as to complaints made to the Local Government Ombudsman, and Members' attendance figures.

Looking forward it was suggested there be specific training for Committee members sitting on Standard Committee Hearing Panels as well as general standards training/awareness raising for all members. The Committee also felt it would be helpful to have a joint workshop with other neighbouring councils (such as Chorley Borough Council, Lancashire County Council and Preston City Council) to discuss/air current issues and approaches.

RESOLVED (Unanimously) that:

- (1) the Annual Report be noted and be presented to a future meeting of the Council; and
- (2) the Monitoring Officer approach Chorley Borough Council, Lancashire County Council and Preston City Council with a view to holding a joint Standards workshop (possibly held at County Hall).

## **20 Disqualification Criteria for Councillors**

The Interim Corporate Governance Manager reported that the Council had been consulted by the Department for Communities and Local Government (DCLG) on possible additional criteria for the disqualification of Councillors and Elected Mayors.

The Committee was asked whether or not it supported the DCLG's proposal to introduce a new rule that would prohibit any individual subject to an Anti-Social Behaviour Injunction, a Criminal Behaviour Order or had been added to the sex offenders' register, from standing for election or holding office as a Councillor and Elected Mayor.

The DCLG's consultation paper was appended to the report.

In particular the Committee was asked to consider and respond to the six questions in the report. The Committee considered and discussed each question in turn, especially Question 2. With the exception of the response to Question 2 (For: 4, Against: 1), the Committee was unanimous in its responses to the questions.

RESOLVED that the Council's responses to the six question in the DCLG's consultation be as follows:

1. Yes
2. No
3. Yes
4. Yes
5. No
6. No

## **21 Complaint Form for Complaints under the Code of Conduct**

The Interim Corporate Governance Manager presented a proposed form to be used in connection with complaints received under the Code of Conduct.

It was felt that the form would consistently collect the necessary basic information and the need to complete a form might assist in reducing the number of such complaints being received.

RESOLVED:

That the Complaint Form attached as Appendix A to the report be used for future complaints under the Code of Conduct for Elected Members.

## **22 Protocol Relating to Independent Persons**

The Interim Corporate Governance Manager presented the report that asked the Committee to look at the existing protocol for Independent Persons and amend as appropriate. This review had been included as part of the Committee's Work Programme. It was felt that the existing protocol was largely relevant and it was proposed to conduct a refresh rather than a full review.

The Council's two Independent Persons had been consulted and provided comments along with members of the Council. It was proposed that a refreshed protocol be presented to the next meeting of the Committee.

RESOLVED:

That a refresh of the Council's existing protocol for Independent Persons be carried out and that the amended protocol be presented to the next meeting of the Committee.

Chair

Date

This page is intentionally left blank



The panel was now asked whether it was prepared to accept Councillor A's suggested proposal (in whole/part), suggest any alternative(s), no further action be taken or that the matter be referred for a full formal investigation.

The panel then discussed at length the merits of the options available and potential outcomes. After weighing up the alternatives, the panel felt that on balance that informal resolution was the most appropriate action.

RESOLVED (UNANIMOUSLY): that Councillor A

1. attends a training session on the Code of Conduct for Elected Members;
2. writes to the three members of the public affected; and
3. writes to the Leader of the Council suggesting a meeting to discuss a way forward.

Chair

Date

REPORT TO	ON
Standards Committee	15 March 2018

September 2017



TITLE	REPORT OF
Protocol Relating to Independent Persons	Interim Monitoring Officer

Is this report confidential?	No
------------------------------	----

## 1. PURPOSE OF THE REPORT

1.1 To seek approval for the refreshed/amended Protocol for the Council's Independent Persons

## 2. RECOMMENDATIONS

2.1 That Members consider and approve the amended protocol for the Council's Independent Persons

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	X

## 4. BACKGROUND TO THE REPORT

4.1 At its meeting on the 7<sup>th</sup> of December Standards committee considered the existing Protocol for the Council's Independent Persons.

4.2 Overall it was considered that the document was a sound one and that it did not require a major review but rather only a light touch refresh was required. It was agreed that an amended Protocol be brought to this meeting for consideration.

4.3 With this in mind the council's Interim Monitoring Officer has assessed the existing protocol. In this process he took into account comments made by our Independent Persons and of a councillor not on committee.

4.4 Members will find at Appendix A an updated and amended protocol. The changes to the existing document are highlighted by tracked changes. The changes are not substantial and are designed to improve the clarity of the document. In particular it must be remembered that at the time that the existing document was drafted the council only had one Independent Person.

Members will see an additional introductory paragraph that explains that we now have two such persons.

4.5 Members are asked to consider the appended updated Protocol, suggest any further changes that they may consider desirable and then to approve the document.

## 5. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 5.1 Comments of the Statutory Finance Officer

There are no financial implications arising directly from this report.

### 5.2 Comments of the Monitoring Officer

The requirement to have at least one Independent Person is set out in the Localism Act 2011.

The protocol is designed to provide clarity as to how the Independent Persons will operate in practice.

There are no specific legal implications arising from this report.

