

Subject:	Recommendations from Internal Audit		Status:	For Publication	
Report to:	Standards Committee Council		Date:	29 th November 2011 14 th December 2011	
Report of:	Director of Business		Portfolio Holder:	Finance and Resources	
Key Decision:	No	Forward Plan	No	General Exception	No
Community Impact Assessment:	Required:		No	Attached:	No
Biodiversity Impact Assessment	Required:		No	Attached:	No
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1.	RECOMMENDATION(S)
1.1	That the Standards Committee considers whether to recommend to Full Council that the Elected Members and Co-Opted/Independent Members' Register of Interests be published on the Council's website except for particular entries relating to matters where publication on the Council's website might reasonably place the safety and security of the member concerned or his or her family at risk, those matters being subject to the statutory exercise of discretion by the Monitoring Officer.
1.2	That the Standards Committee also recommends to Full Council that the Members' Code of Conduction within Part 5 of the Constitution be amended as follows:- Part 3, Paragraph 13 will be amended to add point (3): 3) That elected members and co-opted/independent members update their Register of Interests on an annual basis after each election to confirm that there are no changes or to confirm that changes have occurred since they last submitted their interests. This will apply to all members, and not just new or re-elected members.

2. PURPOSE OF REPORT

- 2.1 To inform members of recommendations made by the Internal Auditors which suggest that the Members Register of Interests be published and made available to the public. The current Members Interests Form is attached at Appendix A. This would include the Co-opted Members of Overview and Scrutiny and the Independent Members of the Standards Committee. In addition it is suggested that the Members Code of Conduct within the Constitution be amended to require all members to confirm or update their register of interests on an annual basis, and not just new or re-elected members.
- 2.2 To provide clarification on the issues raised at Standards Committee on 20th September 2011:
- Whether the current Members Interest Form can be split into two sections
 - Whether Members had to specify their home address and/or employer on the Interests Form.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly all the Council's corporate priorities:
- **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 Publishing the register on the web site would encourage Councillors to adopt the highest ethical standards and so help to avoid breaches of the Councillors Code of Conduct and potential damage to the Council's reputation. It will also ensure that members keep their register up to date.
- 4.2 Publication of personal details on the website increases the risk of misuse or fraud, however, the risk is reduced if signatures and home addresses are omitted from the published register.

5. BACKGROUND AND OPTIONS

Publication of Members Register of Interests

- 5.1 The Local Government Act 2000 Section 81(1) and the Code of Conduct for Members (the Code) requires all elected Members and Co-opted Members to register their financial and other interests by written notification to the Monitoring Officer who, in turn, is required to establish and maintain a Register of Members' Interests available for public inspection. Any changes to those details also have to be notified to the Monitoring Officer within 28 days of the change taking place. Currently the register is kept in a paper copy format and is available for public inspection at the Council's offices at Futures Park.
- 5.2 The Councils Internal Auditors (Lancashire County Council) have recommended that is good practice for information included in the register to be available through the Council's web site.
- 5.3 Publishing the registers on the web site would make the information much more readily accessible, would accord with best practice, and would demonstrate the Council's commitment to openness and high ethical standards.
- 5.4 Standards for England recommend the following as good practice:-

Some authorities may consider it appropriate for their Register of Interests to appear on their website. This would certainly be a step towards greater openness regarding members' interests and The Standards Board would encourage such a move. However, our view is that information on the Register of Interests relating to individual councillors should only be posted on an authority's website with the consent of the individual councillor concerned. The Standards Board believes that failure to obtain consent constitutes a breach of the Data Protection Act 1998. If a member is of the opinion that there is sensitive information which would expose a member to the risk of violence or intimidation then they can approach the Monitoring Officer to ask that sensitive information is withheld.

- 5.5 The information provided by Members within the Register is of a personal nature and therefore subject to the requirements of the Data Protection Act. The Data Protection Act requires that personal information must be processed fairly and lawfully [e.g. keeping it up to date] and that one of the conditions for processing information must be met. This requirement could be met by consulting with members and asking Members to consent to the publishing of information on the Council website. It is not a legal requirement to publish the Register on the website and Members should therefore be given the option to opt out of publication. Publishing the information on the website may also be considered a worldwide transfer of information (as it will be accessible by anyone worldwide with internet access) which requires further safeguards under the Data Protection Act. Requesting consent from members would ensure that this requirement is met. The register contains considerable details of Members' interests, including their addresses and other land interests, shareholdings, employment and involvement with other organisations. Publishing this information on the website is going a lot

further than making it available for public inspection and poses far wider risks of misuse, fraud or identity theft. Inspections of websites of authorities who do publish the register on line reveal some variations in practice. For example, Sheffield and Westminster do not include Members' home addresses and do not include signatures. Birmingham's website permits viewing of the register on-line, but entries cannot be printed. Several websites, including Doncaster and Barnsley, do not make the Register available online. In order to comply with the requirements of the Data Protection Act, it is recommended that all Members be advised of the intention to publish the Register on the Council website and to indicate their consent or non-consent. For any who do not consent, the website will detail where the statutory register may be inspected. It is also recommended that Members' signatures and home addresses are not included in the online publication. The publication of signatures may increase the risk of identity theft or other forms of fraud. Although home addresses are available on the paper copy of the Register, publication on the website is far wider and greatly increases the risk of misuse.

5.6 Article 8 of the Human Rights Act 1998 (right to respect for private and family life) is relevant but any additional interference in having an on-line Register as well as a public Register would be justified as enhancing the openness of local democracy. Personal safety concerns may be heightened by on-line access to the information, but measures are available as outlined to minimise those concerns.

5.7 The committee may wish to survey members before taking this proposal further.

Amendment of Members Code of Conduct

5.8 A 2011 audit carried out by the Council's Internal Auditors (Lancashire County Council) recommended that:-

'The Code of Conduct for Members should be amended to additionally require all members to update their entries in the register of interests, or confirm no changes, annually within 28 days of each Council election.'

5.9 It is recommended that the Constitution be amended as outlined in paragraph 1.2 of this report to ensure that current members, newly elected members and re-elected members complete, confirm and update their Register of Interests on an annual basis.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 There are no financial implications arising from this report.

7. MONITORING OFFICER

7.1 Subject to legal parameters referred to within the body of the report, I acknowledge that it is good practice to publish such interests on the website[making the information more accessible 24 hours etc] to ensure that the public / local community have confidence in the transparency of decision making at Rossendale Borough Council. This will contribute to the overall ethical well being of the Council, ensuring we have a culture of high ethical standards, which the public and our partners can have confidence in.

Having said that there is no legal requirement to do this and it will involve additional Officer time/resources which may outweigh the marginal benefits of doing it.

8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

8.1 There are no human resources implications.

9. CONSULTATION CARRIED OUT

9.1 Legal Services Department.

10. CONCLUSION

10.1 It is important that Members interests are kept up to date and that the public have access to this information. This encourages a culture of transparency and trust.

Appendices/Background Papers	
Document	Place of Inspection
Council's Constitution – Members Code of Conduct	http://www.rossendale.gov.uk/site/scripts/download_info.php?downloadID=455&fileID=2961