



<b>Report of:</b>	<b>Meeting</b>	<b>Date</b>
The Leader of the Council (Councillor Henderson) and the Chief Executive (Garry Payne)	Council	11 July 2019

## **Wyre Councillors Code of Conduct: Review**

### **1. Purpose of report**

- 1.1** To enable proposed changes to the Councillors Code of Conduct to be considered.

### **2. Outcomes**

- 2.1** More robust ethical standards.

### **3. Recommendations**

- 3.1** That the amendments to the Code of Conduct proposed by the Standards Committee, set out in Appendix 1, be approved.
- 3.2** That the revised Code of Conduct be adopted with effect from 11 July 2019 and included in 5.01 of the Constitution, in place of the current version.

### **4. Background**

- 4.1** On 15 November 2018 the Standards Committee decided to set up a Working Group to review Wyre's Code of Conduct for Councillors. The issues considered by the Working Group, the conclusions reached and the Standards Committee's endorsement of its recommendations are explained below.

### **5. Key issues and proposals**

- 5.1** The Working Group, which comprised Councillors Ingham (Chairman), Ellison (Vice-Chairman), Lady Atkins, Moon, Raynor, Shewan and Matthew Vincent met on two occasions. It was advised by Liesl Hadgraft (Head of Business Support and Monitoring Officer) Mary Grimshaw

(Senior Solicitor and Deputy Monitoring Officer) and Roy Saunders (Democratic Services and Scrutiny Manager). The Group was provided with a comprehensive set of background information, including:

- all the Council's current codes, protocols and procedures;
- relevant legislation and government guidance;
- information about codes of conduct from other councils.

**5.2** At the first meeting Liesl Hadgraft explained the rationale for setting up the Group. She advised that the Localism Act 2011 had made significant changes to the standards regime for local authorities. The Standards Board for England and the previous national code of conduct had been abolished, with control given back to local authorities but, the sanctions which could be imposed for breaches of the code had been significantly diluted. When the provisions in the Localism Act were implemented in 2012, Wyre Council had chosen to adopt a shortened version of the code, requiring councillors to meet the minimum requirements specified in the Act, i.e. to have regard to the general principles set out - selflessness, integrity, objectivity, accountability, openness, honesty and leadership - and to comply with the statutory requirements for registering and declaring interests. As it had been six years since Wyre's current code had been introduced and, given some of the recent cases that had come to her attention as Monitoring Officer, it was timely for a review to be undertaken.

**5.3** Mrs Hadgraft pointed out that a number of additional behaviours which had been included in the old pre-Localism Act national code and which had subsequently been replicated by many other councils in their own codes, but which had not, up to now, been included in Wyre's Code, had been listed in a report submitted to the Standards Committee on 15 November 2018. The Group therefore started by considering which of those behaviours it might want to recommend be incorporated in a revised Wyre Code and to also identify any other aspects of the code it wanted to review.

**5.4** Following a discussion, the Working Party agreed:

1. That, despite the Group's concern that the main problem with the current Code was the lack of effective sanctions to deter or punish breaches, to note that it was not possible for the Group to recommend or the Council to introduce additional sanctions, until further legislation was passed.
2. That the Group's review should focus on possible revisions to Wyre's Code of Conduct, including:
  - (a) The re-introduction of the following commitments included in the pre-Localism Act Code:
    - *to uphold the law;*
    - *to have respect for the law;*
    - *to have regard, when reaching decisions to the advice of the*

*Monitoring Officer or Chief Financial Officer;*

- *to not bully any person;*
- *to not intimidate or attempt to intimidate any person who is likely to be a complainant, or witness etc.;*
- *to not disclose confidential information except in certain specified situations (e.g. with consent or if required by law to do so);*
- *to not bring their office into disrepute.*

(b) Notwithstanding the obvious need for the specific circumstances of each case to be considered on its merits, the provision of additional guidance to Councillors, either by including a glossary defining key terms used in the Code (such as “bullying” or “intimidation”) and/or by giving examples of the type of behaviours, which were likely to be judged to be a breach of the Code.

(c) References in the Code of Conduct about the registration and declaration of pecuniary (financial) and non-pecuniary (non-financial) interests being clarified.

(d) The provision of clearer guidance to councillors on the declaration of interests at meetings and also on the requirement to register their interests within 28 days of their election and following any changes.