<p><b>Other implications:</b></p> <ul style="list-style-type: none"> <li>▶ <b>Risk</b></li> <li>▶ <b>Equality &amp; Diversity</b></li> <li>▶ <b>HR &amp; Organisational Development</b></li> <li>▶ <b>Property &amp; Asset Management</b></li> <li>▶ <b>ICT / Technology</b></li> </ul>	<p>There are no specific risk implications arising from this report</p> <p>There are no specific equality implications arising from this report</p> <p>There are no HR implications arising from this report</p> <p>There are no Property or asset management implications arising from this report</p> <p>There are no specific ICT implications arising from this report.</p>
---	---

## 6. BACKGROUND DOCUMENTS (or there are no background papers to this report)

Appendix A – Amended Protocol

David Whelan  
Interim Monitoring Officer

Report Author:	Telephone:	Date:
David Whelan	01772 625247	2 <sup>nd</sup> of March 2018

**Arrangements Defining the Role of the Independent Person(s) and Their Involvement in the Investigation of Complaints**

This protocol is to make clear the relationships between the Independent Person (IP) and the various parts of South Ribble Borough Council involved in the process of handling standards complaints and wider promotion of standards. Its aim is to ensure that responsibility is clear at each stage of the process and sets out the expectations and rights of the IP.

This document shall be read in conjunction with the Investigation and Hearing Procedure.

For the sake of clarity the council has two Independent Persons. Reference in this document to the IP applies to whichever Independent Person is taking part in the consideration of a particular complaint or whichever Independent Person is fulfilling a particular role. Generally speaking it will be for the Monitoring Officer to decide on which Independent Person to liaise with on a particular complaint. This will normally be decided on the basis of availability and the desire to share the burden of the work evenly between the two Independent Persons.

Considering written allegations

1. The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before reaching a decision on whether any action should be taken on a written complaint.
2. When issuing the decision letter, the MO will record that the IP has been consulted and that their views have been taken into account.

Arrangements for contact with Independent Person – Summary

3. All requests for contact with the IP should be made (if possible in writing) to the MO.
4. The MO will then decide whether an appointment is required.
5. If an appointment is deemed necessary arrangements will be made and notified to those concerned.
6. A contemporaneous note will be made of any conversations.
7. This note will be disclosed to any appointed investigator and may form part of any Committee papers (if appropriate) if a hearing becomes necessary.

Matters under investigation

8. A member of South Ribble Borough Council or a member of any town or parish council within this borough who is the subject of a complaint may seek the views of the IP. A member wishing to contact the IP should do so via the MO as outlined above.
9. Where the IP has given views to the subject member, the general expectation is that those views shall be put in writing and made available to all relevant parties in the case.

10. ~~It will only be in highly exceptional circumstances (to be decided upon by the IP) that any views expressed by the IP to the subject member should remain confidential. The IP will need to agree in advance with the subject member rules of confidentiality but it will be up to the IP to decide whether matters should remain confidential.~~
11. The complainant may also seek the views of the IP. As with the subject member, contact should be arranged through the MO and the expectation is that any views expressed should be made available to all relevant parties in the case. Again it would only be in highly exceptional circumstances (to be decided upon by the IP) that any views so expressed should remain confidential.
12. The MO may consult the IP at any stage during the process, particularly on matters which relate to the procedures for handling complaints and vice versa.
13. Where a matter has been referred to a Standards Committee for determination, the committee must seek the views of the IP before reaching its conclusions. The IP's views should be recorded in any decision notice and, where those views do not reflect the final outcome, reasons must be given for any differences. However, it must be clear that it is the standards committee and not the IP who is the decision-maker.
14. The IP shall not make any comments to the media.
15. The IP may be requested by the MO to assist in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
16. The IP may be requested by the MO to assist in any training on conduct issues as appropriate.
17. The IP shall inform the MO as soon as possible after becoming aware of any conflict of interest.

#### Relationship with the standards committee

18. The IP shall receive agendas and minutes and be invited to all meetings of the Standards Committee.
19. The IP is not a member of the Standards Committee and ~~therefore is not part of the formal business of the meeting~~ and cannot vote on any matters put to the meeting. However, he is entitled to contribute to any debate and provide advice accordingly.

#### Other matters

20. The IP has the right to raise any concerns about standards issues or implementation of the process with the MO.
21. The Council, through its Standards Committee and MO, is responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, the IP will be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.

22. The IP will be provided with any relevant information required to carry out their role. Such information shall be treated as confidential at all times.
23. The IP has the right of access to council buildings in order to carry out their role.
24. The IP is to be considered an office-holder of the authority in accordance with the duty under s28(7) of the Localism Act 2011 and is therefore entitled to be covered by the council's indemnity insurance provided they act reasonably and within the terms of this Protocol.
25. The MO, in consultation with the Chair of Standards Committee, may amend these arrangements at any time. Any changes will be brought to the next Standards Committee meeting for information.

The IP has been consulted in the relation to the production and revision of this document and agrees to abide by its terms.

### **C. Implementation and Review**

The protocols are intended to act as a guide for both members and officers. Any difficulties of interpretation which arise should be referred to the Chief Executive (or other designated officer) for resolution.

The protocols will be reviewed from time to time in line with the Council's Constitution to ensure they are up-to-date and appropriate.

