

Report of	Meeting	Date
Monitoring Officer	Governance Committee	14 January 2015

MEMBERS CODE OF CONDUCT; MEMBERS DISCHARGING THE ROLE OF A COUNCILLOR

PURPOSE OF REPORT

- To seek guidance from the Governance Committee and if necessary make recommendations to Council about the point at which members are deemed to be discharging their role as a councillor.

RECOMMENDATION(S)

- That members
 - Reaffirm the current position in the treatment of when members are treated as acting as a councillor; or
 - That members recommend to Council that guidance be issued to members by the Monitoring Officer confirming when they will be treated as acting as a councillor.

EXECUTIVE SUMMARY OF REPORT

- Although there have been relatively few complaints made against the conduct of members one of the issues that is frequently the cause for discussion between the Monitoring Officer and the Independent Person is “when a Councillor is acting as a Councillor?”. Using guidance from under the previous standards regime this had a high threshold. A Member had to clearly be acting as a Councillor (eg signing a letter as Cllr. or when attending a meeting as a councillor). This followed the guidance given by the Standards Board for England following the Ken Livingston case. Given that the new regime was intended to be light touch, the Monitoring Officer has supported following this guidance. However, the Independent Person has indicated his view that this approach is too restrictive. This has been supported by members of this committee who have expressed the view that members of Chorley Council should routinely demonstrate higher standards of behaviour than that required by the local standards regime.
- Any change in approach would have to be brought to all members attention and although this would not require a constitutional change the guidance note would be best issued with the approval of full council.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more	X

		to meet the needs of residents and the local area	
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BACKGROUND

6. The issue of ‘when is a councillor acting as a councillor?’ was recently part of a standards complaint which pertained to a councillor’s journey to attend at council meetings. In line with the guidance used under the previous regime the journey to and from meetings was not treated by the Monitoring Officer as meaning the councillor was acting as a councillor. The Independent Person, understandably, challenged this quite rightly pointing out that the whole purpose for the journey was to be in a position to discharge their obligations as a Councillor and that the journey and role were indivisible.
7. The Monitoring Officer has some sympathy with this view.
8. The intention of a local standards regime, introduced by the Localism Act, was that it should be light touch. Any regime should not unnecessarily limit a member’s ability to properly represent the community nor participate in decision-making. The code should simply comply with the Nolan Principles of Public life. The code adopted by this council only prevented members from participating in a decision if they would be financially affected by it. Other non-pecuniary interests only required declaration and do not prevent participation in the matter. In this way the Council’s adopted code of conduct is light touch.
9. Members of the Governance Committee have previously indicated that there is an expectation that whilst the standards regime is light touch, a higher standard of behaviour is expected from members. Extending the scope of the local standards regime does not impact on a Councillor’s ability to represent the residents of the borough. It should not though extend the scope to the point that there is no separation between the member as a councillor and the member as a resident.
10. However, there would need to be clarity over the occasions when members would be treated as being councillors and this will be difficult to define, or once defined will be prescriptive and potentially need regular amendment to reflect different situations that may arise.
11. Whilst the Monitoring Officer has sympathy with the view of the Independent Member over the times when Councillors should be treated as acting as Councillors and therefore subject to the Code of Conduct, caution should be exercised over extending the remit of the operation of the Code. It is suggested that members are treated as acting as Councillors in the following situations:-
 - a. Travelling to and from meetings of the Council or meetings at which the member is acting as a councillor; or
 - b. Immediately before or after a meeting or other event at which the member will act or has acted as a councillor; or
 - c. Makes any public statement (including on Social Media) connected to their role as a councillor (this is distinguished from comment on the business of the council clearly made as a member of the public).

These proposed situations are to be the basis for a discussion at the meeting and in any event if adopted should be applied reasonably. For example if a Councillor was returning from a holiday with the intention of attending a Council meeting immediately upon their return the whole of that journey should not be treated as falling within the definition “travelling to a meeting” of the Council. With these suggested extensions to the applicability of the Code the context of the complained of incident must be taken into account.

IMPLICATIONS OF REPORT

12. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

13. There are no financial implications although by extending the scope of the application of the code of conduct there may be an impact on the resource needed to deal with complaints. This can be absorbed in existing resources.

COMMENTS OF THE MONITORING OFFICER

14. Contained in the body of the report.

CHRIS MOISTER
MONITORING OFFICER

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	5 January 2015	