3. That the officers be requested to submit draft amendments to Wyre’s Code of Conduct, covering all the points listed in paragraphs (1) and (2) above, for consideration at the next meeting of the Group.

4. Not, at this stage, to consider any major changes to the process for dealing with alleged breaches of the Code, which it was noted had been updated more recently than the Code.

**5.5** At its second meeting on 7 February 2019 the Working Group considered possible amendments to Wyre’s Code of Conduct, submitted by the Monitoring Officer, which reflected the issues which had been identified and the points which had been raised by the Working Group at its previous meeting.

**5.6** Mrs Hadgraft explained that, as directed by the Working Group, the amendments included a number of additional behavioural criteria which were not used in Wyre’s current Code, as well as clarifying and simplifying a number of points. In carrying out this task, a number of codes of conduct from other Councils and best practice guidance published by Bevan Brittan Solicitors had been looked at.

**5.7** The rationale for each of the proposed changes was as follows:

## Part 1: General Provisions and Obligations

### Para 1.2

When a complaint about a councillor was received, one of the first tests that had to be applied was whether the member concerned was acting in his/her capacity as a member. This was often a grey area, with a difference in what the member believed and what the member of the public perceived. This paragraph had therefore been expanded to provide more clarity.

### Para's 1.2 (a) to (e)

These were new behavioural elements that had not been included when the current Code had been agreed.

Paragraphs (a) and (b) dealt with "respect" in general and also, more specifically, with regards to the law.

Paragraph (c) dealt with advice given to members by officers of the Council. This was important as it would act as a reminder that the advice given by officers, particularly when they were acting in accordance with their statutory duties, should be seriously considered and that, if their advice was not followed, the reasons for not doing so needed to be clear. At the last meeting of the Group there had been some concern as to how "due regard" could be demonstrated. If due regard had been given by a member they would be able to provide a clear rationale as to why the officer advice had not been taken, and they would be able to provide an understanding of the consequences of coming to their decision.

Paragraph (d) dealt with bullying. Rather than doing so in a separate section, it was proposed that intimidation also be included here, as it was felt that these two issues were closely linked. There had been some detailed discussion at the last meeting about what amounted to bullying and it had been suggested that a definition should be included in the Code. An explanation of bullying/intimidation had therefore been included at the end of Part 1 of the amended Code. This has been compiled having considered a dictionary definition and examples used in other council's codes. For clarity, also included in the last three lines, was a statement of what bullying was not - relating specifically to the political arena. She said it was important that this was highlighted to avoid numerous spurious complaints.

Paragraph (e) had been amended to provide further clarity on public speaking and the need to make sure that it was made clear that views shared were those of the individual member and not the council (unless of course that was the case) and also covered a situation where conduct could bring the council into disrepute.

## Part 2 – Registering and Declaring Interests

Mrs Hadgraft explained that there wasn't anything that needed to be added to Part 2 of the Code and no changes to the actual content were proposed. However, on reflection, it was felt that the wording in this section could be presented in a much clearer and simpler way to assist members to understand what must be included on the register and the requirements for declaring interests. The first section dealt with the need to register interests and what type of things should be included. These were listed in Appendix A (pecuniary, which are statutory) and Appendix B (non-pecuniary) and had not changed. The next section addressed how a registered Disclosable Pecuniary Interest should be declared at a meeting (where appropriate) and what should happen at the meeting in relation to discussion of the topic and voting. The final section explained the process for declaring Non Pecuniary Interests (either those listed in Appendix B or any other significant nonpecuniary interests).

- 5.8** The Working Group discussed each of the amendments proposed and agreed that the proposed amendments be approved in their entirety, subject only to two minor amendments, which are included in the recommended changes to the Code of Conduct set out in Appendix 1 of this report.
- 5.9** The Working Group was also informed by the Monitoring Officer at its second meeting, that the long awaited Parliamentary Committee on Standards in Public Life Report on Ethical Standards in Local Government had been published on 30 January 2019. Mrs Hadgraft reminded the Working Group that the Standards Committee had responded on behalf of the Council in March 2018 to a consultation exercise conducted by the Parliamentary Committee as part of its review. She said that an initial look at the report indicated that a lot of the concerns raised by Wyre and many other councils, particularly the problem of the current standards process having no teeth, had been heard and the recommendations made would hopefully go some way to rectifying the issues raised. However, the reality was that in order for the recommendations to be brought into fruition, they would have to be approved by parliament and some would require new regulations or new primary legislation to be passed. It was, therefore, likely to be some time before the Council would be given the opportunity to implement any of the recommendations. The good news was that the work carried out by this Working Group would make Wyre's Code of Conduct more robust and align it more closely to the best practice identified in the report. It would also make it easier to introduce further changes in line with the findings and recommendations in the Report when the necessary legislation had been passed. The Working Party noted the position and agreed to recommend that the Standards Committee proceed with the amendments to the current Wyre Code now being proposed.

