



Protocol relating to the Independent Person

1. Background to the role

- 1.1 The role of the Independent Person is a key feature of the standards framework for all local authorities under the Localism Act 2011, in terms of how authorities deal with allegations of member (councillor and co-opted member) misconduct.
- 1.2 Blackpool Council and Fylde Borough Council have agreed shared arrangements in relation to the standards framework and have appointed a shared pool of three Independent Persons, with a lead for each respective authority.
- 1.3 This Protocol sets out to identify a shared understanding of the relationships between the Independent Persons and the two authorities in terms of handling complaints of member misconduct and the wider promotion of standards.

2. Considering written allegations

- 2.1 Under the powers of the Localism Act, the Council's Monitoring Officer will receive allegations of misconduct, initially assess the matter and decide upon the appropriate course of action to be taken.
- 2.2 The Monitoring Officer may, if he/she considers appropriate, seek the view of an Independent Person at this stage on any action to be taken. A written record may be obtained if the Monitoring Officer feels it appropriate and with the consent of the Independent Person.
- 2.3 When deciding on how to progress with a complaint, the Monitoring Officer will firstly consider if there is a potential breach of the Code of Conduct.

Further questions to be considered by the Monitoring Officer and Independent Person include:

- a. Was the member/co-optee acting in their official capacity at the time of the alleged misconduct?
- b. Can the complaint be considered as being of a very minor/trivial nature, repetitious, politically motivated, vexatious or malicious?
- c. Has there been a delay in making the complaint – is this relevant?
- d. Is there public interest in the matter?
- e. Is there sufficient information to enable a decision to be made? If not, what information is required?

3. Referring complaints for investigation

- 3.1 If the Monitoring Officer considers that an investigation is required, he/she must seek the views of an Independent Person. The Monitoring Officer will produce an Investigation Referral Notice which will include these views.
- 3.2 The Independent Person will receive a copy of the Investigation Referral Notice (in addition to the Investigating Officer, subject member and the Independent Person consulted by the subject member).
- 3.3 Where the views differ as to what course of action should be taken, the Monitoring Officer will record the reasons for following a particular course of action, although the Investigation Referral Notice will be clear that it is the Monitoring Officer that ultimately decides.

4. Arrangements between the subject member and the Independent Person

- 4.1 The member who is the subject of the complaint may seek the views of an alternative Independent Person and should do so via the Monitoring Officer who will arrange for them to consult.
- 4.2 It should be remembered that the role of the Independent Person is to give advice but not to the extent where they express a view on the merits of the complaint.
- 4.3 The Independent Person may provide a brief record of their views to the Monitoring Officer (with a copy to the subject member).
- 4.4 Direct contact with the subject member without the Monitoring Officer's knowledge is not permitted and the Monitoring Officer should be notified immediately by the Independent Person if direct contact is attempted by the subject member, any of the parties or other persons.

5. Following the investigation

- 5.1 At the end of the investigation, the Monitoring Officer will produce a Decision Notice on any action to be taken. The Decision Notice will include the report and findings from the Investigating Officer and the written views of the Independent Person(s) as appropriate.
- 5.2 The Independent Person(s) will receive a copy of the Decision Notice and investigation report in addition to the subject member.
- 5.3 Where the investigation finds evidence of a failure to comply with the Code of Conduct, and the Monitoring Officer wishes to seek informal resolution, the Independent Person will be consulted and may be invited to take part in conciliation (see paragraph 7.3).

- 5.4 If a hearing is to take place, the Standards Committee will take into account the written views of the Independent Person(s) and may ask them to attend. The Independent Person(s) will be provided with a copy of the outcome of the Standards Committee's determination.

6. Relationship with the Standards Committee

- 6.1 All Independent Persons will receive agendas and minutes of meetings of the Standards Committees for both Councils.
- 6.2 Although they are not part of the formal business and have no formal voting rights, Independent Persons may be invited to speak at Standards Committee meetings. They may also be invited to observe confidential matters on the advice of the Monitoring Officer and with the agreement of the Chairman.

7. Other matters

- 7.1 Independent Persons will agree to adhere to the Code of Conduct for Members.
- 7.2 Where an Independent Person is unable to act because of a conflict of interest or because they are otherwise unavailable, their role will be carried out by an alternative Independent Person.
- 7.3 Independent Persons may be requested by the Monitoring Officer or Standards Committee to attend or assist in training or in mediation or conciliation in order to resolve complaints where that is considered the most appropriate course of action.
- 7.4 Independent Persons shall not make any comments to the media or other persons on any matters. Any requests for comments shall be referred to in the first instance to the Monitoring Officer and the Independent Person should notify the Monitoring Officer immediately, if any such requests are made.
- 7.5 Independent Persons have right to raise any concerns about standards/member conduct issues or implementation of the process with the respective authority's Monitoring Officer, Deputy Monitoring Officer or Chief Executive.
- 7.6 The Council, through the Standards Committee and its Monitoring Officer, is responsible for assisting the Council to meet its duty to promote and maintain high standards. Independent Persons have a key role in this and will be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.