This page is intentionally left blank

REPORT TO	ON
Standards Committee	15 March 2018

September 2017



TITLE	REPORT OF
Review of Local Government Ethical Standards	Interim Monitoring Officer

Is this report confidential?	No
------------------------------	----

## 1. PURPOSE OF THE REPORT

1.1 To consider the appropriate response to consultation currently being carried out by the Committee on Standards in Public Life with regard to a review of Local Government Ethical Standards.

## 2. RECOMMENDATIONS

2.1 That Members agree a response to the questions set out in the consultation paper published by the Committee on Standards in Public Life.

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	x

## 4. BACKGROUND TO THE REPORT

4.1 The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

4.2 The consultation is open from Monday 29 January 2018 and closes on Friday 18 May 2018.

4.3 They state: "Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government."

## 5. TERMS OF REFERENCE

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
  - a. Maintaining codes of conduct for local councillors;
  - b. Investigating alleged breaches fairly and with due process;
  - c. Enforcing codes and imposing sanctions for misconduct;
  - d. Declaring interests and managing conflicts of interest; and
  - e. Whistleblowing.

2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

## **6. CONSULTATION QUESTIONS**

6.1 The Committee on Standards in Public Life invites responses to a number of consultation questions.

6.2 Any submissions on behalf of the Council do not need to respond to every question.

6.3 The questions that Members are asked to consider are as follows:-

- a. *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.*
- b. *What, if any, are the most significant gaps in the current ethical standards regime for local government?*

### **Codes of conduct**

- c. *Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?*
- d. *A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.*

### **Investigations and decisions on allegations**

- e. *Are allegations of councillor misconduct investigated and decided fairly and with due process?*
  - i. *What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?*
  - ii. *Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?*
  - iii. *Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or*

*undue pressure when doing so? How could Monitoring Officers be protected from this risk?*

## **Sanctions**

- f. Are existing sanctions for councillor misconduct sufficient?
  - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?*
  - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?**

## **Declaring interests and conflicts of interest**

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
  - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?*
  - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.**

## **Whistleblowing**

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?*

## **Improving standards**

- i. What steps could local authorities take to improve local government ethical standards?*
- j. What steps could central government take to improve local government ethical standards?*

## **Intimidation of local councillors**

- k. What is the nature, scale, and extent of intimidation towards local councillors?
  - i. What measures could be put in place to prevent and address this intimidation?**

## **7. General Comments**

7.1 It is fair to say that there has been widespread concern amongst members about the lack of effective sanctions under the current Standards regime. This consultation affords the committee a chance to formally raise such concerns if it is minded to do.

7.2 Appended (Appendix A) to the report is a copy of our current Code of Conduct. This is a document that was reviewed in 2017 and was considered to be sound. This document will assist members in their discussions when it comes to considering how well we deal with questions relating to interests. Appended (Appendix B) to this report is also our Investigation and Hearing Procedure which members reviewed and agreed last year.

7.3 With regard to whistleblowing the council has had a policy in place for a number of years. The Interim Monitoring Officer has recently drafted an update of that policy which has received some initial consideration by the Governance Committee working group. This will receive formal consideration at the Governance Committee scheduled for the 18<sup>th</sup> of April 2018.

## 8. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 8.1 Comments of the Statutory Finance Officer

There are no financial implications arising directly from this report.

### 8.2 Comments of the Monitoring Officer

Please see section 7 of the report for MO comments.

<p><b>Other implications:</b></p> <ul style="list-style-type: none"> <li>▶ <b>Risk</b></li> <li>▶ <b>Equality &amp; Diversity</b></li> <li>▶ <b>HR &amp; Organisational Development</b></li> <li>▶ <b>Property &amp; Asset Management</b></li> <li>▶ <b>ICT / Technology</b></li> </ul>	<p>There are no specific risk implications arising from the report</p> <p>There are no specific equality implications arising from this report</p> <p>There are no HR implications arising from this report</p> <p>There are no Property or asset management implications arising from the report</p> <p>There are no ICT implications arising from this report</p>
---	---

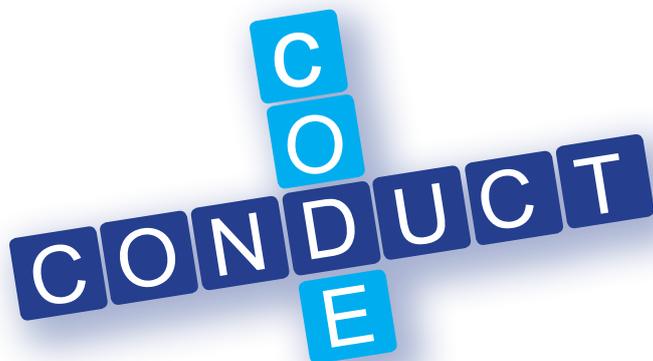
## 9. BACKGROUND DOCUMENTS (or there are no background papers to this report)

**Appendix A – Code of Conduct for Elected Members**

**Appendix B – Investigation and Hearing Procedure**

David Whelan  
Interim Monitoring Officer

Report Author:	Telephone:	Date:
David Whelan	01772 625247	2 <sup>nd</sup> of March 2018