**5.10** On 14 March 2019 the Standards Committee endorsed the amendments to the Code of Conduct proposed by the Working Group, subject to the inclusion of an additional explanatory note relating to the requirement to *always treat others with respect*, stating that: *“if you make personal attacks or indulge in rude or offensive comments, this may be interpreted as disrespectful”*. That amendment is included in the proposals shown as track changes in Appendix 1 of this report, now recommended for approval by the Council.

<b>Financial and legal implications</b>	
Finance	None arising directly from this report.
Legal	<p>The Council is required by Section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members of the authority and to publish a code of conduct. There is no longer an ‘official’ model code, so the Council is responsible for agreeing its own code. The Council must also have procedures in place to deal with any breaches of the Code.</p> <p>Parish and Town Councils in the Borough are required either to agree their own code or to adopt Wyre’s. However, Wyre is responsible for dealing with any alleged breaches of the code by Parish and Town Councillors.</p>

**Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

<b>risks/implications</b>	<b>✓ / x</b>
asset management	x
climate change	x
ICT	x
data protection	x

## **Processing Personal Data**

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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<b>List of background papers:</b>		
name of document	date	where available for inspection
None	-	-

## **List of appendices**

Appendix 1: Proposed amendments to Wyre Council's Code of Conduct

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Appendix1

Proposed Amendments

For consideration at the Council meeting on 11 July 2019

**COUNCILLORS CODE  
OF CONDUCT**



## COUNCILLORS CODE OF CONDUCT FOR WYRE FROM 1 JULY 2012

### Part 1:

#### General Provisions and Obligations

- 1.1** As a member or co-opted member of Wyre Borough Council you must have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2** Accordingly, when acting in your capacity as a member (or when you claim to act, or give the impression you are acting in your capacity as a member or when you are acting as a representative of the Council on another body):
- You must uphold and have respect for the law.
  - (a) –
  - You must treat others with respect (\* see advisory note).
  - (b) –
  - You must have due regard, to advice provided by the Council’s officers, particularly any advice given by the Chief Finance Officer, the Monitoring Officer or their Deputies and the Head of the Paid Service.
  - (c) –
  - You must respect others and not bully or intimidate any person or attempt to bully or intimidate them (\*\* see advisory note). This includes not intimidating or attempting to intimidate any person who is, or is likely to be, a complainant, a witness or to be involved in the administration of proceedings, meetings or hearings, relating to an allegation that a councillor (including yourself) has failed to comply with the code of conduct.
  - (d) –
  - You must not disclose confidential information unless: you have the consent of a person authorised to give it; you are required by law to do so; 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, there is a clear and overriding public interest in doing so and the disclosure is made in good faith and in compliance with the reasonable requirements of the council and that you have consulted the Monitoring Officer or the Deputy Monitoring Officer prior to its release.
  - (e) –
  - You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
  - (f) –
  - You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
  - (g) –
  - When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
  - (h) –
  - You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
  - (i) –
  - You must be as open as possible about your decisions and actions and the decisions and actions of your authority and be prepared to give reasons for those decisions and actions, in accordance with statutory requirements or any additional requirements made by the council
  - (j)

- (k) – You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Part 2 below.
- (l) – You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes).
  - You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (m) – You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- (n) –
- (o) – You must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are not. Nor should you express your own views in a way which misleads anyone reading or listening that it is the official or agreed policy or position of the Council when it is your own personal view or those of a political party or group of people of which you are a member.
  - 
  - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

\* Advisory note on treating others with respect

*If you make personal attacks or indulge in rude or offensive comments this may be interpreted as disrespectful behaviour.*