## SOUTH RIBBLE BOROUGH COUNCIL CODE OF CONDUCT FOR ELECTED MEMBERS

### INDEX

	PAGE
A. INTRODUCTION	2
B. THE SEVEN PRINCIPLES OF PUBLIC LIFE	3
C. GENERAL OBLIGATIONS	4
D. DISCLOSABLE PECUNIARY INTERESTS	5
• Notification of Disclosable Pecuniary Interests	5
• Sensitive Interests	5
• Effect of Disclosable Pecuniary Interests on participation in meetings	5
• Dispensations	6
• Criminal Sanctions	6
E. OTHER INTERESTS	6
• Notification of Other Interests	7
• Effect of disclosure of Other Interests on participation in meetings	7
• Non participation in case of certain other interests	7
F. REGISTRATION OF INTERESTS	8
G. INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES	8
H. REGISTER OF GIFTS AND HOSPITALITY	9
I. STATUTORY DEFINITION OF DISCLOSABLE PECUNIARY INTERESTS	9
J. GLOSSARY	11



## A. INTRODUCTION

- 1 This Code replaces the previous Code of Conduct for All Members and was adopted at the meeting of South Ribble Borough Council on 18 July 2012 and was reviewed and updated by Council on 24 May 2017. This Code is in accordance with the requirements of the Localism Act 2011.
- 2 This Code applies to **you** as a member of the Council in all aspects of your public life and not when you are acting purely in a private and personal capacity.
- 3 All members are expected to follow this Code when they are conducting the work of the Council, or representing the Council, on any external organisation, and otherwise acting in their official capacity.
- 4 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 your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 5 You should read this Code together with the seven principles listed in Section B.
- 6 It is your responsibility to comply with the provisions of this Code. Members have a responsibility to ensure that they comply with the Code of Conduct in all respects. They should regularly review their personal circumstances and intended actions in the context of the Code.
- 7 The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code, the Council's Constitution, as well as such other legal obligations and all relevant Council Policies as may apply to them from time to time.
- 8 Members should not do anything in their capacity as councillors, which they could not justify to the public or could not justify by law. Members' conduct and what the public believe about their conduct will affect the reputation and credibility of Members and the Council as a whole.
- 9 You should always conduct yourselves in a way which will maintain and strengthen the public's trust and confidence in the integrity of this Council and should never undertake any action which would bring this Authority, or its Members and Officers generally, into disrepute.
- 10 It is not enough to avoid impropriety; perception is also important. Members should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 11 If in doubt, Members should seek advice from the Monitoring Officer or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Members themselves.
- 12 **Failure to comply with the Code of Conduct 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.**
- 13 South Ribble Borough Council has adopted an Investigation and Hearings Procedure which it will follow to consider any allegations of breach of this Code.



## B. THE SEVEN PRINCIPLES OF PUBLIC LIFE

The Principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### Selflessness

Holders of public office should act solely in terms of the public interest.

### Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### Honesty

Holders of public office should be truthful.

### Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## C. GENERAL OBLIGATIONS

- 1 You should always treat others with respect.
- 2 You must not—
  - (a) do anything which may cause your authority to breach any of the equality enactments;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, this Council.
- 3 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—
      - reasonable and in the public interest; and
      - made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 4 You—
  - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 5
  - (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
    - (a) your authority's chief finance officer; or
    - (b) your authority's monitoring officer.
  - (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.



## D. DISCLOSABLE PECUNIARY INTERESTS

- 1 Section I sets out in detail what is considered to be a Disclosable Pecuniary Interest.
- 2 A 'disclosable pecuniary interest' relates to an interest of both yourself and 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).

### Notification of disclosable pecuniary interest

- 3 Within 28 days of either the adoption of this code, becoming a member, co-opted member, Town or Parish Councillor (whichever is the earliest), you must notify the Monitoring Officer in writing of any 'disclosable pecuniary interests'.
- 4 Following initial disclosure, you must 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.
- 5 **Failure to make proper disclosure may result in criminal sanctions being brought against you** (See Criminal Sanctions P6 Section D12).
- 6 Details of your interests including any disclosable pecuniary interests will be kept on a central register which will be published on the Council's website and be available for public inspection.

### Sensitive interests

- 7 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 if the interest is entered on the register (and the Monitoring Officer agrees), copies of the register that are made available for inspection and any published version of the register will exclude details of that interest, but may state that you have a disclosable pecuniary interest but the details of which will be withheld under Section 32(2) of the Localism Act 2011.

### Effect of disclosable pecuniary interests on participation in meetings

- 8 If a disclosable pecuniary interest has been entered on to the Council's register
  - You must state at the start of the meeting or as soon as possible after becoming aware of the fact that you have a disclosable pecuniary interest in the business being considered that you have such an interest.
- 9 If a disclosable pecuniary interest has NOT been entered on to the Council's register
  - You must state at the start of the meeting or as soon as possible after becoming aware that you have a disclosable pecuniary interest in the business being considered that you have such an interest AND (unless it is a "sensitive interest" – see above) what that disclosable pecuniary interest is.
  - You must then inform the Monitoring Officer (within 28 days of the meeting) of the previously undisclosed disclosable pecuniary interest details of which will then be published on the register.

- 10 IN BOTH CASES i.e. as outlined in paragraph 8 & 9 above (unless dispensation has been granted):
- You must immediately cease to have any further involvement in the rest of the matter being considered.
  - You must not participate in any discussion of, vote on or discharge any function related to any matter in which you have a disclosable pecuniary interest.
  - You must leave the room or chamber where the matter is being discussed.

## Dispensations

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

## Criminal Sanctions

- 12 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 a member discharging a function, 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 £5000 and disqualification from being a councillor for up to 5 years.



## E. OTHER INTERESTS

- 1 Apart from Disclosable Pecuniary Interests there may also be other interests, whether they be financial or otherwise, which should be disclosed to the Monitoring Officer or a member of Legal or Democratic services (who may enter the details in the register) and which should be declared at the beginning of any meeting or as soon as possible on discovery that such an interest arises where that interest potentially conflicts with the business being discussed.
- 2 Depending on the significance of the other interests it may also be necessary, especially if the interest may give rise to a perception of a conflict of interest in the matter under discussion, to declare that interest, state your point of view if you wish to and then leave the room and take no further part in the matter under consideration.

## Notification of Other Interests

- 3 In addition to the disclosure of Disclosable Pecuniary Interests you must, within 28 days of either the adoption of this code, becoming a member, co-opted member, Town or Parish Councillor (whichever is the earliest), notify the Monitoring Officer in writing of the details of your interests within the following categories, for inclusion in the register of interests:
  - (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - (b) Details of any body exercising functions of a public nature, anybody directed to charitable purposes or anybody 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 (see below).
- 4 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.

## Effect of disclosure of Other Interests on participation in meetings

- 5 If an Interest has been entered on to the Council's register
  - You must state at the start of the meeting or as soon as possible after becoming aware that you have an interest in the business being considered that you have such an interest AND (unless it is a sensitive interest – see above) what that interest is.
- 6 If the interest has NOT been entered on to the Council's register
  - You should then inform the Monitoring Officer or a member of Democratic or Legal services (within 28 days of the meeting) of the previously undisclosed interest details of which may then be published on the register.
- 7 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.
- 8 Where you have an interest in any business of the authority of the type mentioned in Section H, (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.
- 9 Where you have an interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

## Non participation in case of certain other interests

- 10 Where you have an interest in any business of your authority (other than a disclosable pecuniary interest) **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 make representations on the matter being discussed at the meeting, but you cannot vote. In addition, once you have made your declaration and representation (if any) you are required to leave the room where the meeting is held while any discussion or voting takes place.

- 11 Where you have an interest in any business of your authority to which paragraph 10 above 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.
- 12 For the sake of clarity you may attend a meeting and vote on a matter that relates to the functions of your authority in respect of—
  - (i) an allowance, payment or indemnity given to members;
  - (ii) any ceremonial honour given to members; and
  - (iii) setting council tax or a precept under the Local Government Finance Act 1992.
- 13 There are situations where, as a member, you may discharge a function on your own for example when working out on your ward. If whilst doing so you become aware of either a disclosable pecuniary interest or an interest under paragraph 10 above in relation to the matter you are dealing with you must not take any steps or further steps in relation to that matter, or seek improperly to influence a decision about the matter and must inform the Monitoring Officer (in writing) as soon as possible after becoming aware of the said interest.



## F. REGISTRATION OF INTERESTS

- 1 Any interests notified to the Monitoring Officer will be included in the register of interests.
- 2 A copy of the register will be available for public inspection and will be published on the authority's website.
- 3 The requirement to disclose such interests only applies where you are aware or ought reasonably to be aware of the existence of such an interest.
- 4 If a member has a sensitive interest (see Section D7 above) details of the fact they have an interest but not what the interest is will be entered on the Register.



## G. INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES

- 1 You also have an interest in any business before a scrutiny committee of this authority (or of a sub-committee of such a committee) where:
  - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's Cabinet or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

- (b) at the time the decision was made or action was taken, you were a member of the cabinet, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.
- 2 Where you have such an interest as is described in the preceding paragraph in any business of this authority, you may attend a meeting (including a meeting of the scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.



## H. REGISTER OF GIFTS AND HOSPITALITY

- 1 You must register any gifts or hospitality received in connection with your official duties as a Member worth £25 or over within 28 days of receiving it.
- 2 You must also register the donor of the gift or hospitality.
- 3 You should register an accumulation of small gifts you receive from the same donor over a short period of time that add up to £25 or more.
- 4 If you don't know the value of a gift it would be good practice to register it anyway.
- 5 It is good practice to also register gifts or hospitality you do not accept.
- 6 Ask yourself "Have I been given this because I am a member?" if the answer is "yes" then you must register the item.



## I. STATUTORY DEFINITION OF DISCLOSABLE PECUNIARY INTERESTS

Section 30 of the Act introduces the concept of Disclosable Pecuniary Interest which a member is expected to declare within specific timescales.

The Act states that it is a criminal offence to fail to notify the monitoring officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest, without excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the Monitoring Officer

If any member is in any doubt as to their position you should contact the Monitoring Officer, Democratic Services or Legal Services for assistance.

A 'disclosable pecuniary interest' is an interest of you 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:

(In the extracts from the Regulations below, 'you' and 'relevant person' means you and your partner, as above).

**SUBJECT****PRESCRIBED DESCRIPTION**

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 this authority) made or provided within the relevant period in respect of any expenses incurred by you carrying out duties as a member, or towards the election expenses of you or your partner. 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 you or your partner (or a body in which you or your partner has a beneficial interest) and this 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 this authority for a month or longer.