\*\*Advisory note on bullying

*Bullying can include behaviour, which is inappropriate, unwelcome or offensive and which makes an individual or group feel undermined, hurt, humiliated or insulted. It can have a damaging effect on a victim's confidence, capability and health. Inappropriate behaviour, even if not intentionally malicious, may amount to bullying if the impact is, or could be perceived to be, significant. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or social media. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying, particularly if there is not an imbalance of power or status between the perpetrator and the victim. Bullying does not include criticisms, comments or other actions that are delivered in an appropriate manner and in an appropriate arena which can reasonably be considered to be part and parcel of the hurly burly of political life.*

## **PART 2:**

### **REGISTERING AND DECLARING INTERESTS**

#### **2. Registering Interests**

- 2.1** You must, within 28 days of taking office as an elected member or co-opted member, notify the Council's Monitoring Officer of any Disclosable Pecuniary Interest (DPI) as defined by Regulations made by the Secretary of State, where the interest is yours, your spouse's or civil partner's, or somebody with whom you are living with as a husband or wife, or as if you were civil partners. **(Listed in Appendix A)**
- 2.2** In addition, you must, within 28 days of taking office as a member or co-opted member, notify the Monitoring Officer of any disclosable interests which the Council has decided should be included in the register. **(Listed in Appendix B)**
- .
- 2.3** You must also notify the Monitoring Officer within 28 days of any new interests listed in Appendix A or B or any changes to those interests already notified/registered.
- 2.4** Any interests notified to the Monitoring Officer will be included in a register of interests, which will be available for public inspection and will be published on the Council's website, unless it is a 'sensitive interest', as defined in the Localism Act 2011 (i.e. the nature of the interest is such that the member or co-opted member, and the authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation).

#### **Declaration of Disclosable Pecuniary Interests at Meetings (Appendix A),**

- 2.5** You must make a verbal declaration (at the beginning or as soon as you become aware of the interest) of the existence and nature of any Disclosable Pecuniary Interest at any meeting at which you are present where an item of business which affects or relates to the subject matter of the interest is under consideration. Having declared the interest you must comply with the statutory requirement to withdraw from participating in any discussion or consideration of the matter in which you have a DPI. In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.
- 2.6** The Council's Standards Committee may, in limited circumstances, grant you a dispensation to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

- 2.7** Following any disclosure of a disclosable pecuniary interest not on the Council's register or the subject of a pending notification, you must notify the Council's Monitoring Officer of that interest as soon as possible and, in any case, within 28 days beginning with the date of the disclosure at the meeting.

**Declaration of Non-Pecuniary Interests at Meetings (Appendix B) or Other Significant Non- Pecuniary Interests**

- 2.8** You must also make a verbal declaration at any meeting of the authority at which you are present or if you are an executive member discharging a function alone and you either have an interest described in Appendix B or any other significant non-pecuniary interest which you feel should be declared in the public interest. *A significant non-pecuniary interest might, for example, include one where you anticipate that a decision might reasonably be deemed to benefit or disadvantage yourself, a member of your family or a person with whom you have a close association to a greater extent than the other Council constituents and that interest is not a Disclosable Pecuniary Interest.*
- 2.9** In such circumstances you must then consider whether your participation in the matter relating to your interest would be reasonable in the circumstances particularly if the interest may give rise to a perception of a conflict of interest and/or is likely to prejudice your judgement.
- 2.10** In such circumstances you will be allowed to make representations on the matter being discussed at the meeting, where there is an entitlement for a member of the public to speak, but you must not vote. If there is no entitlement for a member of the public to speak then you must not participate or vote on the matter being discussed at the meeting. In either case the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.
- 2.11** Any declarations of interest made at a meeting will be recorded in the minutes.

**APPENDIX A**

**DISCLOSABLE PECUNIARY INTERESTS AS DEFINED BY REGULATIONS**

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
  - (b) either -
    - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - 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 spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**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.**

**APPENDIX B**  
**NON-PECUNIARY DISCLOSABLE INTERESTS WHICH THE COUNCIL HAS DECIDED SHOULD BE INCLUDED IN THE REGISTER**

- 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.
- Details of anybody exercising functions of a public nature, any body directed to charitable purposes or any body for 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.
- Details of any gift or hospitality with an estimated value of at least £50 that you have received in connection with your role as a member of the Council, and details of the donor (which will be kept on a separate register and will also be published on the Council's website).

dems/cou/cr/19/1107lh1 Appendix 1