Corporate tenancies

Any tenancy where (to yours or your partners knowledge)—

(a) this authority is the landlord; and

(b) the tenant is a body in which you or your partner have a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to your knowledge) has a place of business or land in the area of your 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 you or your partner have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

See Glossary for definitions



## J. GLOSSARY

1 In this Code—

“**authority or council**” means South Ribble Borough Council or any Parish or Town Council within the South Ribble area that has decided to adopt this Code

“**Code**” means this Code of Conduct

“**meeting**” means any meeting of—

- (a) South Ribble Borough Council;
- (b) the executive of South Ribble Borough Council;
- (c) any of South Ribble Borough Council’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or My Neighbourhood Forums;
- (d) Parish or Town Council meetings

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

“**member**” means a councillor of South Ribble Borough Council and any councillor on a Parish or Town Council within the South Ribble area that has adopted this Code. For the sake of clarity it includes a co-opted member and an appointed member.

“**register of members interests**” means the authority’s register of members’ pecuniary and other interests established and maintained by this authority’s monitoring officer under section 29 Localism Act 2011

“**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;

“**relevant authority**” means the authority of which you are a member;

“**relevant period**” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“**relevant person**” means you 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.

This page is intentionally left blank

**SOUTH RIBBLE BOROUGH COUNCIL**

**INVESTIGATION AND HEARING PROCEDURE**

**ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE  
OF CONDUCT FOR MEMBERS**

**1. Introduction**

1. This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Member has or may have failed to comply with the Code of Conduct for Members.
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.”
3. No Member or Officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

**2. Making a complaint**

A complaint must be made in writing by post or email to: –

David Whelan  
Interim Monitoring Officer  
South Ribble Borough Council  
Civic Centre  
Leyland  
PR25 1DH

OR

[dwhelan@southribble.gov.uk](mailto:dwhelan@southribble.gov.uk)

1. The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it.
2. Details of the complaint will initially be given (either verbally or in writing) to the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council as well).
3. The Subject Member may within 7 working days of the date of the letter of notification either reply verbally to the Monitoring Officer or make written representations which he must take into account when deciding how the complaint will be dealt with. Representations received after this time will not be taken into account unless the Monitoring Officer considers it appropriate to do so.

### **3. Initial Assessment**

The Monitoring Officer will carry out the initial assessment of any complaint. This will normally be in conjunction with one of our Independent Persons. The Assessment will have regard to our Assessment Criteria – please see the Appendix A to this policy.

Where the Monitoring Officer considers it to be appropriate he or she may refer the initial complaint to the Hearing Panel (please see paragraph 9) for determination. Please see Appendix C to this document for details of the procedure to be followed.

### **4. Maintenance of Confidentiality by Members**

Any Member involved in a complaint – whether as Complainant, Subject Member or Witness – is strongly recommended not to speak to the Press about the complaint (or to discuss it on social media) whilst that complaint is still being dealt with by the Monitoring Officer and/or Standards Committee

### **5. Informal Resolution**

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. Please see the Assessment Criteria for more information about informal resolution.

Where the Subject Member makes a reasonable offer of informal resolution the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

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 authorities.

**The Monitoring Officer will endeavour to seek resolution of complaints without formal investigation wherever practicable.**

### **6. Investigation**

If the Monitoring Officer decides that a complaint merits formal investigation then he may appoint an Investigating Officer.

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 insufficient evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and, if satisfied with the report, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct and will close the matter.

The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of the Parish Council, where the complaint relates to a Parish Councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report. A copy will also be provided to the Independent Person.

If the Monitoring Officer is not satisfied that the investigation has been conducted satisfactorily, he may ask the Investigating Officer to reconsider their report and conclusion.

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

The Monitoring Officer will review the Investigating Officer's report and if satisfied that the investigation has been conducted satisfactorily will then either send the matter to be considered by a Hearings Panel (see paragraph 9 below) or, after consulting with the Independent Person and the Complainant, seek Informal Resolution.

Where, in the opinion of the Monitoring Officer, Informal Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel for their consideration and determination.

## **9. Hearings Panel**

The Hearings Panel will consist of either the full Standards Committee or a sub-committee of that committee. In addition the Standards Committee is able to appoint Parish Councillors as non-voting co-opted members of the Panel. Composition of any sub-committee will be considered on a case by case basis - the Monitoring officer will have the authority to determine the membership of that sub-committee.

The Independent Persons are 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 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.

## **10. The Independent Person(s)**

The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive

vote from a majority of all the Members of Council at a meeting of the Full Council.

The Council currently has two such Independent Persons. Subject members may take advice from an Independent Person.

The detailed rules relating to who can be an Independent Person are set out in the Localism Act 2011.

## **11. Hearing Procedure**

The Council has agreed a procedure for local hearings which is attached as Appendix B to these arrangements.

## **12. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct**

Where a Hearings Panel find that a member has failed to comply with the Code of Conduct, the Hearings Panel may –

- 12.1 Publish its findings in respect of the Member's conduct;
- 12.2 Report its findings to Council (or to the Parish Council) for information;
- 12.3 Censure;
- 12.4 Recommend to the 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;
- 12.5 Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from their Portfolio responsibilities;
- 12.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;
- 12.7 Recommend to Council or Parish Council that the Member be removed from all outside body appointments to which they have been appointed or nominated by the Council (or by the Parish Council);
- 12.8 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 12.9 Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

12.10 Any sanction imposed by the Hearings Panel shall commence immediately unless the Hearings Panel directs that a sanction shall commence on another date within six months from the imposition of the sanction.

12.11 In deciding to impose a sanction the Hearings Panel shall consider all relevant circumstances and seek the views of the Independent Person.

12.12 The Chairman should normally announce the decision of the Hearings Panel at the hearing. Written confirmation of the findings of the Hearings Panel should be given as soon as is reasonably practicable to the Subject Member, Independent Person, Standards Committee of any other authority concerned, any parish council concerned, and any person who made an allegation that gave rise to the investigation.

12.13 The Hearings Panel and/or Standards Committee may consider making any recommendations to the authority concerned with a view to promote and maintain higher standards of conduct among its members.

### **13. Revision of these arrangements**

The Monitoring Officer in consultation with the Chair of Standards Committee may amend these arrangements at any time. For the sake of clarity the Chair of Standards Committee (or the Chair of a particular Hearings Panel) may vary from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### **14. Appeals**

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

This page is intentionally left blank

## **APPENDIX A**

### **COMPLAINTS AGAINST MEMBERS**

#### **SOUTH RIBBLE BOROUGH COUNCIL**

#### **ASSESSMENT CRITERIA**

##### **1. Initial Tests**

Before any assessment of a complaint begins, the Monitoring Officer must be satisfied that the complaint meets the following tests:

- It is a written complaint against one or more named Members of South Ribble Borough Council or a Town or Parish Council within South Ribble Borough;
- The named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code and the complainant will be informed that no further action will be taken in respect of the complaint.

##### **2. If the above tests are met the Monitoring Officer (normally in consultation with one of our Independent Persons) will have regard to the following criteria:**

- Official capacity – was the member acting in an official capacity as an Elected Member of the Borough or a Town or Parish Council
- Adequate information – whether there is sufficient information to decide whether the complaint should be referred for investigation or other action?
- Vexatious – whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat
- Similar previous complaint(s) – whether a substantially similar allegation has previously been made by the Complainant
- Lapse of Time - 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 in taking action now
- Seriousness - 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 or;
  - (ii) Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation

- Inexperience- whether it is apparent that the Member is relatively inexperienced, or has admitted making an error and the matter would not warrant a more serious sanction
- Wider problem – whether the complaint suggests that there is a wider problem throughout the authority which ought to be addressed on a more corporate basis
- Whether training or conciliation would be the appropriate response.

### **3. Hearings Panel**

The Monitoring Officer has the discretion to refer the initial assessment of a complaint to a Hearings Panel for their consideration. This could happen for instance in cases of particular complexity or sensitivity.

### **4. Confidentiality/Anonymity**

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.

As a matter of fairness and natural justice, the Member should usually be told who has complained about them and receive details of the complaint.

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 Member

### **5. The Monitoring Officer (normally in consultation with one of our Independent Persons) has the option to make the following decisions on any complaint:**

- **that no further action be taken in respect of the matter**
- **that the matter be referred to the Group Leader for Informal Action** – this will normally only be where the complaint relates to South Ribble Borough Councillors and will not generally be appropriate if the complaint is from a member of the public.
- **that the matter is referred for Informal Resolution or other action** – this enables less serious complaints to be resolved speedily and cost effectively. Informal action may include an apology, training and mediation. The matter may subsequently be referred for formal investigation should it become apparent that the issues are more serious than was originally anticipated.
- **that the matter is referred for formal Investigation by an Investigator-** this enables the most serious allegations to be thoroughly investigated.
- **refer to Hearings Panel** – ordinarily a complaint will only be referred to a Hearing Panel after a full investigation has been carried out; however, the Monitoring Officer also has a discretion to refer initial complaints to the Panel for determination

- **That the matter is referred to the Police or other relevant Regulatory Agency –** this would be appropriate where it appears a criminal offence or breach of regulations may have taken place and in particular any failure to declare a Disclosable Pecuniary Interest under s 30 -31 of the Localism Act 2011.

This page is intentionally left blank

## **APPENDIX B**

### **COMPLAINTS AGAINST MEMBERS**

#### **SOUTH RIBBLE BOROUGH COUNCIL**

#### **HEARINGS PROCEDURE**

##### **Stage 1: Setting the scene**

1. Any hearing will either be before the full Standards Committee or a duly appointed Hearing Panel. Any reference to "Panel" in this procedure also refers to the Committee if the full Committee is sitting.
2. After everyone involved has been formally introduced, the Chair will explain how the Panel is going to run the hearing.
3. The Chair will introduce the Independent Person(s) and explain that whilst they do not have a decision making role they are present to provide an independent view which the Panel are obliged to consider.
4. The Subject Member may be represented or accompanied at the meeting by a solicitor or barrister, or with the permission of the Panel, another person.
5. The Chair will ensure that the Subject Member (the member the subject of the complaint) is ready and happy to proceed. If the Subject Member indicates that they are not ready, they must give reasons why. The Committee will decide whether the hearing should proceed and must act reasonably in coming to that decision.
6. If the Subject Member is not present at the start of the hearing:
  - The Chairman should ask the Monitoring Officer whether the Subject Member has indicated his/her intention not to attend the Hearing
  - The Panel should then consider any reasons which the Subject Member has provided for not attending the Hearing and should decide whether it is satisfied that there is sufficient reason for such failure to attend
  - If the Panel is satisfied with such reasons, it should adjourn the Hearing to another date
  - If the Panel is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Hearings Panel should decide whether to consider the matter and make a determination in the absence of the Subject Member, or to adjourn the Hearing to another date.
7. With the permission of the Panel witnesses may give evidence either on behalf of the Investigator or on behalf of the Subject Member.

##### **Stage 2: Making findings of fact**

8. The Panel will ask the Subject Member whether there are any significant disagreements about the facts contained in the Investigating Officer's report. If there is no disagreement about the facts, the Panel can move on to Stage 3.
9. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. A Subject Member would be

expected to give at least 7 days' notice to the Monitoring Officer of any such disagreement with any relevant fact.

10. After considering the Subject Member's explanation for not raising the issue at an earlier stage, the Panel may then

- continue with the hearing, relying on the information in the Investigating Officer's report
- allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond
- postpone the hearing to allow the Investigating Officer to consider and investigate the new issue.

11. Where prior notice of any disagreement has been given the Investigating Officer, will be invited to make representations on the challenged facts.

12. The Subject Member will then have the opportunity to make appropriate representations.

13. At any time, the Panel may question the Investigating Officer or the Subject Member.

14. The Panel will usually move to another room to consider the representations and evidence in private. Also present will be the Monitoring Officer, the Independent Person and a Democratic Services Officer. On their return, the Chair will announce the Panel's findings of fact.

### **Stage 3: Did the Subject member fail to follow the Code of Conduct?**

15. Having made the finding on the facts the Panel will then consider whether the Subject Member has failed to follow the Code.

16. The Subject Member should be invited to give relevant reasons why the Panel should decide that they have not failed to follow the Code.

17. The Panel should then consider any verbal or written representations from the Investigating Officer.

18. The Panel may, at any time, question anyone involved on any point they raise on their representations.

19. The Subject Member should be invited to make any final relevant points.

20. The Panel will then move to another room to consider the representations. The Monitoring Officer, the Independent Person and a Democratic Services Officer will accompany them. The views of the Independent Person should be sought and considered by the Panel. Where the Panel depart from the view of the Independent Person they should record the reasons why.

21. On their return, the Chair will announce the Panel's decision as to whether the Subject Member has failed to follow the Code.
22. If the Panel decides that the Subject Member has not failed to follow the Code, the Panel will inform the Subject Member accordingly.
23. If the Panel decides that the Subject Member has failed to follow the Code, it will consider any verbal or written representations from the Investigating Officer and the Subject Member as to:
  - whether the Panel should apply a sanction
  - what form any sanction should take
24. The Panel may question the Investigating Officer and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
25. The Panel will then retire with the Monitoring Officer, the Independent Person and a Democratic Services Officer. They will consider whether to impose a sanction on the Member and, if so, what sanction it should be. The Independent Person will not be able to participate in making the decision (i.e. vote) but their views must be considered by the Panel. Where the Panel depart from the Independent Person's views they must record reasons why.
26. The Panel will be limited to the sanctions listed in the procedure for the administration of complaints. The Panel must ensure that any sanction is reasonable and proportionate to the breach.
27. On their return, the Chair will announce the Panel's decision.



## **APPENDIX C**

### **INITIAL ASSESSMENT HEARING PANEL: PROCEDURE**

#### **Introduction**

The Monitoring Officer has the discretion to refer the initial assessment of a complaint to a Hearing Panel for their consideration. This may be appropriate, for example in cases of particular complexity or sensitivity.

Referrals will only be made where the Monitoring Officer is satisfied that initial tests set out in the assessment criteria have been met and has considered any request that the complainant's identity should be withheld.

The Council's Independent Person will be present at any Panel Hearing.

#### **Procedure**

1. Any hearing to undertake an initial assessment of a complaint referred to the Hearings Panel will be held in private session. Neither the complainant nor the subject member will be present. Any decision will be reached on the basis of the papers which have been circulated in advance to the Panel. These will consist of:

- the written complaint
- any written representations from the subject member

2. The Chairman will outline the procedure the Panel will follow and explain that the Council's Independent Person is present to provide an independent view which the Panel are obliged to consider, but does not have a formal decision making role.

3. In reaching a decision the Panel must have regard to the criteria set out in the Council's Assessment Criteria. The Chairman will ensure that each criteria is considered in turn and views sought, including those of the Independent Person and any advisor to the Panel.

4. In accordance with the Council's Assessment Criteria the Panel has the option to make any of the following decisions on the complaint:

- that no further action be taken
- that the matter be referred to the Group Leader for Informal Action
- that the matter is referred for Informal Resolution or other action
- that the matter is referred for Formal Investigation by an Investigator
- that the matter is referred to the Police or other relevant Regulatory Agency

5. In reaching a decision on any complaint the Chairman must ensure the views of the Independent Person are taken into account. If the Panel departs from the views of the Independent Person they should record why.

6. Both the subject member and the complainant should be informed in writing of the outcome of the Panel Hearing within 2 working days.

This page is intentionally left blank